Obligation Upheld

USW Legal Action Forces Continental to Pay for Retiree Health Care

Mark Cieslikowski often feels like he's been run over by one of those Continental Tires he used to make in Charlotte, N.C.

The president of Local 850 has gone round and round with the German-based tire company in negotiations and is frustrated by management logic that is as circular as its principal product.

So it was satisfying for Cieslikowski, who had watched employment in his plant dwindle from 1,080 to 160 over two years, to see retirees win their suit against Continental in July.

The court victory, which the company attempted to appeal just one day later, means Continental must pay bargained health care premiums for 2,000 retirees and their spouses from the Charlotte, Mayfield, Ky., and Bryan, Ohio plants.

Continental stopped paying its full share of the premiums last spring. Contractually, the company was obligated to pay approximately $18,000 a year for retirees not yet eligible for Medicare and $4,200 for those old enough to receive Medicare. Instead, Continental summarily decided to pay $3,000 for everyone, regardless of age or circumstance.

Retirees devastated

Cieslikowski said that devastated many retirees from Charlotte. They just didn't have the money to make up the difference in the premiums, and they couldn't get insurance on their own because no company would sell it to sick, elderly people.

"Because they had pre-existing conditions, they could not buy insurance," he said. "If you are a diabetic or have high blood pressure, lots of companies will not insure you."

That left some people too young to qualify for Medicare, but old enough to have invested a lifetime making tires for Continental without insurance at a vulnerable time in their lives.

That's when the USW and several retiree representatives filed the class action suit on behalf of everyone affected.

Continental explained their behavior to the judge this way: Contracts with the USW at three plants had expired, so it had no obligation to pay for health care at the $18,000 and $4,000 per year levels.

The fault with that logic is that, unlike other obligations that may end with a contract, those that are vested do not. They endure beyond expiration dates.

Benefits vested

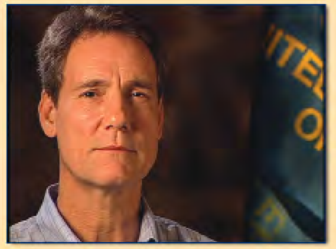
The judge was Jack Zouhary of the U.S. District Court for the Northern District of Ohio (Toledo). He did not buy Continental's contention that the retiree's health care benefits were not vested, pointing to contract language that locked in the retirees' rights.

In addition, the judge points out in his decision, when Continental closed the Bryan and Mayfield plants, it signed an agreement with the USW which states specifically that its obligations to retirees remained unchanged. Continental tried to twist that language into a relinquishment of retiree rights, but the judge rejected the argument.

Never willing to roll over even when dealing with an international giant, Cieslikowski cheered the court win over Continental, though he admitted to some reservations.

"To some extent I am guarded about it because I am not used to getting good news about this company," he said, "This company runs all over people without regard to moral issues or responsibility. It is a foreign company that uses this country's laws to its benefit. Now it is being told it is wrong."

Ellis Nelson, retired after 31 years, was forced by Continental's arbitrary health care cutbacks to spend $1,011 of his $1,126 monthly pension on health insurance premiums.



Larry Little, a Vietnam veteran, retired after 32 years, then underwent quadruple bypass surgery. Despite his heart condition, Continental's cutbacks forced him to seek a job to pay for insurance.

Bruce Nash retired after 34 years but had to find a new job to pay for his health care premiums after Continental arbitrarily reduced the payments. His monthly pension from the company didn't cover the cost of health care coverage.

Bill Granata gave Continental 34 years but can't afford to pay for insurance for his wife after Continental's cuts. He also stopped regular visits to his prostate and skin cancer specialists because he can no longer afford it.

USW Tackles Oil Industry Safety

The USW is taking steps to change the oil industry's safety culture through testimony before Congress and with the implementation of a 10-point safety initiative with BP.

In July, health and safety specialist Kim Nibarger told the Senate Committee on Environment and Public Works that the industry has not acted on lessons learned from accident investigations conducted by the U.S. Chemical Safety Board.

The root causes of accidents that occurred before the March 2005 explosion at BP's Texas City facility were similar to that fatal accident, he said.

"Until the petrochemical industry takes a serious look at how they continue to operate, we will continue to see catastrophic accidents," Nibarger said.

Enforce standards

To create a safe environment for workers, Nibarger said OSHA must enforce its Process Safety Management (PSM) standard, which applies to companies that work with hazardous chemicals and gases.

He urged employers to treat the PSM as a minimum requirement and said the Senate committee should consult with the USW on federal enforcement penalties and accountability requirements.

Our union wants Congress to make sure that relevant federal agencies adopt CSB recommendations and make statutory changes to give both major political parties representation on the board.

Nibarger urged Congress to give the CSB, which has been denied access to some accident sites, clear lead authority and control over evidence and accident sites similar to the National Transportation Safety Board.

BP safety summit

Health and safety at BP is set to improve with the implementation of a joint union-company 10-point plan on standards for refinery staffing, new management structures, joint process safety culture, internal maintenance plans and better designed work schedules.

Local and international union leaders from four BP refineries and the Texas City chemical plant met with executive and plant management in June.

"After the Texas City explosion and reports from the CSB and Baker independent review committee, we began a dialogue a year ago to move forward," International Vice President Gary Beevers said. "We tried to correct the failures in the industry on process safety management. This summit was an accumulation of those discussions."

International President Leo W. Gerard had a frank and positive discussion with Bob Malone, chair of BP America, and they helped develop the new health and safety strategy.

Beevers said BP is making significant strides to correct past problems and to move forward in a positive way under Malone's leadership.

"It is this level of cooperation that will change BP's safety culture over time," Gerard said.

New training

Local union bargaining committees sat down with site management at the summit to establish plans and set a timetable for implementation. They agreed to have more maintenance and operations employees and to re-establish the chief operator position at locations that do not have one. New training programs will be put in place.

A four-person steering committee comprised of international union leaders and executive-level management will oversee the timetable and progress for each facility.

Beevers called the summit "a huge change" and said it would probably affect the entire oil industry, at least indirectly.

"The entire industry is watching what we do at BP," he said. "We anticipate the process spreading to other companies."

Photo by William Philpott/Agence France Presse

Texas City, Texas explosion on March 23, 2005