UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

DANIEL L. COMER, GLEN HUBANKS, RICHARD D. SCOTT, OLIVER FRANK WRIGHT, JR. and STEPHEN SOLOMON, on behalf of themselves and all other persons similarly situated,

Plaintiffs,

v.

GERDAU AMERISTEEL US INC., and GERDAU AMERISTEEL US RETIREE MEDICAL PLAN,

Defendants.

No. 8:14cv00607-SDM-EAJ

Class Action

Demand for Jury Trial

PLAINTIFFS' MEMORANDUM IN SUPPORT OF FINAL APPROVAL OF SETTLEMENT

I. INTRODUCTION

Plaintiffs Daniel L. Comer, Glen Hubanks, Richard D. Scott, Oliver Frank Wright, Jr., and Stephen Solomon ("Plaintiffs") and Defendants Gerdau Ameristeel US Inc. and Gerdau Ameristeel US Retiree Medical Plan ("Defendants") entered into a Settlement Agreement on June 2, 2017, setting forth the terms of a proposed settlement of this class action lawsuit. This Court granted preliminary approval of the Settlement Agreement and proposed class notice on June 15, 2017. Defendants mailed the class notice to each class member in accordance with the Court's instruction, and only one class member has objected. Plaintiffs now submit this Memorandum in support of final approval of the proposed settlement.

II. BACKGROUND

This lawsuit concerns the collectively bargained healthcare benefits that Defendant Gerdau Ameristeel US Inc. ("Gerdau") has provided to a group of steelworkers who retired from a steel mill in Sand Springs, Oklahoma, as well as to the retirees' spouses, dependents and surviving spouses. In 2013, Gerdau asserted that it had the right to unilaterally modify or terminate retirees' benefits. It began charging pre-Medicare retirees more for their benefits, and replaced the benefits for Medicare-eligible retirees with a monthly stipend the retirees could use towards the cost of buying their own insurance. Plaintiffs filed this lawsuit on March 11, 2014, to challenge Gerdau's changes to their benefits. (Doc. 1).

On June 9, 2014, Plaintiffs filed an unopposed motion for class certification. (Doc. 33). This Court granted this motion on June 12, 2014, certifying a non-opt out class under Rules 23(b)(1)(A) and 23(b)(2). (Doc. # 37). On June 15, 2017, this Court granted the parties' motion to modify the class definition as follows:

> 1. Retirees (and their spouses and eligible dependents) of the Sand Springs, Oklahoma, plant (the Plant) who (i) were represented during their employment by the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO/CLC (formerly known as the United Steelworkers of America, AFL-CIO/CLC) on behalf of Local 2741 (USW), (ii) retired from the Plant between September 1, 1981, and March 2, 2011, and (iii) were receiving or were eligible to receive retiree health care benefits from Gerdau as of December 31, 2012 (i.e., retired under the company pension plan on other than a deferred vested pension from a group of employees designated by the company as covered by the Plan, and at the time of retirement had fifteen or more years of continuous service).
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> 2. Surviving spouses (and their eligible dependents) who (i) were receiving a surviving spouse's benefit under the company pension plan as the surviving spouse of either a retiree described in paragraph one or an active employee of the Plan who was represented by USW and died between September 1, 1981, and March 2, 2011, at a time when the employee was accruing continuing service in a group of employees designated by the company as covered by the Plan, and (ii) were receiving or eligible to receive retiree health care benefits from Gerdau as of December 31, 2012.
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> 3. All former employees of the Plant who were represented during their employment by USW (and their spouses, eligible dependents or surviving spouses) who were receiving or were eligible to receive retiree health care benefits from Gerdau as of December 31, 2012, but who do not fall within paragraph one or two above.

(Doc. # 129).

On July 1, 2014, Defendants filed a motion to dismiss, asserting that (i) Plaintiffs had failed to exhaust their administrative remedies, (ii) the Complaint failed to state a plausible claim for relief, and (iii) Plaintiffs' claims were barred by the statute of limitations. (Doc. 47). This Court granted Defendants' motion to dismiss in part on November 18, 2014, staying the case while Plaintiffs exhausted the administrative remedies available for their ERISA claims and denying the remainder of the motion without prejudice. (Doc. 66).

While the case was stayed, Plaintiffs submitted an administrative claim for benefits to the Gerdau Benefits Plan Administrative Committee on February 17, 2015, which the Committee denied on March 19, 2015. Plaintiffs then appealed the denial of their claim on September 14, 2015, and the Committee denied their appeal on October 13, 2015. Thereafter, the parties filed a joint motion to dissolve the stay (Doc. 71), which the Court granted on November 25, 2015. (Doc. 74).

After the stay was dissolved, the parties submitted an updated case management report with their respective positions as to how discovery should proceed. (Doc. 75). The Court and parties agreed to bifurcate liability and damages issues, with damages to be litigated only if Plaintiffs prevailed on the issue of liability. Defendants also sought to limit the scope of discovery until the Court decided a renewed motion to dismiss. The Court construed Defendants' position on this point as a motion for a partial stay of discovery, which it denied on January 5, 2016. (Doc. 82). On December 11, 2015, Defendants filed a renewed motion to dismiss Plaintiffs' breach of contract claim under the LMRA, again asserting that the Complaint failed to state a plausible claim and that the claim was barred by the applicable statute of limitations. (Doc. 79). This Court denied Defendants' renewed motion to dismiss on September 8, 2016. (Doc. 93).

The parties engaged in extensive discovery in 2016 and early 2017. The case presented document-intensive breach of contract claims, with the documents and events at issue going back more than 30 years. After the Court permitted full discovery on liability issues, the parties served new document requests and interrogatories and supplemented their initial disclosures and previous responses to the initial discovery served in 2014 before the action was stayed. (Doc. 126-1, Hurt Decl. in Support of Preliminary Approval at ¶ 2). Defendants also subpoenaed

documents from the unions that had represented the retirees and negotiated the applicable labor contracts, as well as the unions' attorney in a 2001-2002 bankruptcy proceeding. *Id.* at ¶ 3. In total, more than 59,000 pages of documents were exchanged in discovery. *Id.* at ¶ 4. The parties had also taken 23 depositions (seventeen of which were out-of-state) by the time they reached a settlement in principle on April 25, 2017. *Id.*

The parties also conducted expert discovery. Defendants served the expert report of attorney Harley Riedel on September 30, 2016, which addressed the legal effect of a 2001-2002 bankruptcy proceeding on retirees' healthcare benefits. *Id.* at ¶ 5. Plaintiffs sought to exclude Mr. Riedel's opinions in a motion filed on October 18, 2016 (Doc. 96), which this Court denied without prejudice on January 18, 2017. (Doc. 108). At the time the parties agreed to settle, Defendants were in the process of supplementing Mr. Reidel's expert report, and Plaintiffs had retained a rebuttal expert, former United States Bankruptcy Judge Judith Fitzgerald, who was in the process of preparing her rebuttal report. (Doc. 126-1, Hurt Decl. in Support of Preliminary Approval at ¶ 5).

The parties renewed settlement discussions in January 2017.[1] *Id.* at ¶ 6. They engaged in direct negotiations between mid-January and early April through a series of written proposals and telephone calls. *Id.* Although the parties had made significant progress and agreed to a number of key points, they decided to engage the services of a third party mediator to assist them in reaching a final deal. *Id.* The parties participated in a mediation conference on April 25, 2017 with Cary Singletary serving as mediator, which resulted in the parties agreeing to a settlement in principle. *Id.* After the mediation and subsequent discussions, the parties reached the terms of a

[1] Early in the litigation, the parties participated in a mediation conference on July 21, 2014. Despite devoting an entire day to the effort, the parties were not able to reach a settlement. (Doc. 55).

final settlement as embodied in the Settlement Agreement executed on June 2, 2017.[2] *Id.* The parties' negotiations were extensive and arm's-length. *Id.*

On June 15, 2017, the Court preliminarily approved the proposed settlement, approved the class notice, directed Class Counsel to file their motion for an award of attorney's fees and expenses by July 27, 2017, and scheduled the Fairness Hearing for September 11, 2017. (Doc. 129). In its Order, the Court preliminarily concluded that the Settlement appears to resolve the class action fairly, reasonably, and adequately under the pertinent six-factor test. *Id.* at 4-5. The Court also noted Cary Singletary, a mediator certified in the Middle District of Florida, facilitated the settlement and that the record revealed no collusion between the parties. *Id.* at 2. The Court approved the proposed notice finding that it explains "the plaintiffs' claims, the class definition, and the settlement," that class counsel intended to request for attorney's fees, costs and expenses, and class members' right to submit an objection. *Id.* at 6. Finally, the Court scheduled a Fairness Hearing on September 11, 2017 to finally determine whether the settlement fairly, adequately, and reasonably resolves the action, and to consider class counsel's motion for an award of attorney's fees, costs and expenses. *Id.* at 6-8.

Pursuant to the Court's preliminary approval order, Defendants mailed the Court-approved class notice to each of the 456 class members on June 23, 2017, and made reasonable efforts to obtain updated addresses and re-mail the notice to those class members for whom the notice was returned as undeliverable. (Doc. 139-1, Loyst Decl. Regarding Proof of Mailing Class Notice). The notice specifically advised class members that any objections were to be filed by August 7, 2017. (*Id.* at Exhibit A). As of August 25, 2017, one class member had filed an objection to the settlement. (Doc. 134). Plaintiffs filed their motion for attorney's fees, costs, and expenses on July 27, 2017. (Doc. 135).

[2] The Settlement Agreement appears in the record at Docs. 125-1 and 125-2.

Based on their investigation of the merits of this dispute, the conduct of the litigation to date, and their knowledge and experience pursuing such actions generally, Plaintiffs' counsel believe that the settlement will provide substantial benefits to the class. When these benefits are weighed against the attendant risks of continuing to prosecute the action, Plaintiffs' counsel believe that the settlement represents a reasonable and fair resolution of Plaintiffs' claims. In reaching such a conclusion, Plaintiffs' counsel has considered, among other things, the risks of litigation (including the risks of establishing both Defendants' liability and the damages incurred by class members), the time necessary to achieve a final resolution through trial and any appeals, the complexity of the claims, and the benefits accruing to the class under the settlement.

Plaintiffs now seek final approval of this settlement. The parties negotiated a proposed Judgment as part of the settlement (included as part of Doc. 125-2), and they will submit an updated version of that document to the Court prior to the Fairness Hearing.

III. KEY TERMS OF THE PROPOSED SETTLEMENT

Plaintiffs have achieved a substantial recovery on behalf of the class, with the settlement obligating Gerdau to provide a series of payments totaling more than $16 million over the remainder of class members' lifetimes. (Doc. 135-1, Hurt Decl. in Support of Attorney's Fees at ¶¶ 8-12). The settlement provides nearly all[3] class members with future healthcare benefits for the remainder of their lives, or in the case of child dependents, as long as they are eligible under the plan document, or if later, until as required by law. All class members will also share equally in a lump sum payment of $225,000, which Gerdau will make to partially reimburse them for the additional amounts they paid for the cost of their healthcare coverage since January 1, 2013. In consideration for this relief, Plaintiffs and all class members will provide Defendants with the

[3] There are two former spouses and two former child dependents who no longer meet the eligibility requirements for continuing coverage, either due to divorce or due to reaching age 26. (Doc. 135-1, Hurt Decl. in Support of Attorney's Fees at ¶ 11).

release of claims described in Section IV.B.2 of the Settlement Agreement. The key terms of the proposed settlement are summarized below.

A. Class members who are age 65 or older.

For class members who are age 65 or older, Gerdau will continue to fund a Health Reimbursement Account ("HRA") for the remainder of their lives. The annual contribution for 2017 will remain $1,800. On January 1st of each subsequent year, Gerdau will increase the amount of the annual contribution by 1.375%. Gerdau will continue to offer the services of One Exchange or a similar service to assist class members in obtaining suitable Medicare supplement policies, but class members will no longer be required to purchase coverage through these services in order to receive the HRA contributions. *See* Settlement Agreement, Section IV.B.3.a.

B. Class members who are younger than age 65 and eligible for Medicare due to disability.

For class members who are younger than age 65 but eligible for Medicare due to disability, Gerdau will continue to fund an HRA for the remainder of their lives. The annual contribution for 2017 will be increased to $3,600 (but prorated to cover the period left in calendar year 2017 after the settlement becomes effective). On January 1st of each subsequent year, Gerdau will increase the amount of the annual contribution by 1.375%. Gerdau will continue to offer the services of One Exchange or a similar service to assist class members in obtaining suitable Medicare supplement policies, but class members will no longer be required to purchase coverage through these services in order to receive the HRA contributions. *Id.* at Section IV.B.3.b.i.

Once the class members in this group reach age 65, the annual contribution will decrease to the amount of the annual contribution Gerdau is then making to class members who are age 65 and older. *Id.* at Section IV.B.3.b.ii.

C. Class members who are younger than 65 and not on Medicare due to disability.

For class members who are younger than age 65 and not on Medicare due to disability, Gerdau will adopt a "restated Sheffield Plan"[4] that will continue to offer such class members the same healthcare coverage Gerdau currently offers them until they reach age 65 (or become eligible for Medicare due to disability, or in the case of children, until they are no longer eligible). *Id.* at Section IVI.B.3.c.ii. Gerdau agrees not to change the terms of the restated Sheffield Plan, but it may change carriers or administrators due to such entities coming or going from the market or due to service or cost increases, and such carriers or administrators may make non-material changes to the plan design or provider/hospital networks so long as these changes to not substantive alter benefits. *Id.* at Section IV.B.3.c.iii. & iv.

Gerdau will contribute $8,820 to the annual cost of each class member's coverage under restated Sheffield Plan, and class members will pay the portion of the annual cost of coverage that exceeds $8,820.[5] *Id.* at Section IVI.B.3.c.v. At any time after eight years, the class members remaining in this group will be offered a choice between (i) remaining in the restated Sheffield Plan, or (ii) receiving an HRA into which Gerdau will make an annual contribution of $8,820 (the amount to be prorated for periods less than a full year). Class members who elect to receive an HRA prior to reach age 65 will not be permitted to return to the current or restated Sheffield Plan. *Id.* at Section IV.B.3.c.vi.

[4] The "Sheffield Plan" is the plan of benefits that Gerdau had provided to the class before the changes at issue in this lawsuit, and which it continues to provide to non-disabled pre-65 class members.

[5] This is the amount Gerdau has contributed towards the annual cost of single coverage under the current Sheffield Plan since 2013.

Once the retirees, spouses, and surviving spouses in this group reach age 65, Gerdau will fund an HRA for the remainder of their lives at the annual contribution amounts Gerdau is then making to class members who are age 65 and older. *Id.*

D. Open Enrollment

With the exception that non-disabled class members under the age of 65 who elect to receive an HRA may not return to the current or restated Sheffield Plan, all class members will have the opportunity to enroll or re-enroll for the benefits provided under the settlement during any future annual enrollment window. *Id.* at Section IV.B.4.

E. Lump Sum Payment

Gerdau will pay $225,000 to partially reimburse class members for the additional amounts they paid for the costs of their medical and prescription drug coverage since January 1, 2013. Each class member will receive an equal share of this payment, which the parties currently estimate will be $493 per class member. Class members with an HRA will receive their share through a one-time contribution to their accounts. Class members who do not have an HRA (and the estates of deceased Class Members) will be paid by check. *Id.* at Section IV.B.6.

F. Life Insurance

Gerdau currently affords certain retirees in the class a basic life insurance benefit. The amount this basic life insurance is as follows: (i) $20,000 if death occurs prior to age 62; (ii) $3,500 if death occurs at age 62 or later, and the retiree retired on or after August 1, 1982; and (iii) $3,000 if death occurs at age 62 or later, and the retiree retired before August 1, 1982. Under the settlement, Gerdau has agreed to provide this basic life insurance benefit to all retiree Class Members, and to keep it in place, without modification, for the remainder of each retiree Class Member's lifetime. *Id.* at Section IV.B.5.

G. Attorneys' Fees

Gerdau has agreed to pay Plaintiffs' attorneys' fees, costs and expenses in the amount of $725,000, but no more, and not to oppose Plaintiffs' application for attorney's fees, costs, and expenses, provided that Plaintiffs do not request an award of more than $725,000. *Id.* at Section IV.B.7.

IV. THE SETTLEMENT MEETS THE CRITERIA FOR APPROVAL

Settlement "has special importance in class actions with their notable uncertainty, difficulties of proof, and length. Settlements of complex cases contribute greatly to the efficient utilization of scarce judicial resources, and achieve the speedy resolution of justice[.]" *Turner v. Gen. Elec. Co.*, 2006 WL 2620275, at *2 (M.D. Fla. Sept. 13, 2006). For these reasons, "[p]ublic policy strongly favors the pretrial settlement of class action lawsuits." *In re U.S. Oil & Gas Litig.*, 967 F.2d 489, 493 (11th Cir. 1992).

"In order to approve the settlement agreement, the district court is required to determine that it was fair, adequate, reasonable, and not the product of collusion." *Turner*, 2006 WL 2620275, at *2 (quoting *Leverso v. Southtrust Bank of Al., Nat. Assoc.*, 18 F.3d 1527, 1530 (11th Cir. 1994)). The factors to be considered in evaluating whether a settlement is fair, reasonable and adequate are: (1) the likelihood of success at trial; (2) the range of possible recovery; (3) the point on or below the range of possible recovery at which a settlement is fair, adequate and reasonable; (4) the complexity, expense and duration of the litigation; (5) the substance and amount of opposition to the settlement; and (6) the stage of proceedings at which the settlement was achieved. *Smith v. Wm. Wrigley Jr. Co.*, 2010 WL 2401149, at *2 (S.D. Fla. June 15, 2010) (citing *Bennet v. Behrina Corp.*, 737 F.2d 982, 986 (11th Cir. 1984)). "In considering the settlement, the district court may rely upon the judgment of experienced counsel for the parties." *Nelson v. Mead Johnson & Johnson Co.*, 484 Fed.Appx. 429, 434 (11th Cir. 2012) (citing *Cotton*

v. Hinton, 559 F.2d 1326, 1330 (5th Cir. 1977)). "Absent fraud, collusion, or the like, the district court 'should be hesitant to substitute its own judgment for that of counsel.'" *Id.* (citing *Cotton*, 559 F.2d at 1330).

Consideration of the factors above strongly supports the reasonableness and fairness of the present settlement. As to the likelihood of success on the merits, while Plaintiffs' counsel believe Plaintiffs' case is strong, significant risks remain to establishing both liability and damages. In their motion to dismiss and answer, Defendants raised a number of defenses that, if successful, would potentially deprive class members of any benefits in the future. Moreover, this matter involves collective bargaining negotiations and agreements that span a period of more than 30 years. There are numerous factual disputes between the parties, missing or ambiguous documents, and key witnesses who are no longer alive or available to provide testimony. There is also significant uncertainty in the law governing Plaintiffs' claims, with the U.S. Supreme Court issuing its decision in *M&G Polymers USA, LLC v. Tackett*, 135 S.Ct. 926 (2015) while this case was pending. Of course, even if Plaintiffs had prevailed on liability, they were still subject to a second trial on damages—a subject on which the parties had substantial disagreements. And, even if Plaintiffs prevailed on liability and their damages arguments, there was still the risk of reversal on appeal. This factor clearly supports the settlement.

As to whether the settlement is fair, adequate and reasonable when compared to the range of possible recovery, the possible recoveries in this case range from reinstatement of the former healthcare plan, on the one hand, to no guaranty of any benefits in the future, on the other hand. The settlement represents a substantial recovery on behalf of the class, obligating Gerdau to provide nearly all class members with future healthcare benefits for the remainder of their lives, or in the case of child dependents, as long as they are eligible. These future healthcare benefits

will take the form of tax-free reimbursement payments through HRAs totaling nearly $15 million over the remainder of class members' lifetimes. (Doc. 135-1, Hurt Decl. in Support of Attorney's Fees. at ¶¶ 8-12). In addition, all class members will share equally in a lump sum payment of $225,000, which Gerdau will make to partially reimburse them for the additional amounts they paid for the cost of their healthcare coverage since January 1, 2013, and all retirees in the class will be entitled to a life insurance benefit of $3,000, $3,500 or $20,000 upon their death. In total, the settlement obligates Gerdau to provide a series of payments totaling more than $16 million. *Id.* at ¶ 12. Given the litigation risks, Plaintiffs submit that this is an excellent result on behalf of the class. This factor clearly also favors approval.

The complexity, expense, and duration of the litigation also support approval of the settlement. As outlined above, this case presents complex issues and the parties had engaged in significant discovery at the time they agreed to settle. While the costs to date have been substantial, each side could expect to incur significant additional expenses associated with remaining depositions, completion of expert reports and related discovery, preparation and argument of cross-motions for summary judgment motions, a potential trial on liability, a potential second round of damages discovery, a potential trial on damages, and an appeal. Three years have already passed since the date the case was filed, and given the remaining work to be completed it is conceivable the case may not be resolved for another two years. In contrast, the settlement will provide class members with immediate and certain relief.

The stage of the proceedings at which the settlement was achieved also supports the settlement. The parties had laid out their respective legal theories in briefing two motions to dismiss and through the administrative process. They had also nearly completed discovery on liability issues—having exchanged more than 59,000 pages of documents and taken 23

depositions—and were in the process of completing their respective expert reports. The parties were thus clearly in a position to evaluate the strength of their litigation positions and a potential settlement. Moreover, the parties discussed settlement for several months before, being unable to resolve the matter, they brought in an experienced private mediator, Cary Singletary, who mediated the basis for the current settlement. The discussions were serious, prolonged and arm's-length.

Finally, the substance and amount of opposition to the settlement favor approval. Defendants mailed the Court-approved notice by first class mail to all 456 class members (Doc. Doc. 139-1, Loyst Decl. Regarding Proof of Mailing Class Notice), as well as notice pursuant to the Class Action Fairness Act to the United States Attorney General, and the Attorneys General and Insurance Commissioners of 15 states (Doc. 137, Suppl. Decl. of Brett J. Preston Regarding Notice of Proposed Settlement Pursuant to 28 U.S.C. § 175). In response to these notices, just one class member, Edgar Fairchild, submitted an objection to the settlement. (Doc. 134).

The primary thrust of Mr. Fairchild's objection concerns the merits. Based on his understanding of the contract in place when he retired and Gerdau's continuation of the benefits provided by Sheffield Steel from 2004 to 2013, Mr. Fairchild argues that class members are entitled to the benefits in place prior to the changes that prompted the litigation. While the settlement may provide lesser benefits than had they litigated and prevailed on every issue, "compromise is the essence of settlement." *Bennet v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984). It is the judgment of Plaintiffs' counsel, who are experienced in retiree healthcare litigation and familiar with all of the applicable contracts and factual history, that the settlement represents a very good resolution of Plaintiffs' claims given the risks. This Court may rely upon the judgment of experience counsel, and absent fraud or collusion, should be hesitant to

substitute its own judgment for that of counsel. *Nelson*, 484 Fed.Appx. at 434 (citing *Cotton v. Hinton*, 559 F.2d 1326, 1330 (5th Cir. 1977)).

For the same reasons, this Court should reject Mr. Fairchild's arguments about the adequacy of the settlement consideration, specifically the amount of the stipend and the annual increase to that amount. Mr. Fairchild asserts that, even with $1,800 stipend for both he and his wife, they still paid between $1,639 and $2,077 out-of-pocket for their insurance coverage from 2014 to 2016. However, these figures fail to subtract the $900 in annual premiums ($75 per month) that Mr. and Mrs. Fairchild paid prior to the benefit changes but did not pay afterwards, and fail to acknowledge that there are many policies at various premium levels available to class members through One Exchange.[6] (Hurt Decl. in Support of Final Approval at ¶¶ 3) (filed herewith). More significantly, the settlement consideration must be considered in light of the risk of loss at trial, which would have enabled Gerdau to discontinue healthcare benefits to the class entirely. Plaintiffs submit that the result obtained here, a lifetime guarantee of medical benefits and a settlement with an estimated value of more than $16 million, is clearly adequate consideration for settlement in light of that risk.

Finally, Mr. Fairchild's criticism of the $225,000 lump sum payment when compared to the requested attorneys' fees and expenses, fails to account for the value of the other components of the settlement consideration, chiefly the lifetime guarantee of healthcare benefits. In addition to his share of the lump sum payment (about $493), the settlement will provide Mr. Fairchild with $1,800 annually with a 1.375% increase each year for the remainder of his life. Based on his remaining life expectancy of 7.4 years, Mr. Fairchild would receive approximately

[6] In fact, Medicare-eligible class members can obtain their health coverage from any available source and still receive the benefits of the settlement. Gerdau will continue to offer the services of One Exchange or a comparable service provider, but class members will no longer be required to purchase their healthcare coverage through One Exchange or the service provider selected by Gerdau in order to receive the HRA contributions. (Doc. 125-1, Settlement Agreement at p. 9, § IV.B.3.a.iii.).

$14,073.94 in healthcare payments over the remainder of his lifetime. (Hurt Decl. in Support of Final Approval at ¶ 2). He will also receive a life insurance benefit of $3,500 to his beneficiary upon his death. *Id.* Apart from these additional benefits under the settlement, Gerdau has agreed to pay the Court-approved attorneys' fees and expenses directly, meaning that such fees and expenses do not diminish the benefits to class members under the settlement. *See Turner*, 2006 WL 2620275, at *8 (rejecting similar objection). The substance and amount of opposition to the settlement therefore favor approval, and Mr. Fairchild's objection should be rejected.

V. CONCLUSION

For the foregoing reasons, the Settlement Agreement is fair, reasonable, and adequate and meets the criteria for approval of class action settlements. Plaintiffs respectfully request that the Court finally approve the Settlement Agreement and enter the updated proposed Judgment to be submitted by the Parties.

Dated: August 25, 2017

Respectfully submitted,

s/ Joel R. Hurt
Joel R. Hurt (*admitted pro hac vice*)

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CERTIFICATE OF SERVICE

I certify that, on August 25, 2017, a true and correct copy of the foregoing document was filed with the Clerk of Court, using the CM/ECF system, which will send notice of electronic filing and service to all counsel of record.

s/ Joel R. Hurt
Joel R. Hurt