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## Retiree Benefits

### Whirlpool Retirees' Benefits Revised for Third Time



By Jacklyn Wille

Jan. 4 — Changing course for the third time, a federal judge awarded lifetime health-care benefits to a subclass of former Whirlpool Corp. workers who retired between 1983 and 1992 (*Zino v. Whirlpool Corp.*, 2015 BL 436507, N.D. Ohio, No. 5:11-cv-01676, 12/31/15).

Judge Benita Y. Pearson of the U.S. District Court for the Northern District of Ohio said that the relevant bargaining agreements were sufficiently ambiguous to allow her to consider extrinsic evidence in interpreting them. That extrinsic evidence demonstrated that the workers who retired between 1983 and 1992 were entitled to vested lifetime health-care benefits, just like the other workers involved in the lawsuit, she concluded.

In so ruling, Pearson reconsidered her October 2015 decision denying benefits to this subclass. In that ruling, Pearson found that the U.S. Supreme Court's recent opinion in *M&G Polymers USA, LLC v. Tackett*, 135 S.Ct. 926, 59 EBC 1425 (U.S. 2015), prevented her from considering extrinsic evidence in interpreting the relevant bargaining agreements (212 PBD 212, 11/3/15).

In this most recent ruling—issued Dec. 31—Pearson said that her earlier opinion was “attempting to read reason into the unreasonable.” She also chastised the bargaining parties for sloppiness, saying that the “lack of care given the documentation of matters as important as retiree health and welfare benefits is shameful.”

Prior to Pearson's October ruling in favor of Whirlpool, she conducted a bench trial that resulted in a ruling extending health-care benefits to nearly all the retirees involved in the suit, including those who retired between 1983 and 1992 (184 PBD, 9/23/14).

In that post-trial opinion, Pearson reconsidered her original decision granting summary judgment to Whirlpool on this subclass's claims in 2013 (169 PBD, 8/30/13).

The retirees were represented by Feinstein Doyle Payne & Kravec and Schulman & Zimmerman. Whirlpool was represented by Baker & McKenzie and Black McCuskey Souers & Arbaugh.

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#### For More Information

Text of the decision is at

[http://www.bloomberglaw.com/public/document/Zino\\_v\\_Whirlpool\\_Corp\\_No\\_511CV01676\\_2015\\_BL\\_436507\\_ND\\_Ohio\\_Dec\\_31](http://www.bloomberglaw.com/public/document/Zino_v_Whirlpool_Corp_No_511CV01676_2015_BL_436507_ND_Ohio_Dec_31).

#### BNA Snapshot

*Zino v. Whirlpool Corp.*,  
2015 BL 436507, N.D.  
Ohio, No. 5:11-cv-01676,  
12/31/15

**Holding:** Subclass of Whirlpool Corp. retirees are entitled to vested lifetime health-care benefits.

**Takeaway:** District judge changes course for third time in considering lifetime health-care benefits for retired Whirlpool workers.

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