



Judge deciding future of Deere retirees' case

Jennifer DeWitt | Posted: Tuesday, August 4, 2009 7:55 pm

Attorneys began to lay out their arguments in federal court Tuesday as part of a class action lawsuit that pits thousands of retirees against their former employer, Deere & Co.

During a 4 1/2-hour hearing at the federal courthouse in Davenport, U.S. District Judge Charles Wolle heard arguments from both sides on motions for partial summary judgment on the lawsuit's four counts. His order, which will be issued as a written ruling, will determine which - if any - of the issues will proceed to trial.

Wolle told attorneys that "arguments on both sides were powerful." But he offered no indication when he will issue the ruling or how he intends to rule.

However, a Sept. 21 trial date is tentatively set. Attorneys estimated that a trial could last two weeks. It will be a bench trial as required by Employee Retirement Income Security Act, or ERISA, laws.

"We have asked the court to rule in our favor on certain aspects (of the suit) and to go to trial on others," Susan Martin, the plaintiffs' attorney, said after the hearing. "The defendants are asking the court to rule in their favor on the whole case and dismiss it."

The lawsuit, filed last fall in U.S. District Court, stems from a new benefits plan that Deere rolled out in 2007. It affected about 5,000 of Deere's flex retirees, who had mostly been salaried employees.

The suit was filed on behalf of the Flex Retirees Organization, or FRO, a group that formed after the new benefit plan was introduced. While it names individual retirees as plaintiffs, it was approved in December for class action status by Wolle.

Martin, who is with the Phoenix law firm of Martin & Bonnett, hired by FRO, argued that Deere violated ERISA and terms of the plans. She offered evidence that retirees were told for years that they would take "all their benefits" into retirement and coverage would continue for the remainder of their lives.

"In every state Deere is located, people were told by supervisors and human resources that benefits were for life," she said.

She also contended that Deere had details of the new benefits plan two years before it was announced to the retirees "but deliberately withheld the information until September 2007." The result, she said, was the company gave retirees "only a few short weeks to make life-changing decisions."

But Sari Alamuddin, a Chicago attorney representing Deere, said the company always reserved the right to amend, modify, suspend or terminate its benefits. "Deere reviewed its health benefits on an annual basis and regularly made changes," he said.

"The company at times discussed eliminating retiree health care altogether, which shows the company maintained its right to change the health care plan," Alamuddin said. He added that Deere communicated its right to change in various documents it regularly provided retirees.

He also defended Deere's timing of the rollout, saying the company did not announce changes until September 2007 because "it waited to know the details of the Medicare Advantage program" and the new Medicare ruled adopted by Congress.

The court hearing drew about 75 retirees, with about 50 packing the courtroom - filling every available seat, including the jury box. Another 25 retirees waited outside the courtroom during the first half of the hearing before the crowd thinned. Outside the courthouse, a few held up handmade signs demanding their benefits be returned.

After the hearing, several FRO officers indicated that they were pleased with the hearing and predicted the matter will go to trial.

Deere retiree Gary Stoddard, a founding member of FRO, said "We created, as a company, a culture where you tell them we are going to take care of them in retirement." He said employees being recruited, hired or retiring heard such promises.