

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**SHIRLEY SLOCUM, ET AL.**

**VERSUS**

**INTERNATIONAL PAPER COMPANY, ET AL.**

**DERRICK SANDERS, ET AL.**

**VERSUS**

**INTERNATIONAL PAPER COMPANY, ET AL.**

**BRENT JARRELL, ET AL.**

**VERSUS**

**INTERNATIONAL PAPER COMPANY, ET AL.**

**CIVIL ACTION**

**NO. 16-12563**

**NO. 16-12567**

**NO. 16-13793**

**SECTION "L" (1)**

**ORDER & REASONS**

Before the Court are Plaintiffs' and Defendant's proposed class notices. R. Docs. 208, 211. Although they are very similar, Defendant raises some valid objections to Plaintiffs' proposed class notice. Chief among those disputes are that: (1) Plaintiffs' proposed notice is too broad, in that it covers all of Bogalusa; and (2) contains language and legalese that will be difficult for the prospective class members to understand. Moreover, Plaintiffs submit the opt-out deadline should be "90 days from the approval of th[e] class notice form," which would be approximately September 9, 2019, while Defendant recommends a deadline of August 15, 2019. Attached to this order is a class notice prepared by the Court that addresses Defendant's concerns while maintaining much of Plaintiffs' proposed language. Accordingly;

**IT IS ORDERED** that the attached class notice be and hereby is **APPROVED**.

New Orleans, Louisiana on this 11th day of June, 2019.

---

Eldon E. Fallon  
U.S. District Court Judge

**TO: ALL PERSONS OR ENTITIES WHO WERE PHYSICALLY PRESENT OR OWNED PROPERTY NEAR THE INTERNATIONAL PAPER COMPANY PAPER MILL IN BOGALUSA, LOUISIANA AND SUSTAINED INJURIES, INCONVENIENCE OR DAMAGES AS A RESULT OF A RELEASE EVENT FROM THE MILL ON JUNE 10, 2015. PLEASE READ THIS NOTICE CAREFULLY, AS IT MAY AFFECT YOUR LEGAL RIGHTS**

**1. Description of the Case.**

On June 10, 2015, a sight glass on an evaporator tank at the International Paper Company's Bogalusa Paper Mill (hereinafter referred to as "the Mill") ruptured, causing a release of a substance known as "black liquor" into the environment surrounding the Mill. The specific boundaries of the area impacted by the release are currently in dispute. Defendant International Paper contends only a small amount of black liquor was released and that the release presented "no risk to human health or the environment." The Plaintiffs disagree.

As a result of the release, four individual Class Action lawsuits were filed on behalf of people claiming injury to their person and/or damages to their property. The Plaintiffs in this case are homeowners and individuals who were near the Mill who claim they have suffered damages (personal injury and property damage) as a result of the release.

On May 21, 2019, the Court certified these cases as a class action and granted the Plaintiffs' Motion for Class Certification for persons and entities near the Mill that were injured or whose property was damaged as a result of the release. A "class action" is a suit in which certain named individuals, the class representatives, sue on behalf of the unnamed members of the class. In a class action lawsuit, one person or a small group of people, the class representatives, file a lawsuit on behalf of a larger group of people who have suffered a similar injury or financial harm. In some cases, a lawsuit filed by one individual can affect many more individuals. All individuals who do not opt out of the class are bound by any judgment rendered in the class action, and this judgment could be favorable or unfavorable to a class member.

The Court named Brent Jarrell, Elizabeth Simmons, Linda Nunnery, Willie Bickham and Herbert Angel as Class Representatives to represent the interests of all Class Members. Additionally, the Court approved the following attorneys as class counsel: Shawn C. Reed; Jonathan C. Pedersen; D. Douglas Howard, Jr.; William H. Arata; and Thomas M. Discon. The Court certified the following claims for class-wide treatment as a result of the incident on June 10, 2015:

- Negligence (Louisiana Civil Code Article 2315)
- Nuisance (Louisiana Civil Code Articles 667-69)
- Strict Liability (Louisiana Civil Code Article 2317 and 2317.1)
- Equitable Relief – a nonmonetary judgement, such as an order to do something or refrain from doing something

Under these claims, the Plaintiffs have asked for damages (monetary and nonmonetary) and attorneys' fees for their personal injuries, emotional distress and/or property damage members of the Class might have suffered because of the release of the black liquor.

The Court certified these cases as an issue-based class action under Federal Rule of Civil Procedure 23(c)(4) because: (1) there are so many potential plaintiffs that trials of individual cases would be impractical, (2) there are questions of law and fact common to all of the class members, (3) the claims of the class representatives are typical of the claims of other plaintiffs, (4) the class representatives will fairly and adequately protect the interests of the class, (5) the issues common to all class members predominate over issues that affect only individual plaintiffs, and (6) the class action format is superior to other available methods of judicial resolution of this dispute.

The trial of this case will be completed in two phases. In Phase I, the Court will determine whether the Defendant is liable for the release of the black liquor. Additionally, the geographic area impacted by the release of the black liquor will be determined in this first phase. In other words, the Court will determine whether the Defendant's actions or inactions caused the release and how far the substance spread. In Phase II, individual Plaintiffs in the determined geographical

area will be required to prove that his or her alleged injuries and damages were, in fact, caused by the release of black liquor. The Court has set a date of **November 12, 2019** for the first phase of the trial in this case; future dates will be established for Phase II at a later date.

If the Court determines in Phase I that Defendant International Paper is liable, then the case will proceed to Phase II. Notably, not all class members from Phase I may proceed to Phase II if it is determined they are outside of the geographic area impacted or that their injuries and/or damages alleged could not have been caused by the release.

Phase II will consist of trials in flights of five Plaintiffs with related claims. In Phase II, each Plaintiffs will be required to prove that his or her alleged injuries and damages were in fact caused by the release, and damages, if any, will then be awarded.

## **2. Class Definition**

The Court has certified the following class:

All persons or entities who were physically present or owned property within Bogalusa, Louisiana, Parish of Washington on June 10, 2015, and who sustained injuries or damages as a result of the discharge of “black liquor” at the Bogalusa Paper Mill owned by the International Paper Company.

The Court certified this class based upon the evidence produced at the May 16, 2019 class certification hearing. The exact geographic area will be determined during the first phase of the trial.

## **3. Opting-Out of the Class Action**

If you want to participate in the class action and you are within the class area as defined in this notice, you do not need to take any action at this time. If you are a member of the class, International Paper is legally prohibited from dealing with you individually or directly concerning your claim.

On the other hand, if you do not want to participate in the class action, you must opt out of the class action. If you opt out of the class action, you are responsible for either settling your claim

with International Paper or bringing your own lawsuit against International Paper in connection with the June 10, 2015 release. If you opt out, you will not be able to share in monetary damages, if any, that the Plaintiffs may obtain in this class action litigation. You may wish to consult with an attorney before you make a decision to opt out or to remain in this litigation.

As described above, the Court in Phase I of the trial plan for this class action will determine Defendant's liability as well as the geographic area impacted by the release of the black liquor. These determinations may affect whether or not a potential class member will be included in Phase II.

To opt out, you must email, fax, or write a letter to BOTH Jonathan C. Pedersen, Counsel for the Plaintiffs, **AND** Tim Gray, Counsel for the Defendant, International Paper.

Mr. Pedersen and Mr. Gray's contact information is as follows:

Jonathan C. Pedersen  
Liaison Counsel for Plaintiffs Howard,  
Reed & Pedersen  
839 St. Charles Avenue, Suite 306  
New Orleans, Louisiana 70130  
Fax: 504-581-7509  
Email: jcpedersen@howardandreed.com

Tim Gray  
Counsel for Defendant International Paper  
Forman Watkins & Krutz, LLP  
201 St. Charles Avenue, Suite 2100  
New Orleans, Louisiana 70170  
Fax: 504-799-4384  
Email: tim.gray@formanwatkins.com

**\*IF YOU CHOOSE TO OPT OUT, YOU MUST DO SO BY AUGUST 30, 2019\***

#### **4. Questions Concerning Your Legal Rights**

If you have questions concerning your legal rights as a member of the class action, more information about the case is available on the Court's Web site, [www.laed.uscourts](http://www.laed.uscourts). You may also contact your own lawyer or any of the lawyers listed above as class counsel.