

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE THE GOODYEAR TIRE & RUBBER
COMPANY ERISA LITIGATION**

**Case No. 5:03CV02182
JUDGE JOHN R. ADAMS**

**JOINT MOTION TO AMEND SETTLEMENT AGREEMENT
AND TO REQUEST NEW DATE FOR FAIRNESS HEARING**

Plaintiffs and Defendants respectfully submit for the Court's approval an amendment to the Class Action Settlement Agreement ("Settlement Agreement") and request that the Court set a new date for the Fairness Hearing. The parties have amended the Settlement Agreement to include Hewitt Associates, LLC ("Hewitt") as a Released Party under section 3.1 of the Settlement Agreement and to define Released Claims in the same section to include claims related to the recovery, processing, and furnishing of any data needed to determine the amount of distributions from the Settlement Fund or to implement the Plan of Allocation.¹ The parties also ask the Court to reschedule the Fairness Hearing (currently scheduled for July 24, 2008) to September 11, 2008 in order to allow sufficient time for the mailing of notice to members of the Settlement Class.

¹ The capitalized terms have the same meanings as they do in the Settlement Agreement.

Background

As explained in the parties' Joint Motion to Revise Schedule filed with the Court on April 3, 2008 (Doc. 174), the parties encountered unforeseen difficulties obtaining access to the Plan data necessary to distribute notice to the Settlement Class and to calculate the amounts due to members of the Settlement Class under the Settlement. Hewitt, the former record keeper for the Plan for the period January 1, 1998 to August 1, 2005, would not undertake to recover the data from its systems and restore the data to usable form, without certain assurances and limitations on its liability. Hewitt took the position that such an agreement was necessary because the data is stored in recordkeeping systems that are no longer in use and for which technical support is not available; as such, Hewitt could not ensure that the data would be accurate or complete and was concerned that it might face potential liability for problems associated with the data. On April 3, 2008, the Court issued a new schedule for implementing the Settlement (Doc. 175).

In late April 2008, the parties reached an agreement with Hewitt (the "Hewitt Agreement") that, among other things, caps Hewitt's liability and otherwise releases Hewitt from any claims related to the work performed under the Hewitt Agreement. Goodyear and Plaintiffs also agreed to amend the Settlement Agreement to name Hewitt as a Released Party and to add language specifying that the Released Claims include claims related to the work Hewitt is performing in this case.

Before signing the Hewitt Agreement, counsel for Goodyear and Plaintiffs asked the Independent Fiduciary retained pursuant to the Settlement Agreement, Fiduciary Counselors, Inc., to review the Hewitt Agreement and the proposed amendment to the Settlement Agreement to ensure that that the Plans' interests were adequately protected. On April 24, 2008, Fiduciary Counselors, Inc. gave its approval to the Hewitt Agreement and the addition of Hewitt to the

release in the Settlement Agreement. The Hewitt Agreement was signed on April 25, 2008, and Hewitt began work shortly thereafter. On May 20, 2008, the parties amended the Settlement Agreement in the manner described above. (A copy of the amendment is attached as Exhibit A.) The amendment has no effect on the substantive terms of the Settlement or the amount that class members will receive.

Under the revised schedule issued on April 3, 2008, the deadline for mailing individual notice to members of the Settlement Class is June 9, 2008. The names and addresses needed to perform the mailing are contained, in part, in the data files that Hewitt is recovering from its recordkeeping systems. Although Hewitt is working on the project, it has advised the parties that the June 9 deadline is not feasible given the current status of the project. Hewitt has assured the parties that it will be able to finish the data recovery project by the end of June; however, the parties propose that the notice deadline be extended to the end of July – allowing an additional four weeks for any unexpected delays and thus ensuring that the parties will not need to return to the Court to request further extension of the deadline. Because notice must be sent 45 days prior to the Fairness Hearing, a Fairness Hearing scheduled in mid-September would allow sufficient time for mailing the notice at the end of July.

After consulting with chambers, the parties propose that the Fairness Hearing take place on September 11, 2008 at 10:00 a.m. The resulting deadlines for the implementation of the Settlement will be as follows:

Event	Time for Compliance
Deadline for Mailing of Individual Notice to members of the Settlement Class (the “Notice Date”)	July 29, 2008 (45 days prior to the proposed Fairness Hearing)

Deadline for publication of Summary Notice in <i>USA Today</i> and the <i>Akron Beacon Journal</i>	July 29, 2008 (45 days prior to the proposed Fairness Hearing)
Deadline for Plaintiffs to file with the Court and post on www.goodyearERISAsettlement.com their motion for award of attorneys' fees and expenses and Lead Plaintiffs compensation	August 22, 2008 (21 days prior to the proposed Fairness Hearing)
Deadline for Class members to comment upon or object to the proposed Settlement	August 29, 2008 (14 days prior to the proposed Fairness Hearing)
Deadline for Plaintiffs to file motion for final approval of the proposed Settlement, including approval of the Plan of Allocation	September 5, 2008 (7 days prior to the proposed Fairness Hearing)
Proposed Fairness Hearing	September 11, 2008

Relief Requested

The parties ask the Court to approve the amendment to the Settlement Agreement and issue an Order setting the Fairness Hearing for September 11, 2008 at 10:00 a.m., and submit herewith a proposed Order for the Court's consideration.

Should the Court desire additional information regarding this matter, Class Counsel welcomes the opportunity to provide the Court with any information it requires.

Dated this 6th day of June, 2008.

Respectfully submitted,

s/ Derek W. Loeser

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