

**IN THE CIRCUIT COURT OF
HARRISON COUNTY, WEST VIRGINIA**

LENORA PERRINE, CAROLYN HOLBERT,
WAUNONA MESSINGER CROUSER,
REBECCA MORLOCK, ANTHONY BEEZEL,
MARY MONTGOMERY, MARY LUZADER,
TRUMAN R. DESIST, LARRY BEEZEL, and
JOSEPH BRADSHAW, individuals residing in West Virginia,
on behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

Case No. 04-C-296-2
(Honorable Thomas A. Bedell)

E.I. DU PONT DE NEMOURS AND COMPANY,
a Delaware corporation doing business in West Virginia,
MEADOWBROOK CORPORATION, a dissolved
West Virginia corporation, MATTHIESSEN & HEGELER ZINC
COMPANY, INC., a dissolved Illinois corporation formerly
doing business in West Virginia, and
T. L. DIAMOND & COMPANY, INC., a New York corporation doing
business in West Virginia,

Defendants.

Class Representatives' Motion for Award of Incentive Payments

Lenora Perrine, Carolyn Holbert, Waunona Messinger Crouser, Rebecca Morlock, Anthony Beezel, Mary Montgomery, Mary Luzader, Truman Desist, Larry Beezel, and Joseph Bradshaw, who are the certified class representatives in this action, by counsel, respectfully request the Court award them incentive payments. Class representatives respectfully request that their motion for incentive payments be heard and considered on December 20, 2007, at the hearing scheduled to begin at 9:00 a.m. As grounds for their motion, the Class Representatives state as follows:

1. Class Representatives were certified by this Court as representatives of the Class, as defined in this Court's Order on Class Certification entered on September 14, 2006.

2. Class Representatives have participated extensively in the preparation and prosecution of this class action litigation. Class Representatives have been active in all phases of this litigation.

3. Class Representatives have assisted Class Counsel in responding to numerous discovery requests. Class Representatives were required to reveal confidential, personal information.

4. Each Class Representative was deposed twice. The depositions generally lasted a full day and required the Class Representatives to answer questions regarding their personal histories, family histories, medical history, and lifestyle.

5. Class Representatives devoted a significant amount of time to this matter.

6. Courts routinely approve incentive awards to compensate named plaintiffs for the services they provided and the risks they incurred during the course of the class action litigation. The purpose of an incentive award is to compensate the Class Representatives for both the extra work and risks undertaken by them that led to the creation of the benefits shared by the entire class.¹

¹ *Leach v. E. I. du Pont de Nemours and Company*, Civil Action No.: 01-C-608 (In the Circuit Court of Wood County, West Virginia 2005) (Court approved a incentive award of \$50,000.00); *Linerboard Antitrust Litig.*, 2004 W.L. 1221350 (E. D. Pa.) (\$25,000 incentive award approved); *Cullen v. Whitman Medical Group*, 197 F.R.D. 136 (E. D. Pa. 2000) (\$7.3 million dollar common fund and six plaintiffs granted incentive awards of \$1,900.00 to \$10,400); *Roberts v. Texaco, Inc.*, 979 F.Supp. 185 (S.D.N.Y. 1997) (\$115 million dollar settlement and six plaintiffs granted incentive awards ranging from \$2,500.00 to \$85,000); *In re Remeron End-Payor Antitrust Litig.*, 2005 WL 2230314 (D.N.J.2005) (recovery of \$36 million dollars with incentive payments totaling \$75,000)

Wherefore, Class Representatives respectfully move this Court to authorize payment to each of them --to be paid out of the common fund--an incentive award in the amount of \$75,000.00, or such other amount as this Court in its discretionary authority deems appropriate as fair and reasonable compensation to Class Representatives.

for six named plaintiffs); *Cook v. Niedert*, 142 F.3d 1004 (7th Cir. 1998) (recovery of \$14 million dollars and incentive award to class representative of \$25,000); *Enterprise Energy Corp. v. Columbia Gas Transmission Corp.*, 137 F.R.D. 240 (S. D. Ohio 1991) (recovery of \$56.6 million dollars and six corporate class representatives granted incentive awards of \$50,000 each); *In re Dun & Bradstreet Credit Services Customer Litig.*, 130 F.R.D. 366, 373-374 (S.D. Ohio 1990) (settlement fund of \$18 million dollars and incentive awards to five class representatives ranged from \$35,000 to \$55,000 each).

Dated: November 19, 2007.

Perry B. Jones
By Ronald T. July

Perry B. Jones, WVSB# 9683
Jerald E. Jones, WVSB# 1920
West & Jones
360 Washington Ave
Clarksburg, WV 26302
(304) 624-5501 (telephone)
(304) 624-4454 (facsimile)

Gary W. Rich, WVSB #3078
Law Office of Gary W. Rich, L.C.
212 High Street, Suite 223
Morgantown, WV 26505
(304) 292-1215 (telephone)
(304) 292-7215 (facsimile)

J. Farrest Taylor, Esq.
Joseph D. Lane, Esq.
Cochran, Cherry, Givens, Smith,
Lane & Taylor, P.C.
163 West Main Street
Dothan, AL 36301
(334) 793-1555 (telephone)
(334) 793-8280 (facsimile)

Michael Papantonio
Levin, Papantonio, Thomas, Mitchell,
Eschsner & Proctor, P.A.
316 S. Baylen Street, Suite 400
Pensacola, FL 32502
(850) 435-7074 (telephone)
(850) 497-7056 (facsimile)

Kevin J. Madonna
Kennedy & Madonna, LLP
48 Dewitt Mills Rd
Hurley, NY 12443
(845) 331-7514 (telephone)
(845) 331-7578 (facsimile)

Attorneys for Plaintiffs

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CERTIFICATE OF SERVICE

I, Perry Jones, counsel for Plaintiffs, hereby certify that service of the Class
Representatives' Motion for Award of Incentive Payments has been made upon counsel
of record via Federal Express for overnight delivery on this 19th day of November 2007,
addressed as follows:

Jim Arnold, Esq.
Allen, Guthrie, McHugh & Thomas, P.L.L.C.
500 Lee Street, East, Suite 800
Charleston, WV 25301
Counsel for Defendant E. I. Du Pont De Nemours and Company

Perry B. Jones
By Thomas T. Jones

Perry B. Jones, WWSB# 9683
Jerald E. Jones, WWSB# 1920
West & Jones
360 Washington Ave
Clarksburg, WV 26302