



FILED

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Stephan Harris
Clerk of Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

WADE E. JENSEN and DONALD D.
GOFF, individually and on behalf of all
others similarly situated,

Plaintiffs,

vs.

SOLVAY CHEMICALS, INC.,
SOLVAY AMERICA, INC., and
SOLVAY AMERICA COMPANIES
PENSION PLAN,

Defendants.

Case No. 06-CV-273J

**AGREED ORDER MODIFYING THE FEBRUARY 8, 2008 ORDER ON CLASS
CERTIFICATION AND COLLECTIVE ACTION**

The Parties' Joint Motion to Modify the February 8, 2008 Order on Class Certification and Collective Action ("Joint Motion") is **GRANTED**. Based on the representations in that Joint Motion, the Court's February 8, 2008 Order on Class Certification and Collective Action is modified as follows:

1. **ERISA Class Definition.** The certified ERISA class is now defined as any and all persons who:

- (a) Are current or former employees of affiliates or subsidiaries of Solvay America, Inc.,
- (b) Are age 40 or more as of February 8, 2008, and
- (c) Participated in the Solvay America Companies Pension Plan before January 1, 2005, and have been subject to the “Retirement Account Balance Formula” on or after January 1, 2005.

2. **ADEA Collective Action Definition.** The conditionally-approved ADEA class is now defined as any and all persons who:

- (a) Are current or former employees of affiliates or subsidiaries of Solvay America, Inc.,
- (b) Are age 40 or more as of February 8, 2008, and
- (c) Participated in the Solvay America Companies Pension Plan before January 1, 2005, and have been subject to the “Retirement Account Balance Formula” on or after January 1, 2005.

3. **Mailing List.** Within five (5) days of the signing of this Agreed Order, Defendants shall submit to Plaintiffs’ counsel a mailing list (the “Solvay Affiliates Mailing List”) in electronic form that contains the names and addresses of the individuals who satisfy the criteria of the modified ADEA Collective Action Definition above and

who were not included in the mailing list that Defendants previously provided under the Court's February 8, 2008 Order.

4. **Distribution of Notice.** Within twenty (20) days of receiving the Solvay Affiliates Mailing List from Defendants, Plaintiffs' counsel shall distribute by mail modified notice and consent to join (i.e. opt-in) forms that are consistent with this Agreed Order to the persons on the Solvay Affiliates Mailing List. If any mail is returned as undeliverable, Defendants shall supply any information reasonably necessary for Plaintiffs' counsel's use in searching for updated addresses. Plaintiffs are also permitted to give notice through the newspaper and the Internet. Plaintiffs' counsel shall pay the cost of mailing and related services. The consent forms shall be mailed to a Post Office Box maintained by counsel for the Plaintiffs who will be responsible for collecting the consent forms for filing with the Clerk of Court, along with preparing an electronic list of the persons who consent to join the action. Defendants may review the original consent forms to verify the list.

5. **Time Limit for Consents.** The time limit for consents for individuals listed on the Solvay Affiliates Mailing List shall be (ninety) 90 days after the mailing of the Solvay Affiliates Mailing List is complete. The consent to join form must be signed and placed in the mail no later than that date. If no response is received in the first (forty-

five) 45 days, Plaintiffs' counsel shall send reminder notices to ensure that participants have received the notice and respond on a timely basis. If notices are required to be re-mailed because addresses are out of date, the 90-day time period for responding will start with the date of the re-mailed notice unless such time period would result in consents being filed more than 120 days from the initial mailing.

6. **Communications with Members of Litigation Control Group.** The "Communications with Members of Litigation Control Group" provision in Paragraph 12 of the February 8, 2008 Order on Class Certification and Collective Action shall include any individuals in the litigation control group who are on the Solvay Affiliates Mailing List.

7. **Confidentiality of Mailing List Information.** Plaintiffs shall treat all mailing list information provided to them in accordance with this Agreed Order, the February 8, 2008 Order on Class Certification and Collective Action, or otherwise, as confidential information and use such information only for purposes of this lawsuit.

8. **Non-Waiver of Claims or Defenses.** The Court recognizes that the Parties do not intend for the Joint Motion or this Agreed Order to waive any claims, assertions, defenses, or challenges, whether or not they have been asserted. The Parties each retain the right to challenge or seek modification of the inclusion of the participants

employed by the Solvay Affiliates in this case.

Dated this 7th day of June, 2008.



ALAN B. JOHNSON
UNITED STATES DISTRICT JUDGE