

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

MAXELL PRINGLE, WILLIAM  
BURKHART, JOHN DAWSON, JOSEPH  
WOLF, WAYNE ROBINSON, CHARLES M.  
DASSARO, and DANNY BRUCE, on behalf  
of themselves and all other persons similarly  
situated; and UNITED STEEL, PAPER AND  
FORESTRY, RUBBER,  
MANUFACTURING, ENERGY, ALLIED  
INDUSTRIAL AND SERVICE WORKERS  
INTERNATIONAL UNION, AFL-CIO/CLC,

Plaintiffs,

v.

CONTINENTAL TIRE NORTH AMERICA,  
INC., GROUP INSURANCE PLAN, and  
DOES 1 THROUGH 20,

Defendants.

CASE NO. \_\_\_\_\_

**Jury Trial Demanded**

**COMPLAINT FOR VIOLATION OF LABOR CONTRACTS**

Plaintiffs Maxell Pringle, William Burkhart, John Dawson, Joseph Wolf, Wayne Robinson, Charles M. Dassaro, and Danny Bruce (“Class Representatives”), on behalf of themselves and all other persons in the proposed class described in this Complaint, and Plaintiff United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO/CLC (“Union”), by their attorneys, bring this action against Defendants Continental Tire North America, Inc. (“CTNA”), Group Insurance Plan, and Does 1 through 20, and aver as follows:

## INTRODUCTION

1. This case is brought as a class action by the Class Representatives on behalf of themselves and a similarly situated class of retirees, spouses, and surviving spouses (“Class Members”) pursuant to Rule 23 of the Federal Rules of Civil Procedure, and by the Union. The Union (or its predecessor union) was the collective bargaining representative of former employees of CTNA (or predecessor companies), including Class Representatives Maxell Pringle, William Burkhart, John Dawson, Joseph Wolf, Wayne Robinson, Charles M. Dassaro, and Danny Bruce. Class Members consist of now-retired former employees of CTNA (hereinafter “Retirees), as well as spouses and surviving spouses of both these Retirees and long-term employees who died during the time they were employed leaving spouses eligible for retiree medical coverage (hereinafter “Spouses”). Plaintiffs bring this action to enforce collective bargaining agreements under which Retirees and Spouses were to receive retiree medical benefits throughout retirement.

2. Over decades of service at the tire and rubber facilities of CTNA, the Retirees earned rights to receive retiree medical benefits. Rights to retirement benefits were created through collective bargaining between CTNA (or its predecessor companies) and the Union (or its predecessor unions) that had represented the Retirees while they were employed. The successive labor agreements contained substantially identical provisions that established CTNA’s obligation to provide these benefits. Typical of these provisions is the following: “Employees who have retired and who are eligible for a pension ... pursuant to the Pension Plan ... shall receive the benefits...,” and retirees’ spouses “shall be entitled to continue to receive the [same] benefits ... until death or remarriage ...,” and surviving spouse “coverage shall terminate when spouse remarries or dies.” (Emphasis added). In violation of its contractual obligations to

provide benefits to Retirees and Spouses throughout retirement, CTNA has announced that at various dates in 2007, it will unilaterally shift a large part of the costs of retiree medical benefits to Retirees and Surviving Spouses.

3. As Plaintiffs allege in Count I, since Retirees' and Spouses' rights to retiree medical benefits were created through agreements between labor organizations and CTNA, CTNA's violation of those agreements is actionable in this Court under Section 301 of the Labor Management Relations Act ("LMRA"), 29 U.S.C. § 185(a).

4. Plaintiff Class Representatives bring Count II pursuant to § 502(a)(1)(B) and (a)(3) of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1132(a)(1)(B) and (a)(3).

5. Plaintiffs seek a declaration that their rights to retiree health care benefits provided under agreements and the Group Insurance Plan cannot be unilaterally modified or terminated by Defendants, a preliminary and permanent injunction prohibiting such modification or termination, and damages and equitable relief to remedy the reduction in benefits.

### **JURISDICTION AND VENUE**

6. As both Counts raise federal questions, this Court has jurisdiction over them under 29 U.S.C § 1331. The Court also has jurisdiction over Count I under § 301 of the LMRA, 29 U.S.C. § 185, and over Count II under § 502(e)(1) and (f) of ERISA, 29 U.S.C. § 1132 (e)(1) and (f). Venue in this judicial district is proper under § 301 of LMRA, 29 U.S.C. § 185, and § 502(e)(2) of ERISA, 29 U.S.C. § 1132(e)(2).

**PARTIES**

7. Defendant CTNA is a Delaware corporation qualified to do business in Ohio and does business within this District. In discussing the negotiating history described herein, the term “CTNA” shall refer both to CTNA and to predecessor and subsidiary companies, such as General Tire & Rubber Company, GenCorp Inc., and General Tire, Inc. (all three of which had their headquarters in Akron, Ohio). CTNA is an employer engaged in commerce, and it is the “plan sponsor” and “administrator” within the meaning of § 3(16)(A)-(B) of ERISA, 29 U.S.C. § 1002(16)(A)-(B), of the employee welfare benefit plan identified in paragraph 8 below, which provides the retiree health benefits here at issue. CTNA is sued in its capacities as plan sponsor and plan administrator of said employee welfare benefit plan.

8. Defendant Group Insurance Plan (“Plan”) is an “employee benefit plan” within the meaning of ERISA. The Plan’s sponsor is Defendant CTNA. The Plan is sued as a party needed for just adjudication under Rule 19 of the Federal Rules of Civil Procedure (“FRCP”).

9. Defendants John Does 1 through 20, inclusive, are natural persons and/or corporate entities sued herein under fictitious names. Their true names and capacities are unknown to Plaintiffs. When said true names and capacities are ascertained, Plaintiffs will amend this complaint by inserting their true names and capacities. Plaintiffs are informed and believe and thereupon allege that each of the fictitiously named defendants is responsible in some manner for the occurrences herein alleged, and that damages to the Retirees and Spouses as alleged were or will be proximately caused by such defendants.

10. Plaintiffs are informed and believe and thereupon allege that, at all times mentioned, each of the Defendants was the agent, co-venturer, partner, or in some manner agent

or principal, or both, of the other Defendants, and in doing the things alleged was acting within the course and scope of such agency.

11. Plaintiff Union – the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO/CLC – is a labor union with offices in this District, including offices in Toledo, Ohio. In 1995, the International Union of the United Rubber, Cork, Linoleum and Plastic Workers of America, AFL-CIO-CLC (“URW”) – which had represented CTNA employees for decades – merged into the United Steelworkers of America, AFL-CIO/CLC. In 2005, PACE International Union, AFL-CIO, merged into the United Steelworkers of America, AFL-CIO/CLC, which thereupon changed its name to the Plaintiff United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial And Service Workers International Union, AFL-CIO/CLC. For purposes of this Complaint, the term “Union” shall refer to the Plaintiff Union and its predecessors, including the URW.

12. Plaintiff and Class Representative Maxell Pringle is an adult resident of Edgerton, Ohio.. Until he retired in 2003, Plaintiff Pringle worked for CTNA at its Bryan, Ohio plant where he was a member of a bargaining unit represented by the Union. Under the terms of the collective bargaining agreement between CTNA and the Union applicable at the time of his retirement, Plaintiff Pringle and his spouse are entitled to retiree health care benefits as set forth in this Complaint.

13. Plaintiff and Class Representative William Burkhart is an adult resident of Defiance, Ohio. Until he retired in 2003, Plaintiff Burkhart worked for CTNA at its Bryan, Ohio plant where he was a member of a bargaining unit represented by the Union. Under the terms of the collective bargaining agreement between CTNA and the Union applicable at the time of his

retirement, Plaintiff Burkhart and his spouse are entitled to retiree health care benefits as set forth in this Complaint.

14. Plaintiff and Class Representative John Dawson is an adult resident of Waco, Texas. Until he retired in 1996, Plaintiff Dawson worked for CTNA at its Waco, Texas plant where he was a member of a bargaining unit represented by the Union. Under the terms of the collective bargaining agreement between CTNA and the Union applicable at the time of his retirement, Plaintiff Dawson and his spouse are entitled to retiree health care benefits as set forth in this Complaint.

15. Plaintiff and Class Representative Joseph Wolf is an adult resident of West Texas, Texas. Until he retired in 1991, Plaintiff Wolf worked for CTNA at its Waco, Texas plant where he was a member of a bargaining unit represented by the Union. Under the terms of the collective bargaining agreement between CTNA and the Union applicable at the time of his retirement, Plaintiff Wolf and his spouse are entitled to retiree health care benefits as set forth in this Complaint.

16. Plaintiff and Class Representative Wayne Robinson is an adult resident of Lancaster, South Carolina. Until he retired in 2001, Plaintiff Robinson worked for CTNA at its Charlotte, North Carolina plant where he was a member of a bargaining unit represented by the Union. Under the terms of the collective bargaining agreement between CTNA and the Union applicable at the time of his retirement, Plaintiff Robinson and his spouse are entitled to retiree health care benefits as set forth in this Complaint.

17. Plaintiff and Class Representative Charles M. Dassaro is an adult resident of Lancaster, South Carolina. Until he retired in 2006, Plaintiff Dassaro worked for CTNA at its Charlotte, North Carolina plant where he was a member of a bargaining unit represented by the

Union. Under the terms of the collective bargaining agreement between CTNA and the Union applicable at the time of his retirement, Plaintiff Dassaro and his spouse are entitled to retiree health care benefits as set forth in this Complaint.

18. Plaintiff and Class Representative Danny Bruce is an adult resident of Mayfield, Kentucky. Until he retired in 1998, Plaintiff Bruce worked for CTNA at its Mayfield, Kentucky plant where he was a member of a bargaining unit represented by the Union. Under the terms of the collective bargaining agreement between CTNA and the Union applicable at the time of his retirement, Plaintiff Bruce and his spouse are entitled to retiree health care benefits as set forth in this Complaint.

#### **STATEMENT OF FACTS**

19. For many years while they worked for CTNA, retiree medical benefits for Retirees and Spouses were described in and provided through successive labor agreements. CTNA negotiated these labor agreements with the Union.

20. One example of these labor agreements is the “Agreement for Pension, Service Award, Insurance and Supplemental Workmen’s Compensation Benefits,” effective in 1990 for Bryan, Ohio, between General Tire (then a wholly owned CTNA subsidiary) and the Union. Excerpts from this Agreement are appended hereto as Exhibit 1.

21. Each of the successive labor agreements promised – in substantially similar language – that specified benefits would continue, unaltered, throughout retirement. As an example, the agreement appended as Exhibit 1 provides: “Employees who have retired with 10 or more years of credited service . . . and who are eligible for a pension ... pursuant to the Pension Plan ... shall receive the benefits...” Exhibit 1 hereto, p. 73, § J (emphasis added). The agreements further mandated that the Surviving Spouses of Retirees “shall be entitled to continue

to receive the [same] benefits ... until death or remarriage ...,” and surviving spouse “coverage shall terminate when spouse remarries or dies.” *Id.* at pp. 74-75 § K (1) & (2) (emphasis added). Finally, as to dependents, the agreements mandated that coverage was to continue “so long as the dependent continues to qualify as such” (*id.*), and a dependent generally continued to qualify until age 19 – or over age 19 if a full-time student.

22. Virtually the same language from other agreements promised lifetime retiree medical benefits for Retirees and Spouses at other CTNA facilities, such as plants in Akron, Ohio, Mayfield, Kentucky, Charlotte, North Carolina, Waco, Texas, and other location[s].

23. Courts with this Circuit have previously construed virtually the same language, concluding that it confers vested lifetime benefits on retirees and surviving spouses. UAW v. Lorai Corporation, 873 F. Supp. 57, 63-65 (N.D. Ohio 1994), aff’d, 1997 U.S. App. LEXIS 2118 \*\*8-9 (6th Cir. 1997); URW v. Pirelli Armstrong Tire Corporation, 873 F. Supp. 1093, 1098 (findings #30, 43), 1102 (M.D.Tenn. 1994).

24. Consistent with the written terms of the labor agreements themselves, CTNA represented to the Retirees, Spouses, and their union representatives on many occasions over the years that the retiree medical coverage would continued, unaltered, throughout retirement.

25. At a time when Retirees’ and Spouses’ rights to retiree medical benefits were already earned and vested, CTNA violated their rights by announcing that effective on various dates in 2007 it will shift a large part of the cost of retiree medical coverage from the company to the Retirees and Surviving Spouses.

26. For example, on or about November 23, 2006, CTNA sent letters to Retirees and Spouses in Bryan, Ohio, (Exhibit 2 hereto), announcing that effective in 2007 the company “will be implementing a \$3,000 cap on the Company contribution to the cost of health care coverage

for retirees and their eligible dependents,” and that, as a result of this unilateral change, much of the cost of coverage would henceforth be the responsibility of Retirees and Spouses.

27. CTNA had no right under the collectively bargained agreements to shift costs to Retirees and Spouses in this manner. In so doing, CTNA committed an anticipatory breach of its obligations to the Union and to Retirees and Surviving Spouses.

### **CLASS ACTION ALLEGATIONS**

28. Class Representatives bring this class action on behalf of themselves and a class of:

(a) former employees of CTNA who were represented by the Union in collective bargaining and who retired from CTNA’s plants having met the requirements in effect at their retirement for retiree health care benefits specified in the applicable collective bargaining agreement, as well as the spouses and surviving spouses of those former employees who are also entitled to such benefits, and

(b) as to whom CTNA has announced that it will be imposing a \$3,000 cap on annual benefits.

(Herein, persons meeting this definition are referred to as “Class Members.”)

29. The exact number of Class Members identified in the preceding paragraph is not presently known, but, on information and belief, is in excess of 1,000 and is so numerous that joinder of the individual members in this action is impracticable.

30. The retiree health care benefits to which Class Members are entitled pursuant to the collective bargaining agreements are similar, and all benefits were meant to last, unaltered, throughout retirement.

31. There are common questions of law and fact in this action that relate to and affect Class Members, as set forth below in Counts I and II of this Complaint.

32. The relief sought is common to all Class Members, as set forth below in the “Relief Requested” section of this Complaint.

33. The claims of the Class Representatives are typical of the claims of the Class Members they seek to represent, in that all of them assert that Defendants are obligated under LMRA § 301 and ERISA to provide retiree health benefits throughout retirement without change, as set forth in collectively bargained agreements negotiated between the Union and CTNA, and that Defendants cannot unilaterally terminate or modify those benefits. There is no conflict between any Class Representative and other members of the Class with respect to this action.

34. The Class Representatives are able to, and will, fairly and adequately protect the interests of the Class Members. The attorneys for the Class Representatives are experienced and capable in the field of labor law and employee benefits law, and retiree health benefits in particular, and have successfully prosecuted numerous class actions of a similar nature.

35. This action is properly maintained as a class action under FRCP Rule 23(b)(2), in that Defendants have acted on grounds generally applicable to the Class by unilaterally changing retiree health care benefits they are obligated to provide to Class Members, thereby making final injunctive relief or corresponding declaratory relief appropriate with respect to the Class as a whole.

36. Alternatively, this action is maintainable as a class action under FRCP Rule 23(b)(3), as the common questions of law and fact described above predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

**COUNT I**

**Violation of Labor Agreements Actionable Under  
Section 301 of the LMRA  
(Against all Defendants by all Plaintiffs)**

37. Paragraphs 1 through 36 are re-alleged and incorporated by reference.

38. As noted, in the years before their retirements and at the time they retired, Class Members' retiree medical benefits were the subject of labor agreements between CTNA and Union. Under those labor agreements, Class Members and eligible dependents had rights to receive specified retiree medical benefits.. CTNA's announcement that it is shifting costs to Class Members infringes upon those rights.

39. Accordingly, CTNA's announced cost shifting violates collectively bargained obligations owed to Class Members, and is actionable under Section 301 of the LMRA, 29 U.S.C. § 185(a).

**COUNT II**

**Violation of Employee Welfare Benefit Plan Actionable Under  
ERISA § 502(a)(1)(B) and (a)(3)  
(Against all Defendants by Class Representatives)**

40. Paragraphs 1 through 39 are re-alleged and incorporated herein by reference.

41. By taking the actions described above, Defendants violated the rights of Class Representatives and other Class Members. Specifically, under Plan's governing documents (including collective bargaining agreements), the rights of Class Representatives and the Class as a whole to retiree medical benefits were vested and not subject to change throughout retirement (for retirees) or until death or remarriage (for eligible spouses). Accordingly, the unilateral reductions in and changes to benefits CTNA recently announced infringe upon and are in derogation of those vested rights.

42. Defendants' repudiation of the terms of the employee welfare benefit plan is actionable in this Court under ERISA § 502(a)(1)(B) and (a)(3), 29 U.S.C. § 1132(a)(1)(B) and (a)(3). Those statutory provisions state that a participant or beneficiary may bring a civil action "to enforce his rights under the terms of the plan, or to clarify his rights to future benefits under the terms of the plan," and further "to enjoin any act or practice which violates . . . the terms of the plan, or . . . to obtain other appropriate equitable relief . . . to redress such violations or . . . to enforce . . . the terms of the plan."

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that this Court:

- A. Certify this action as a class action, appoint Plaintiffs Maxell Pringle, William Burkhart, John Dawson, Joseph Wolf, Wayne Robinson, Charles M. Dassaro, and Danny Bruce as Class Representatives, and appoint William T. Payne and Stember Feinstein as counsel for the Class.
- B. Declare that the retiree health benefits as set forth in the applicable collective bargaining agreements between CTNA and the Union, and in the Plan, may not be unilaterally modified or terminated by Defendants.
- C. Preliminarily and permanently enjoin Defendants from modifying or terminating the benefits they are obligated to provide to the Class Members under the terms of the applicable collective bargaining agreements and the Plan.
- D. Award Class Representatives and Class Members such benefits, pursuant to the terms of applicable collective bargaining agreements and the Plan, and/or monetary damages, as necessary to restore them to the position in which they

would and should have been in but for Defendants' contractual and statutory violations.

- E. Award Plaintiffs reasonable attorneys' fees and costs incurred in this action.
- F. Grant such further relief as may be deemed necessary and proper.

**JURY DEMAND**

Plaintiffs request a jury trial of all issues so triable.

Respectfully submitted,

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Dated: December 13, 2006

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<sup>1</sup> All counsel are members of the Bar of the United States District Court for the Northern District of Ohio.