

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA**

GARY WILLIAMS and NANCY )  
MEEHAN, Individually and on )  
behalf of all others similarly situated, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
ROHM AND HAAS PENSION PLAN, )  
 )  
Defendant. )

Civil No. 4:04-CV-0078-SEB-WGH

**ORDER PRELIMINARILY APPROVING SETTLEMENT AGREEMENT**

This matter comes before the Court on the Joint Motion for Preliminary Approval of Class Action Settlement for Subclasses One and Two (the “Joint Motion”) filed by the parties. Having considered the matter, and following the hearing on the Joint Motion held on November 24, 2009, the Court makes the following findings, grants the Joint Motion, and Orders as follows:

1. The Court granted the Unopposed Motion to File First Amended Class Action Complaint. [Docket No. 235.] However, in light of the Joint Motion, the deadline for Defendant to respond to the Amended Complaint is hereby stayed until further order of the Court.

2. By way of the Joint Motion, the parties ask for preliminary approval of the parties’ settlement of the litigation in accordance with a Settlement Agreement dated November 18, 2009 (the “Settlement Agreement”). The Settlement Agreement is attached to the Joint Motion as Exhibit A.

3. The Settlement Agreement is the product of serious, informed, lengthy, non-collusive negotiations, which involved the assistance of a Magistrate Judge and a professional

mediator. The settlement payments under the proposed Settlement Agreement are estimated to have a total value of between \$176 million and \$180 million.

4. The Settlement Agreement has no obvious deficiencies, does not improperly grant preferential treatment to the Class representatives or segments of the Class, and falls within the range of possible approval.

5. The Court finds that a payment of fees and costs to Class counsel by the Plan is a proper expense of the Plan and the trust thereunder because it is related to maintaining continuing compliance with the Employee Retirement Income Security Act, as amended, 29 U.S.C. §§ 1001 *et seq.* (“ERISA”). Payment of fees and expenses is therefore a reasonable expense of administering the Plan, and is neither a settlor expense nor a distribution of benefits to Plan participants and their beneficiaries.

6. The Court preliminarily approves the Settlement Agreement as being fair, reasonable and adequate and in the best interest of the Class as a whole.

7. Pursuant to the Joint Motion, and Fed. R. Civ. P. 23(b)(2), the Court certifies a Settlement Class comprised of two subclasses, as follows:

**Subclass One (represented by Williams)**

All participants and beneficiaries in the Rohm and Haas Company Retirement Plan, or any predecessor plan thereto (collectively, the “Plan”), who (1) received a lump sum benefit distribution from the Plan on or before December 31, 2009, which lump sum did not include any COLA value; or (2) elected to receive a lump sum benefit distribution on or before December 31, 2009, with the lump sum to be paid after December 31, 2009. (However, no participant or beneficiary shall be considered a member of Subclass One to the extent that his/her underlying annuity benefit is not eligible for a COLA under the terms of the Plan.)

**Subclass Two (represented by Meehan)**

All participants and beneficiaries in the Plan on or before December 31, 2008 who are not members of Subclass One, and who are eligible or required to receive a lump sum benefit distribution from the Plan after December 31, 2009. (However, no participant or beneficiary shall be considered a member of Subclass Two to the extent that his/her underlying annuity benefit is not eligible for a COLA under the terms of the Plan.)

8. It is necessary and appropriate to submit the proposed settlement of the class action to the members of the Class and to convene a hearing for the purpose of determining on a final basis the fairness, reasonableness and adequacy of the proposed settlement and an award of attorneys' fees and reimbursement of expenses to Class Counsel (the "Fairness Hearing").

9. The Fairness Hearing shall be held before this Court on Friday, March 12, 2010, at 10:00 a.m. in Room 216 of the United States Courthouse located at 46 East Ohio Street in Indianapolis, Indiana. **PLEASE NOTE THE INDIANAPOLIS LOCATION OF THE HEARING.** At the Fairness Hearing, this Court will decide: (1) whether the proposed settlement of this litigation on the terms and conditions contained in the Settlement Agreement is fair, reasonable and adequate and should be approved by the Court after considering any objections to the Settlement Agreement; (2) whether a proposed Final Judgment should be entered herein; and (3) the amount of fees and expenses that should be awarded to counsel for the Class.

10. The Court approves the form and content of the Class Notice attached as Exhibit B to the Joint Motion, as modified in accordance with the Court's discussion with counsel on the record at the November 24, 2009, hearing. The Court finds that mailing of the Class Notice by first class mail, postage prepaid, to each member of the Class at the last known address meets the requirements of Fed. R. Civ. P. 23 and all applicable due process considerations of the United States Constitution, is the best notice practicable under the circumstances, is reasonably

calculated to apprise Class members of the action, their right to object, and their right to appear at the Fairness Hearing, and shall constitute sufficient notice to all persons entitled thereto.

11. Any Class member who wishes to object to the fairness, reasonableness or adequacy of the Settlement Agreement or Class Counsel's request for an award of fees and costs must mail to Class Counsel, Douglas R. Sprong, at the law firm of KOREIN TILLERY, LLC, One US Bank Plaza, 505 North 7<sup>th</sup> Street, Suite 3600, St. Louis Mo, 63101, on or before February 12, 2010, a statement of the objections, as well as the specific reason(s), if any, for each objection, including any legal or factual support that the class member wishes to introduce in support of the objection. Any Class member who mails to Class Counsel a written objection, as described herein, may appear at the Fairness Hearing.

12. Any Class members wishing to mail a written objection or appear at the Fairness Hearing in accordance with this Order may do so either on their own or through an attorney hired at their own expense. If a Class member retains an attorney for purposes of mailing written objections or appearing at the Fairness Hearing, the attorney must file a notice of appearance with the Clerk of the District Court no later than February 12, 2010, and serve a copy of such notice of appearance on all counsel.

13. Any Class member who fails to comply with these provisions relating to objections or appearances at the Fairness Hearing shall waive and forfeit any and all rights he or she may have to appear at the Fairness Hearing (either individually or by counsel) and/or to object to the Settlement Agreement or to an award of fees and costs to Plaintiffs' Class Counsel, and such individual shall be bound by all of the Court's rulings with respect to the Settlement Agreement, award of fees and costs, orders, and judgments in this case.

14. Counsel for the parties shall promptly furnish each other with copies of any and all appearances and/or objections that come into their possession.

15. The Court reserves the right to postpone the date of the Fairness Hearing without further notice to the Class members (except as may be served upon all counsel of record and Class members who have appeared). Neither a postponement of the Fairness Hearing nor an adjournment of the Hearing once it has commenced shall extend the deadline for the filing of objections or entries of appearance. The Court further retains jurisdiction to consider all other applications arising out of or connected with the proposed settlement.

16. The Court finds that the simultaneous or future prosecution of other actions based upon the claims at issue with respect to the Class, whether in federal or state court or in an administrative proceeding, would jeopardize the Court's jurisdiction and its ability to rule on this settlement, increase the cost of litigation and create a risk of conflicting results. Such actions therefore pose a significant threat of irreparable harm to the parties and to the Court's jurisdiction. Accordingly, the Court preliminarily enjoins Plaintiffs and all members of the Class, or any of them, or anyone on their behalf, from commencing, continuing or prosecuting any actions or proceedings of any kind asserting any of the claims that have been asserted by them in this Litigation, either directly, representatively, derivatively or in any other capacity against the Parties herein, pending the final determination of whether the Settlement Agreement should be approved, regardless of the form of said actions.

IT IS SO ORDERED.

Date: 11/24/2009



SARAH EVANS BARKER, JUDGE  
United States District Court  
Southern District of Indiana

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