

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS DIVISION

ARMSTRONG WOOD PRODUCTS, INC.,
and GREGORY R. BRUNNHUBER,

Plaintiffs,

v.

CIVIL ACTION NO. 2:06-cv-44

KATHY S. LEWIS,

Defendant.

ORDER

The above-styled civil action was instituted with the April 27, 2006 filing of the Plaintiffs' Complaint pursuant to Section 4 of the Federal Arbitration Act, 9 U.S.C. §§ 1 -16, and Section 301 of the Labor Management Relations Act, 29 U.S.C. § 185. In the Complaint, the Plaintiffs asked this Court to enter an order compelling the Defendant to submit those claims which she asserted in the case of Kathy S. Lewis v. Gregory R. Brunnhuber and Armstrong Wood Products, Inc., Civil Action No. 05-C-192, in the Circuit Court of Randolph County, West Virginia, to the grievance-arbitration process and enjoining the Defendant from prosecuting her claims in state court.

A Motion To Dismiss was filed by the Defendant on May 26, 2006. In turn, on July 18, 2006, the Plaintiffs filed a Motion to Compel Arbitration and Prohibit Judicial Proceedings, as well as a Motion for Summary Judgement Based on ERISA and LMRA Preemption. By Order dated November 13, 2006, this Court, among other things, denied the Defendant's Motion To Dismiss, granted the Plaintiffs' Motion to Compel Arbitration and Prohibit Judicial Proceedings, directed the parties to proceed to arbitration under the Collective Bargaining Agreement, enjoined the Defendant from prosecuting all state judicial

proceedings regarding her claims, granted the Plaintiffs' Motion for Summary Judgment Based on ERISA and LMRA Preemption, and ordered that the above-styled civil action be administratively closed until such time as the Court receives the Report of the Arbitrator.

On November 24, 2006, the Defendant filed a Motion for Reconsideration and a supporting memorandum of law addressing this Court's November 13, 2006 Order. On December 8, 2006, the Plaintiffs filed a memorandum of law in opposition to the Defendant's Motion for Reconsideration. The Plaintiff's Motion for Reconsideration is now ripe for resolution by this Court.

This Court has carefully reviewed the Plaintiff's Motion for Reconsideration, the memoranda of law in support of and in opposition to said motion, and the entire record in the above-styled civil action. Based upon its review, the Court finds that the Defendant has failed to meet her burden of demonstrating that her Motion for Reconsideration should be granted. As a result, the Defendant's Motion for Reconsideration is denied.

Accordingly, for the foregoing reasons, it is

ORDERED that the Defendant's Motion for Reconsideration be, and the same is hereby, **DENIED**. It is further

ORDERED that the parties to the above-styled civil action proceed in accordance with this Court's November 13, 2006 Order entered in this case. It is further

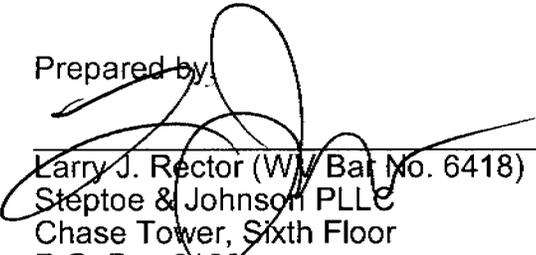
ORDERED that the Clerk of this Court shall send copies of this Order to all counsel of record.

Entered: August 15, 2007



Robert E. Maxwell,
United States District Judge

Prepared by:



Larry J. Rector (WV Bar No. 6418)
Step toe & Johnson PLLC
Chase Tower, Sixth Floor
P.O. Box 2190
Clarksburg, WV 26302-2190

Counsel for Plaintiffs

Approved as to form only:

Sam Harrold, Esq.
MCNEER, HIGHLAND, MCMUNN AND VARNER, L.C.
Post Office Drawer 2040
BB & T Bank Building
Clarksburg, WV 26302-2040

Counsel for Defendant