

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION (DAYTON)**

ART SHY, et al.

Plaintiffs,

vs.

NAVISTAR INTERNATIONAL
CORPORATION, et al.

Defendants.

Case No. 3:92-CV-00333

District Judge Walter H. Rice

**CLASS REPRESENTATIVES' UNOPPOSED MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT AND APPROVAL OF
AMENDMENTS TO THE SUPPLEMENTAL BENEFIT PROGRAM**

Pursuant to Fed. R. Civ. P. 23(e), Class Representatives Richard Zounes, Carl Potts, and Miller Rodgers (“Class Representatives”), on behalf of themselves and the settlement class, respectfully move this Court to enter an order granting preliminary approval of a class action settlement and approval of amendments to the supplemental benefit program. Class Representatives seek an order: (1) preliminarily approving a Class Action Settlement Agreement as fair, adequate and reasonable to the settlement class; (2) modifying the class definition and conditionally certifying a proposed Settlement Class pursuant to Fed. R. Civ. P. 23(b)(1), (2), and (3); (3) adding Robert Bergmann (Ret. USW) and Fred Cortright (Ret. UAW) as additional Class Representatives; (4) approving the form, content and method of Class Notice; (5) establishing procedures and scheduling deadlines for notice to the Class Members, and for Class Members to object to the settlement; (6) scheduling deadlines for the filing of papers in support of final approval and in support of attorneys’ fees and expenses; (7) setting a time and date for a hearing (the “Fairness Hearing”) for consideration of final approval of the Class Action Settlement as well

as Class Counsel's fees and expenses; and (8) establishing other requirements and procedures necessary to effectuate the Settlement.

Pursuant to Fed. R. Civ. P. 60, Class Representatives also ask, in order to implement the class action settlement, that the Court modify the prior consent judgment and approve an amendment of the Navistar International Transportation Corp. Retiree Supplemental Benefit Program by plaintiff Supplemental Benefit Program Committee of the Navistar International Transportation Corp. Retiree Supplemental Benefit Program (the "SBC").

Per Local Rule 7.3, Class Counsel consulted with defendants, Plaintiff SBC, and Plaintiff The International Union, United Automobile, Aerospace and Agricultural Implement Workers of America before filing this Motion and determined that this Motion is unopposed. The grounds for the Court's potential granting of this unopposed Motion are included in the accompanying memorandum.

Respectfully submitted,

/s/ W.B. Markovits

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CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2021, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system, which will provide notice of the filing to all parties of record. Parties may access the filing through the Court's CM/ECF system.

/s/ W.B. Markovits
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