

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

BRIAN A. PETRONELLA, et al. :
 PLAINTIFFS, :
 : :
v. : CIV. NO. 3:02cv01047 (WWE)
 : :
MARTHA ACAS, ET AL. :
 DEFENDANTS :

RECOMMENDED ORDER RE INTERPLEADER ACTION

I. INTRODUCTION

This is an interpleader action filed by the United Food & Commercial Workers Union - Local 371, AFL-CIO ("Local 371"), and the Local 371 president, Brian A. Petronella. The purpose of the action, brought pursuant to 28 U.S.C. §§ 1335, 1397, and 2361, is to resolve competing claims by members of Local 371 who are former employees of Grand Union Company, Inc., and its affiliates.

In 2000, Grand Union filed for bankruptcy protection in the United States District Court for the District of New Jersey pursuant to Chapter 11 of the Federal Bankruptcy Code, and closed Connecticut stores as part of its restructuring, leaving the members of Local 371 out of work. The employees seek compensation for accrued and unused vacation, sick, and personal days from funds obtained by the Union through a settlement approved by the Bankruptcy Court. The gross amount in the Fund is approximately \$265,000.

II. METHOD OF DISTRIBUTION

This court has heard from plaintiffs' counsel, some of the approximately 400 defendants and claimants, and a court-appointed special master. The opinion of the special master was particularly persuasive, and the court has chosen to adopt his recommendations in large part. After considering all the submissions, the court orders the following:

- 1.) All monetary claims will be paid from the pre-established settlement fund ("Fund"), which at this time totals approximately \$265,000.
- 2.) The sum of \$25,000 shall be set aside from the Fund for those employees whose vacation, sick, and personal days were locked in an accrued account and who were not able to cash in those days previous to the bankruptcy due to a policy change at Grand Union ("Banked Employees"). This sum shall be divided equally among all of the Banked Employees. The Banked Employees will receive shares of this sum in addition to the compensation all employees will receive under Paragraph 7 of this order.
- 3.) Claims for accrued vacation, sick, and personal days shall be capped at a maximum of 35 days per person.
- 4.) All employees will receive payments based on a point system

which assigns value to the number of years employed, number of days claimed, and Banked Employee status of each individual employee. Employees who have not filed a claim will have to file with the person or entity distributing the funds as mentioned in Paragraph 8 of this order by a date to be set by that person or entity. Employees who have previously filed a claim will not have to re-file.

5.) The following point system will be used:

- a.) Each Banked Employee will receive **20** points.
- b.) Any employee from the pre-computer setup period will receive **8** points.
- c.) Any employee who was hired during the 1980s after the computer setup will receive **6** points.
- d.) Any Employee who was hired from January 1, 1990 to December 31, 1994 will receive **4** points.
- e.) Any Employee who was hired from January 1, 1995 to December 31, 1999 will receive **3** points.
- f.) Any employee hired from January 1, 2000 onward will receive **1** point.
- g.) Any former full-time employees will receive **4** points.
- h.) Any former part-time employees will receive **2** points.
- i.) Each sick, vacation, and personal day accrued will equal 1 point. No employee may claim more than **35** accrued

days.

6.) The total number of points for every employee who has filed a claim will be collected and added together (the "Total Points"). The Fund will be divided by the Total Points to obtain the single point monetary value (the "Point Value").

7.) The monetary amount payable for each employee claim will be determined by multiplying the number of points for each individual employee by the Point Value.

8.) Plaintiffs will hire an appropriate person or entity to distribute the funds within forty-five (45) days of the adoption of this Recommended Order, the reasonable cost of that service to be deducted from the Fund prior to the calculations ordered here. Counsel shall submit, for the court's approval, an estimate for that service, along with any request for a reasonable attorneys' fee, within fifteen (15) days of the docketing of this order.

Any objections to this recommended order must be filed with the Clerk of the Court within ten (10) days of the receipt of this order. Failure to object with ten (10) days may preclude appellate review. See 28 U.S.C. § 636(b)(1); Rules 72, 6(a) and 6(e) of the Federal Rules of Civil Procedure; Rule 2 of the Local Rules for United States Magistrates; Small v. Secretary of H.H.S., 892 F.2d 15 (2d Cir.

1989) (per curiam); F.D.I.C v.

Hillcrest Assoc., 66 F.3d 566, 569 (2d Cir. 1995).

Dated at Bridgeport this _____ day of September 2003.

HOLLY B. FITZSIMMONS
UNITED STATES MAGISTRATE JUDGE