

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO**

Wendy Berry, Lorri Hulings, and Kathleen Sammons, individually and as representatives of a class of similarly situated persons, and on behalf of the FirstGroup America, Inc. Retirement Savings Plan,

Plaintiffs,

v.

FirstGroup America, Inc., FirstGroup America, Inc. Employee Benefits Committee, and Aon Hewitt Investment Consulting, Inc.,

Defendants.

Case No. 1:18-cv-00326-MWM

Judge Matthew W. McFarland

**PLAINTIFFS' AND DEFENDANT AON HEWITT INVESTMENT CONSULTING, INC.'S MOTION TO VACATE SUMMARY JUDGMENT DEADLINES AND TO SET DEADLINE FOR PLAINTIFF'S UNOPPOSED MOTION FOR PRELIMINARY SETTLEMENT APPROVAL**

Plaintiffs and Defendant Aon Hewitt Investment Consulting, Inc. (“Aon Hewitt”) (collectively, the “Settling Parties”) hereby move the Court for an order to vacate the dispositive motion briefing schedule with respect to Plaintiffs’ claims against Aon Hewitt and set the following deadline for Plaintiffs to file their Unopposed Motion for Preliminary Approval of the Settlement Agreement: seven (7) days following the Settling Parties’ receipt of plan participant data from the Plan’s recordkeepers. In support of this motion, the Settling Parties state as follows:

1. On October 12, 2022, the Settling Parties filed a Notice of Settlement and Motion for Extension of Summary Judgment Briefing Schedule. (ECF No. 94.) The Settling Parties notified the Court that a settlement in principle had been obtained between the Settling Parties and that additional time was necessary to allow the Settling Parties to document their settlement and present it to the Court for fairness review. (*Id.*) As such, the Settling Parties requested a 60-day extension of the briefing schedule for summary judgment motions. (*Id.*)

2. On October 13, 2022, the Court issued a notation order that granted the Settling Parties’ request to extend the dispositive motion briefing schedule with respect to Plaintiffs’ claims against Aon Hewitt by 60 days. Specifically, the Court established the following briefing schedule: dispositive motions filed by December 13, 2022; responses in opposition to dispositive motions filed by January 17, 2023; and replies in support of dispositive motions filed by February 14, 2023.

3. Following this Notice, the Settling Parties have diligently negotiated settlement terms, which has resulted in an executed Settlement Agreement with the following exhibits: a template for notices of settlement to former and current plan participants, a rollover form for former plan participants, and a proposed Order in connection with Plaintiffs’ forthcoming Unopposed Motion for Preliminary Settlement Approval. Together, these documents are attached hereto as Exhibit A. Additionally, Plaintiffs have drafted their Unopposed Motion for Preliminary

Settlement Approval, attached hereto as Exhibit B.

4. While the Settling Parties are prepared to submit their Settlement Agreement for preliminary approval by the Court, the Settling Parties are in the process of requesting plan participant data through FirstGroup America, Inc.'s Plan recordkeepers. Counsel for FirstGroup America, Inc. has estimated that the production of plan participant data will take approximately two (2) weeks.

5. Such plan participant data is necessary for the Settling Parties to comply with the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715. CAFA requires that within 10 days after a proposed settlement of a class action is filed in court, each settling defendant must serve a notice of proposed settlement upon the appropriate state official of each state in which a class member resides and the appropriate federal official. 28 U.S.C. § 1715(b). Such notice must include, *inter alia*, "the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State's appropriate State official," or, if such information is not feasible, "a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement." 28 U.S.C. § 1715(b)(7).

6. Counsel for Aon Hewitt has conferred with Counsel for FirstGroup America, Inc. and the FirstGroup America, Inc. Employee Benefits Committee (the "FirstGroup Defendants"), and the FirstGroup Defendants do not oppose the requested relief.

Given that the Settling Parties' Settlement Agreement has been finalized and executed, that Plaintiffs are prepared to move for preliminary approval of the settlement agreement, and that the Settling Parties are working with third parties to obtain necessary plan participant data to comply with CAFA, Plaintiffs and Aon Hewitt respectfully request that this Court vacate the dispositive

motion briefing schedule with respect to Plaintiffs' claims against Aon Hewitt and set the following deadline for Plaintiffs to file their Unopposed Motion for Preliminary Approval of the Settlement Agreement: seven (7) days following the Settling Parties' receipt of plan participant data from the Plan's recordkeepers.

Dated: November 23, 2022

Respectfully submitted,

**NICHOLS KASTER, PLLP**

**O'MELVENY & MYERS LLP**

/s/ Paul J. Lukas

Paul J. Lukas  
Brock J. Specht  
Matthew H. Morgan  
Anna P. Prakash  
Steven J. Eiden  
4700 IDS Center  
80 S 8th Street  
Minneapolis, MN 55402  
Telephone: 612-256-3200  
Facsimile: 612-338-4878  
lukas@nka.com  
bspecht@nka.com

/s/ Brian D. Boyle

Brian D. Boyle  
Shannon M. Barrett  
Deanna Rice  
1625 Eye St., NW  
Washington, DC 20006  
Telephone: (202) 383-5300  
Fax: (202) 383-5414  
bboyle@omm.com  
sbarrett@omm.com  
derice@omm.com  
Stuart M. Sarnoff  
William Pollak  
O'MELVENY & MYERS LLP  
Times Square Tower 7 Times Square  
New York, NY 10036  
Telephone: (212) 728-5675  
Fax: (212) 326-2061  
ssarnoff@omm.com  
wpollak@omm.com

George M. Reul, Jr. (0069992)  
FREKING MYERS & REUL LLC  
600 Vine Street, Ninth Floor  
Cincinnati, Ohio 45202  
Telephone: 513-721-1975  
Facsimile: 513-651-2570  
greul@fmr.law

V. Brandon McGrath (0072057)  
DENTONS BINGHAM GREENEBAUM LLP  
2350 First Financial Center  
255 East Fifth Street  
Cincinnati, Ohio 45202-4728  
Telephone: 513-455-7641  
Brandon.mcgrath@dentons.com

*Attorneys for Plaintiffs*

*Attorneys for Defendant Aon Hewitt Investment Consulting, Inc. (n/k/a Aon Investments USA, Inc.)*

**CERTIFICATE OF SERVICE**

I, Paul J. Lukas, hereby certify that I served this document on counsel of record via ECF on November 23, 2022.

/s/ Paul J. Lukas  
Paul J. Lukas

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO**

Wendy Berry, Lorri Hulings, and Kathleen Sammons, individually and as representatives of a class of similarly situated persons, and on behalf of the FirstGroup America, Inc. Retirement Savings Plan,

Plaintiffs,

v.

FirstGroup America, Inc., Aon Hewitt Investment Consulting, Inc., and John Does 1-20,

Defendants.

Case No. 1:18-cv-00326-MWW

**[PROPOSED] ORDER GRANTING JOINT MOTION TO VACATE SUMMARY JUDGMENT DEADLINES AND TO SET DEADLINE FOR PLAINTIFF'S UNOPPOSED MOTION FOR PRELIMINARY SETTLEMENT APPROVAL**

Upon due consideration of Plaintiffs' and Defendant Aon Hewitt Investment Consulting, Inc.'s Motion to Vacate Summary Judgment Deadlines and to Set Deadline for Plaintiff's Unopposed Motion for Preliminary Settlement Approval, and finding good cause for the motion,

**IT IS HEREBY ORDERED as follows:**

1. Plaintiffs' and Defendant Aon Hewitt Investment Consulting, Inc.'s Motion to Vacate Summary Judgment Deadlines and to Set Deadline for Plaintiff's Unopposed Motion for Preliminary Settlement Approval is GRANTED.

2. The dispositive motion briefing schedule with respect to Plaintiffs' claims against Aon Hewitt is vacated.

3. Plaintiffs will file their Unopposed Motion for Preliminary Approval of the Settlement Agreement within seven (7) days following the Settling Parties' receipt of plan participant data from the Plan's recordkeepers.

**SO ORDERED.**

Date: November \_\_\_\_, 2022

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HON. MATTHEW W. McFARLAND  
United States District Court Judge