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International Paper Pays \$30 Million Over 401(k) Claims

Settlement Comes After Workers Allege Problems With Retirement Plan



Workers fighting high, hidden fees and investments in 401(k) plans that they claim are unfair are starting to win large settlements and force changes to the way some plans operate. Kelly Greene reports from the News Hub. (Photo: International Paper Co.)

[International Paper Co. IP +1.06%](#) and 10 current and former employees agreed to a \$30 million settlement in a suit over the company's 401(k) plans.

The company agreed to distribute the money among some 70,000 individual workers' and former participants' accounts as well as put the plan's administration out for bid.

Workers in a variety of industries have filed claims against more than two dozen workplace retirement-savings plans in recent years over allegedly high fees and unsuitable investments. The cases are starting to work their way through the courts, with workers scoring legal victories and forcing changes in the way some plans operate.



Bloomberg News

The International Paper pact is believed to be the second-highest payment in disputes over retirement-plan fees.

The International Paper settlement is believed by retirement-plan litigators to be the second-highest payment to date in disputes over retirement-plan fees.

"I think this one of the most impactful things to happen in the 401(k) industry in decades," said Marcia Wagner, a Boston lawyer who specializes in employee-retirement-plan law and represents plan sponsors and administrators.

In the International Paper case, workers alleged in a claim filed in 2006 in U.S. District Court in East St. Louis, Ill., that the company's 401(k) plans for hourly and salaried employees violated the Employee Retirement Income Security Act, or ERISA, the federal law that covers a wide range of workplace retirement plans.

The claim alleged that International Paper maintained its own publicly traded stock as an investment option, paid "excessive" fees for record keeping and investment management, and "fraudulently" reported performance histories for the plans' funds. The plaintiffs also claimed that the company improperly delayed making contributions to the plans and retained interest earned on those contributions for corporate accounts, according to the settlement.

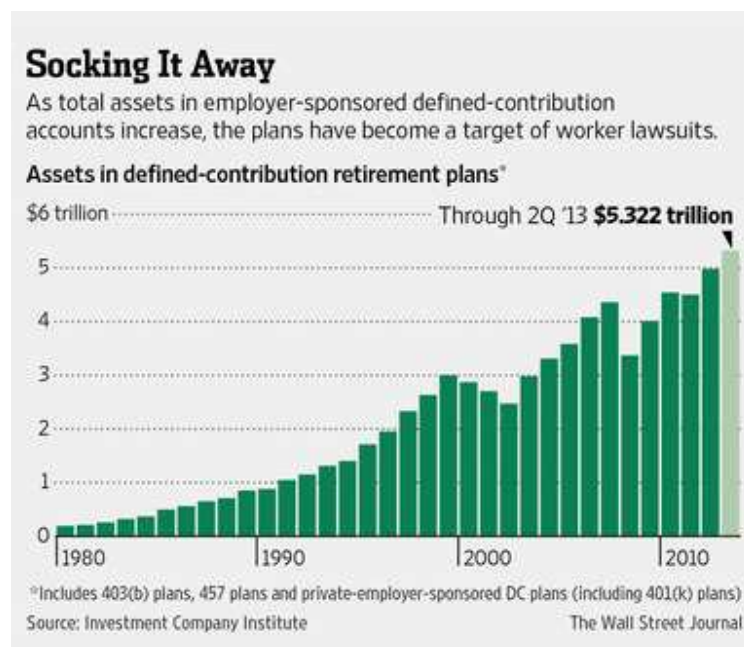
International Paper, which was the plans' sponsor, denied all the claims. It said the fees paid to the plan's service providers, including J.P. Morgan Chase & Co., are "prudent and reasonable," and that its 401(k) plans have offered "a broad portfolio of prudent investment options," according to the settlement.

"The case in question was filed seven years ago and we are pleased to be able to put this behind us," an International Paper spokesman said in a statement. "Today's settlement agreement is not an admission of liability on behalf of the company."

A J.P. Morgan spokesman declined to comment.

"It seemed as if the fees were very, very hidden and hard to figure out," said Paul Glenney, a 61-year-old factory manager in Mattoon, Ill., who left International Paper about 10 years ago but kept his 401(k) account. With the settlement, "I've been able to not just help my own retirement but other people's."

Nearly 73 million U.S. workers and retirees had 401(k) accounts as of Dec. 31, 2011, according to the latest data available from the nonprofit Employee Benefit Research Institute. Defined-contribution plans, including 401(k)s, held \$5.3 trillion as of June 30, according to the Investment Company Institute, a trade group.



Following several claims, the U.S. Labor Department issued a rule last year requiring 401(k) administrators to better spell out fees being charged to plan sponsors and participants.

The largest amount negotiated to date in a 401(k) fee case is believed to be the \$35 million preliminary settlement reached in July by [Cigna Corp. CI +2.20%](#) workers. Their claim alleged that the company's 401(k) plan breached the Erisa law by selecting itself as plan administrator and by offering "imprudent funds" as investment options. Cigna has denied the allegations and declined further comment.

Workers in the International Paper and Cigna cases were represented by Jerome Schlichter, a St. Louis lawyer who has filed 14 claims over 401(k) fees or self-dealing in the past seven years.

"More and more people are aware of the fact that fees have not been a priority with a lot of companies with 401(k) plans," Mr. Schlichter said. "We're seeing more recognition of the fact that this duty of an employer when they offer a 401(k) plan is very real, and there's a high level of obligation to the employees. And courts are recognizing this more and more as well."

In September, workers who sued [Boeing Co. BA +0.21%](#) over 401(k) fees were granted class-action status in U.S. District Court in East St. Louis. A Boeing spokesman declined to comment. And in August, workers at [Lockheed Martin Corp. LMT -0.04%](#) who alleged in a federal lawsuit that their plan's stable-value fund was improperly invested in money-market funds won a reversal of a denial of class-action certification from the Seventh U.S. Circuit Court of Appeals in Chicago.

"Lockheed Martin continues to evaluate its options," a company spokeswoman said in a statement. "We remain committed to defending against this lawsuit at all stages of the litigation."

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