

REVISED UPDATE - NOVEMBER 9, 2009

Partial Settlement Update

As you will recall, in February 2008, the Court approved the Partial Settlement. Thereafter, beginning in July 2008 (not July 2009 as previously reported on the website), some settlement payments began. As is customary in these types of cases, some persons failed to submit claim forms in timely fashion, some persons failed to submit all required information, and some persons who were not members of the class or entitled to payment filed claims. In addition, in some cases, we believe that Honeywell denied claims improperly. Accordingly, a procedure was established to allow persons to challenge Honeywell's ruling on their claims and a portion of the Partial Settlement Funds was set aside to be paid after Honeywell made determinations on the claims of individuals whom Honeywell had initially determined were not eligible for Partial Settlement benefits.

We continue to work with Honeywell to resolve some outstanding issues surrounding the Partial Settlement.

All participants who submitted claim forms who Honeywell has determined are not eligible for partial settlement benefits were given a letter explaining Honeywell's determination and allowing the individual an opportunity to appeal the determination. Honeywell initially determined that more than 1,200 people who submitted claim forms were not eligible for Partial Settlement benefits. Generally, most of the ineligible claimants were former Garrett employees who either did not work before and after 1984 or former Garrett employees who never received a vested benefit from the Retirement Plan. All of these individuals were given an opportunity to appeal Honeywell's determination that they were not entitled to Partial Settlement benefits. Approximately 75 individuals appealed Honeywell's determination. Some of these claims were granted. Some were denied and those individuals whose claims were denied have been given further opportunities to appeal that determination. Most, but not all, of these appeals have been decided and those individuals have been notified.

In addition to some remaining appeals to be resolve, we continue to work with Honeywell to determine eligible estate representatives for some eligible Partial Settlement participants, some of whom died before their Partial Settlement benefits were paid.

After all these issues have been resolved, in accordance with the terms of the Partial Settlement Agreement, the remaining funds will be paid out.

Several individuals have also asked why administrative fees continued to be deducted from SBA accounts through 2008. The claims regarding Honeywell's deduction of administrative fees from SBA accounts were settled as part of the Partial Settlement. Honeywell had several defenses to Plaintiffs' claims that the administrative fees Honeywell were deducting were improper. For example, Honeywell alleged that participants waited too long to file a lawsuit challenging these administrative fees and that IRS rules allowed Honeywell to deduct these fees. During discovery, we received documentation that the total value of the claim regarding the deduction of SBA administrative fees was approximately \$1,000,000 for all SBA participants over the years. As a compromise of these claims, the Partial Settlement provided that participants would receive Per Capita benefits for all settled claims, including the SBA administrative fees claims. In addition to the lump sum Per Capita payout, the Partial Settlement Agreement provided that for Plan years after 2007, no administrative fees would be deducted. Fees deducted in 2008 were for Plan year 2007. This is the way fees on the SBA account have always been administered. For example, administrative fees for Plan year 1993 (the first year administrative fees were imposed) did not begin to be deducted from SBA accounts until the following year.

Continued Litigation

The litigation is ongoing. As you will recall, there were Three Remaining Claims that were not resolved under the Partial Settlement. These claims were:

1. The SBA Offset Claim, which is the claim that the Defendants violated ERISA's "anti-cutback" rule by increasing the interest rate used to project a portion of Secured Benefit Account ("SBA") balances to age 65 for purposes of calculating the SBA offset for participants who terminated their employment or retired before age 65
2. The Social Security Offset Claim, which is the claim that the Defendants violated ERISA's "anti-cutback" rule by applying a Social Security offset to benefits attributable to years of service worked prior to the adoption of the offset, and
3. The Minimum Benefits Claim, which includes the claims that Defendants violated the terms of the retirement plan by applying an SBA offset to the minimum benefit formulas, and that Defendants violated ERISA's "anti-cutback" rule and notice requirements by amending the retirement plan to apply an SBA offset to the minimum benefit formulas.

As you may recall from our last update, in March, the Court allowed the Defendants to file a motion attacking the decision in Plaintiffs' favor on the Minimum Benefits Claim. The Defendants alleged that Plaintiffs are not entitled to damages on the Minimum Benefits Claim based on the Plan language. We opposed this motion and filed several briefs in opposition. In August, the Court directed further briefing on several specific questions regarding the standard of review and on September 3, 2009, we filed an additional brief addressing the questions raised by the Court in its order. Thereafter the Court scheduled oral argument and we attended a hearing in Court on October 7, 2009. After the hearing, the Court granted Defendants' motion and held that Plaintiffs are not entitled to any damages as a result of the Minimum Benefits Claim. That ruling can be found on the Garrett Action website (www.garrettaction.com). We are disappointed by the ruling and we are considering whether to file an appeal. However, we cannot file any appeal of this ruling until the rest of the case is completed.

As you may recall and as we previously advised, the Court had previously granted Defendants' Motion for Reconsideration of the judgment on the SBA Offset and Social Security Offset Claims. The Court held based on a 2007 Treasury letter interpreting 1977 Treasury regulations, that summary judgment in Plaintiffs' favor was no longer appropriate on these two "anti-cutback claims." The Court did not grant Defendants' motion to dismiss, however, as Defendants had requested. Instead, the Court held that there were factual issues remaining for trial.

We have continued to litigate Plaintiffs' motion to compel Defendants to disclose documents they have withheld on the grounds of the so-called attorney-client privilege. We must await a ruling on this pending motion to compel documents before completing the discovery process. Earlier this year the judge referred the issue to a special master who is a Magistrate Judge to help resolve the issue. We appeared in Court on February 26, 2009 before the Magistrate Judge. In June, the Magistrate Judge issued a recommendation that granted in part and denied in part our motion to compel production of documents. Both sides filed motions with the Judge regarding the Magistrate Judge's report and we are now waiting for the Judge to issue a ruling. Once that ruling is issued, both sides will have time to complete additional discovery, including discovery of experts, before filing additional motions for a ruling on the merits on the "anti-cutback claims." We cannot predict when the Court will make its ruling.