

Third Circuit Limits Debtors' Ability to Modify or Terminate Retiree Benefits Except Through 11 U.S.C. § 1114

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In *IUE-CWA v. Visteon Corp. (In re Visteon Corp.)*, No. 10-1944, 2010 WL 2735715 (3d Cir. July 13, 2010), the United States Court of Appeals for the Third Circuit reversed the decision of the United States District Court for the District of Delaware (“District Court”) which had affirmed the Bankruptcy Court for the District of Delaware’s (“Bankruptcy Court”) order permitting Visteon Corporation, *et al.* (the “Debtors”) to terminate retiree health and life insurance benefits without complying with the procedures set forth in 11 U.S.C. § 1114, the bankruptcy statute governing the payment of insurance benefits to the Debtor’s retired employees. The Third Circuit’s reversal required the Debtors to follow bankruptcy statutory protocol, despite reservation of rights language in the benefits plan allowing termination outside of bankruptcy.

The descriptions in the plans utilized by the Debtors provided that medical coverage would continue during retirement or until death, albeit with a reservation of rights that permitted the Debtors to modify or terminate coverage. Following their Chapter 11 petition, the Debtors moved the bankruptcy court for permission to terminate all benefits plans pursuant to section 363(b)(1) of the Bankruptcy Code. The Bankruptcy Court concluded that since the Debtors had a right under non-bankruptcy law to terminate benefits unilaterally, section 1114 did not apply; section 1114 forbids the modification of any retiree benefits plan and mandates the trustee to timely pay the same unless the court orders or the parties agree otherwise. The District Court affirmed, finding additionally that a contrary result would allow retirees to receive more protection from a company under bankruptcy than they would receive from a company outside of bankruptcy.

The Third Circuit reversed the lower courts on the following three grounds: one, the plain language of section 1114, together with section 1129, unambiguously applies to any and all retiree benefit plans, including ones that have reservation of rights clauses; two, the legislative history does not provide an extraordinary showing of contrary intentions that would justify a departure from statutory unambiguous plain language; and three, there was no absurdity in granting the retirees more rights under Chapter 11 than they would have outside of bankruptcy.

As to the first point, the Court acknowledged that the majority of bankruptcy and district courts have concluded section 1114 does not limit a debtor’s ability to terminate benefits during bankruptcy when it has reserved the right to do so in the applicable plan documents. Nevertheless, the Court held that section 1114(e)(1) “could hardly be clearer,” in that it restricts a debtor’s ability to modify any payments to any entity or person under any plan, fund, or program in existence when the debtor files for Chapter 11 bankruptcy. The Court found that, aside from specific enumerated exceptions, Congress placed no limitation on section 1114’s scope, including whether or not the debtor reserved a right to terminate its plan. Furthermore, the

and only so long as there were no new durational obligations taken on during the section 1114 process. The Court also found this reading to be consistent with the amendment to section 1114 made by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, which prevents an insolvent debtor from terminating retiree benefits in the six-month period before filing for bankruptcy.

In rejecting the Debtors' argument that the legislative history behind section 1114 is at odds with the Court's interpretation, the Court found that the Debtors failed to make the extraordinary showing of contrary intentions in the legislative history that would justify departing from the unambiguous plain language of the statute. The Court cited multiple points from the legislative history that suggested the Bankruptcy Code was to effectuate the legitimate expectations of former workers. Furthermore, the Court referenced an authoritative Senate Report that emphasized continuing benefits until and unless a modification is agreed to by the parties or ordered by a court.

Finally, the Court held that its interpretation of the statute's plain language was correct, and that the Debtors failed to prove that its' statutory construction would be absurd. The plain language of the statute and the indications of congressional intent necessitated the reversal of the lower court decisions, notwithstanding the possibility that retirees may have more rights under Chapter 11 than they would have outside of bankruptcy. The Court found that this statutory reading "prevent[ed] the human dimension of terminating retiree benefits from being obscured by the business of bankruptcy."