INSIDE

Republicans walk a fine line in offering a bill to upgrade airline passengers' lives.

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BUSINESS

AT A GLANCE

- **DOW** 17,908.28, up 187.03 (+1.1 %)
- **S&P 500** 2,082.42, up 20.70 (+1.0 %)
- **CRUDE OIL** $41.76, down 41¢ (-1.0 %)
- **NATURAL GAS** $2.036, up 3.2¢ (+1.6 %)

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Section B ★★

Lawsuit challenges BP's pensions

Disparity found in benefits, causing accusation that company misled employees about cash balance plan

By L.M. Sixel

The conversation started as casual chitchat in the break room between two co-workers about their plans for retirement. But after comparing financial strategies, Fredric "Fritz" Guenther couldn't understand why his colleague's pension was twice as big as his, even though their wages and years of BP service were similar.

"It raised a big red flag," Guenther said, recalling the revelation six years ago. "Why is there such a pension disparity?"

The answer: The men had worked for different companies before the firms were acquired by BP and their pensions were calculated differently. Guenther and hundreds of others who had worked for Standard Oil of Ohio didn't receive the same enhancements and favorable interest rate treatment that dramatically boosted the value of the retirement benefits for those who had worked for Amoco, Arco and other companies.

Guenther was one of two BP employees who filed suit Wednesday in federal court in Houston, alleging that the energy giant misled its workers when it converted its pension program in 1989 from

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Brett Coomer / Houston Chronicle

Fredric "Fritz" Guenther is one of two BP employees who filed suit Wednesday in Houston.

GULF SPILL

Offshore drillers await changes

By James Osborne

WASHINGTON — In the six years since BP's Deepwater Horizon drilling rig exploded, setting off

EDUCATION

FROM THE COVER

BP says it believes pension program complies with law

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a traditional defined benefit plan to a cash balance plan. The other is Walton Fujimoto, who retired from BP two years ago after 37 years of service. The lawsuit is seeking class action status.

Traditional defined benefit plans typically provide retirees benefits based on average annual pay multiplied by years of service. Cash balance plans, which began to spring up during the late 1980s, resemble a 401(k) because companies set aside a set percentage of wages each year and pay interest on the funds. Employees, however, don't contribute to the cash balance plans.

BP led plan participants to believe the change was in their best interests and that they shouldn't be concerned that their benefits would be reduced, according to the lawsuit. The company told plan participants that the change was "comparable to and, in most cases, better than" their traditional pension plan, the suit alleges.

BP spokesman Brett Clanton said in a written statement that BP has not received a copy of the lawsuit. He added the company believes the management of the pension program complies with the law.

The switch to the cash balance plan effectively reduced the lifetime pensions for as many as 1,000 employees by changing the method in which retirement benefits are calculated, said Peter Steilberg, a lawyer with Merrick Hofstedt Lindsey in Seattle. During that time, many companies across the nation made a similar shift, which allowed them to keep the tax advantages of a pension plan yet slow the accumulation of benefits.

Guenther, 56, of Woodland, Wash., works for BP in production operations in Prudhoe Bay, Alaska, earning about $49 an hour. Guenther, who joined Standard Oil of Ohio in 1979, estimates that under the original pension he had before BP acquired Standard in 1987, he would be receiving about $5,800 a month. But under the cash balance plan, he's due only about $2,700 a month. If he took it in a lump sum, he'd lose about $400,000, he estimated.

That loss is on the low end, Steilberg said. Some higher-paid managers have been shorted as much as $1 million, he said.

Steilberg typically works as a corporate defense lawyer handling product liability cases, but he and Guenther race classic motocross bikes together. During a ride, Guenther brought up his pension problems, and Steilberg signed on to the case.

Long before the lawsuit was filed, former Standard Oil of Ohio employees complained about the pension calculations, and BP turned to its ombudsman to investigate, according to the lawsuit. After the 2005 explosion at the BP plant in Texas City that killed 15 workers, the company hired an ombudsman to address health, safety and other issues.

The ombudsman, Stanley Sporkin, a retired U.S. District Court judge in Washington, D.C., spent three years investigating complaints from more than 450 former employees of Standard Oil of Ohio.

In his report, Sporkin recommended to BP that it repair the disparity between the benefits promised and the benefits provided, according to the lawsuit. But BP America President John Mingé rejected that recommendation and in a letter to BP employees said the company would not adjust the pension program, according to the lawsuit.

But BP didn't disclose the ombudsman's recommendation, according to the lawsuit. Four days later, Sporkin wrote his own letter to employees, revealing that he had ruled in the employees' favor and that he was disappointed with BP's decision. He attached a summary copy and urged the plan participants to review it with a lawyer or adviser.

BP has since discontinued the office of ombudsman, according to the lawsuit.

lm.sixel@chron.com
twitter.com/lmsixel