

ERNESTEE MAGAHA
CLERK OF CIRCUIT COURT
IN AND FOR ESCAMBIA COUNTY, FLORIDA

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT IN AND FOR ESCAMBIA COUNTY, FLORIDA

2006 JUN 12 P 3:33

ESTER LEE JOHNSON, on behalf of
herself and all others similarly situated,

CIRCUIT CIVIL DIVISION
FILED & RECORDED

Plaintiff,

vs.

CASE NO.: 2000-CA-495

INTERNATIONAL PAPER COMPANY,
f/k/a CHAMPION INTERNATIONAL
CORPORATION,

Defendant.

STIPULATION FOR CLASS CERTIFICATION HEARING

COME NOW THE PARTIES, BY AND THROUGH THEIR UNDERSIGNED ATTORNEYS, AND STIPULATE TO THE FOLLOWING ONLY FOR PURPOSES OF THE HEARING ON CLASS CERTIFICATION:

I. Legal:

- A. Numerosity is present.
- B. Plaintiffs' attorneys are adequate class counsel (by this, Defendant is not stipulating that there are no conflicts among putative class members that could affect adequacy of representation by Plaintiffs' attorneys, but rather that Plaintiffs' attorneys meet all other tests of adequacy of representation).
- C. Plaintiffs are no longer proposing a class-wide measurement of damages.
- D. Plaintiffs agree that temporary damages are individual issues.
- E. Plaintiffs have withdrawn any claim for unjust enrichment.
- F. There is no claim for diminution of fair market value of any of the properties owned by any putative class member.
- G. There is no claim for contamination by Defendant on any of the shoreline properties above the mean high water line owned by any putative class member.

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H. There is no claim for damages arising out of any claimed deposits or contamination on any of the shoreline properties above the mean high water line owned by any putative class member.

I. The parties will submit the depositions and/or written reports of each witness (expert or lay) on whose testimony or opinions they wish to rely, as well as Bates stamped documentary evidence on which they intend to rely, with their briefs.

J. Defendant shall submit any objections to any portions of the depositions or documentary evidence submitted by the Plaintiffs in writing to the court on or before July 27, 2006. Plaintiffs shall submit any objections to any portions of the depositions or documentary evidence submitted by the Defendant in writing to the court on or before August 10, 2006

II. Authenticity (though not accuracy or relevance)

A. All documents, photographs and other materials produced in discovery are true and correct copies of originals in the possession of the party or other person who produced them.

B. All documents, photographs and other materials relied upon by expert witnesses and produced in discovery are true and correct copies of originals in possession of said expert witness.

III. Geographic facts:

A. The Perdido Bay drainage basin covers approximately 3000 square kilometers and encompasses parts of Baldwin and Escambia Counties, Alabama, and western Escambia County, Florida.

B. The Lillian Bridge connects the Florida and Alabama sides of the bay at its narrowest point.

IV. Hurricanes

A. Hurricane Ivan came ashore near Gulf Shores, Alabama, on September 16, 2004, as a Category 3 hurricane on the Saffir-Simpson scale, which rates hurricanes from one to five according to wind speeds and destructive potential. A Category Three hurricane has winds from 111 to 130 miles an hour (179 to 209 kilometers an hour).

B. When it made landfall near Gulf Shores, Alabama, on September 16, 2004, Hurricane Ivan carried wind speeds in excess of 110 mph.

C. When it made landfall near Gulf Shore, Alabama, on September 16, 2004, Hurricane Ivan drove a storm surge in the range of 13 feet above normal high tide levels in Perdido Bay.

- D. Hurricane Ivan caused damage along the shores of Perdido Bay.
- E. Hurricane Ivan caused erosion in many places along the shores of Perdido Bay.
- F. Houses on land abutting Perdido Bay were destroyed or suffered major damage as a result of Hurricane Ivan.

V. Pensacola Mill facts:

A: Mill Location and Operator:

1. Defendant, International Paper Company's (IP) Pensacola Mill is located in Cantonment, Escambia County, Florida, on State Road 184 at U.S. Highway 29, Latitude/Longitude: 30°36'30"/87°19'30", Section/Township/Range: 14&15/1N/31W (Pensacola Mill).
2. IP began operating the plant in 2000. Before IP, the facility was operated by Champion, which merged into IP.

B: Mill Discharge and Permitting:

3. Millions of gallons per day of treated industrial wastewater is discharged directly from the Pensacola Mill to Eleven Mile Creek.
4. Most of the wastewater then flows downstream through Eleven Mile Creek, which ultimately flows into Perdido Bay.
5. The wastewater often comprises most of the flow at the point where IP currently discharges into Eleven Mile Creek. The waters of Eleven Mile Creek flowing into Perdido Bay include waters contributed by Eight Mile Creek, Ten Mile Creek, and storm water run-off.
6. The wastewater typically averages 2-3 thousand pounds per day of suspended solids. It also includes other parameters.
7. Wastewater Permit No. FL0002526 (wastewater permit), issued by the Florida Department of Environmental Protection (FDEP) on November 15, 1995, authorizes wastewater discharge from the Pensacola Mill.
8. Section I of the wastewater permit is comprised of National Pollutant Discharge Elimination System (NPDES) Permit No. FL0002526, originally issued to Champion's predecessor-in-interest at the Pensacola Mill (St. Regis Paper Company) by the United States Environmental Protection Agency (USEPA) on January 3, 1983.
9. Section II of the wastewater permit is comprised of a state temporary operating permit, Permit No. IT17-156163, originally issued to Champion by the Florida

Department of Environmental Regulation (FDEP's predecessor agency) on December 13, 1989.

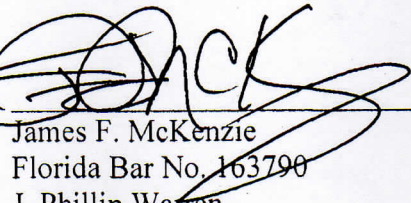
10. IP is proposing to move its discharge via a pipeline constructed from the Pensacola Mill to a new pipeline from which treated effluent will flow to a wetland distribution area on the north side of Perdido Bay, and FDEP has given notice of intent to permit this.

11. IP has secured a construction permit for the construction of a new pipeline and wetlands distribution system for its treated effluent. IP timely applied for renewal of its NPDES permit and a notice of intent to issue has been given by FDEP.

VI. Prior Class Action

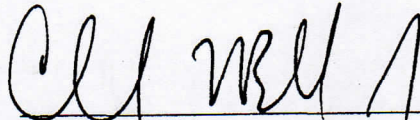
A: A prior class action against Champion pertaining to the Pensacola Mill was filed in the Twenty-Eighth Judicial Circuit Court of Baldwin County, Alabama, in 1992, certified as a class action in 1994, and resolved by Settlement Agreement in 1996. Copies of the Order of Class Certification and Settlement Agreement are attached to Plaintiffs' Amendments to Motion for Class Certification and Supporting Memorandum.

Dated this 12th day of June, 2006



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing was served via U.S. Mail

upon

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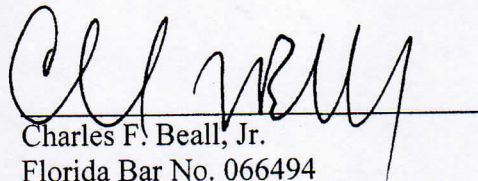
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