

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

PAT BEESLEY et al.,

Plaintiff,

v.

INTERNATIONAL PAPER COMPANY et al.,

Defendant.

No. 06-703-DRH

ORDER

HERNDON, Chief Judge:

Before the Court is Plaintiffs' motion to lift stay (Doc. 318). Specifically, Plaintiffs request that the Court lift the stay that it issued *sue sponte* on August 18, 2009 pending the Defendants' interlocutory appeal to the Seventh Circuit. Defendants have filed a response (Doc. 325). Plaintiffs have filed a reply (Doc. 326).

Plaintiffs argue that the stay in this case should be lifted because the class certification on appeal will not resolve Plaintiffs' claims nor will it effect the ultimate issue in this case and because this case has been pending for over three years and a continued stay in this case would unduly harm the Plaintiffs. Defendants maintain that the stay should not be lifted as, Defendants argue, the Seventh Circuit's ruling on class certification will determine the size and scope of Plaintiff's claims as well as possible claims that Plaintiffs will ultimately pursue. Defendants also note that they are not pursuing discovery as the Plaintiffs suggest.

However, the Court agrees with the Plaintiffs that the stay should be lifted. This case has been pending for over three years and staying the case could

require the matter to remain pending for another lengthy period of time while the Seventh Circuit decides the issues on appeal. In considering the interests of judicial economy, the Court agrees with Plaintiffs that the ultimate issue in this case, whether Defendants breached their fiduciary duties, will be the same regardless of the class certification issue. ***George v. Kraft Foods Global, Inc.*, No. 06-cv-798-DRH, 2006 WL 3842169, *2 (S.D.Ill. June 22, 2005) (in determining whether to stay a case, courts consider the interest of judicial economy and prejudice and hardships to the parties)**. Further, the Plaintiffs have noted that continuing to stay the case could have a potential prejudicial effect on the Plaintiffs as they allege that Defendants continue to mismanage the fund through their various alleged actions. Defendants, on the other hand, have not noted any harm that they might suffer should this Court lift the stay. Therefore, there is no reason to further delay this case while the appeal on the class certification issue is still pending. Accordingly, the Court **GRANTS** Plaintiffs' motion to lift stay (Doc. 318). The Court therefore **LIFTS** the **STAY** in this case.

IT IS SO ORDERED.

Signed this 1st day of December, 2009.

/s/ David R. Herndon

**Chief Judge
United States District Court**