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**Retiree Benefits****FreightCar Reaches \$33M Settlement With Retirees**

Sept. 25 — FreightCar America Inc. and its retirees have reached a nearly \$33 million settlement that, if it gets court approval, will bring an end to the retirees' lawsuit seeking company-paid health-care benefits (*Zanghi v. FreightCar Am., Inc.*, W.D. Pa., No. 3:13-cv-00146, *settlement filed 9/21/15*).

Among other things, the settlement calls for FreightCar to establish a voluntary employees' beneficiary association to fund the retirees' benefits. Under the proposed settlement terms, FreightCar will make a one-time contribution to the VEBA of \$31.45 million and pay \$1.3 million in attorneys' fees incurred by the

retirees.

The settlement must still be approved by Judge Kim R. Gibson of the U.S. District Court for the Western District of Pennsylvania.

Earlier this year, Gibson denied cross-motions for summary judgment and ordered that a trial be held to determine whether the retirees' benefits were vested (64 PBD, 4/3/15).

The parties' dispute centered on whether FreightCar was required to provide vested retiree medical benefits based on a 1991 side letter it executed with the United Steelworkers at about the time its predecessor acquired the retirees' former employer, Bethlehem Steel Corp.

Under a "mirroring" provision in the side letter, FreightCar agreed to create mirror benefit plans that were "identical in all material respects" to the plans maintained by Bethlehem Steel. Of particular importance to the litigation was a provision in Bethlehem's medical plan providing that retirees "shall not have such coverage terminated or reduced ... so long as the individual remains retired from the Company ... notwithstanding the expiration of this agreement, except as the company and union may agree otherwise."

Gibson had found that it was unclear whether FreightCar remained bound to continue providing medical benefits for the retirees, and ordered a trial.

The proposed settlement documents were filed with the court Sept. 21.

The retirees were represented by Stephen M. Pincus, William T. Payne, Joel R. Hurt and Pamina G. Ewing of Feinstein Doyle Payne & Kravec LLC in Pittsburgh. FreightCar was represented by Nancy G. Ross and Samuel P. Myler of Mayer Brown LLP in Chicago and James C. Munro II, Michael J. Parrish Jr. and Ronald P. Carnevali Jr. of Spence, Custer, Saylor, Wolfe & Rose LLC in Johnstown, Pa.

**For More Information**

Text of the opinion is at

[http://www.bloomberglaw.com/public/document/ZANGHI\\_et\\_al\\_v\\_FREIGHTCAR\\_AMERICA\\_INC\\_et\\_al\\_Docket\\_No\\_313cv00146\\_/2](http://www.bloomberglaw.com/public/document/ZANGHI_et_al_v_FREIGHTCAR_AMERICA_INC_et_al_Docket_No_313cv00146_/2).

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