



As set out in Plaintiff's Memorandum in Support of His Motion, the Class meets the requirements for class certification of Fed. R. Civ. P. 23(a) as well as those of Rule 23(b)(1)(A), 23(b)(1)(B), and 23(b)(2). Plaintiff asks this Court to certify the above Class under Rule 23(b)(1)(A), 23(b)(1)(B), and 23(b)(2).<sup>1</sup>

Plaintiff's counsel meets the requirements for appointment as Class Counsel under Rule 23(g). Plaintiff's Memorandum and the accompanying declarations of Charles Field, Kevin Sharp, David Sanford, Russell Kornblith, James Hannaway, and Matthew J. Singer provide the basis for the Motion.

Plaintiff and Defendants, by and through their counsel of record, have conferred regarding the Motion, and Defendants expressed their intent to oppose the Motion.<sup>2</sup>

WHEREFORE, for the foregoing reasons, Plaintiff respectfully requests that this Court grant Plaintiff's Motion for Class Certification, Appointment of Class Representative, and Appointment of Class Counsel under Rules 23(a), 23(b)(1), 23(b)(2), and 23(g).

Dated: April 21, 2023

/s/ Charles Field  
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<sup>1</sup> In the Amended Complaint, Plaintiff sought class certification under Rules 23(b)(1)–(3) and 23(c)(4). Am. Compl., Docket No. 87, ¶¶ 95–98. Here, Plaintiff moves for class certification under Rule 23(b)(1) and (b)(2) alone, which is the ordinary practice in ERISA class actions. *Stone v. Signode Indus. Grp.*, 594 F. Supp. 3d 993, 997 (N.D. Ill. 2022); *Godfrey v. GreatBanc Tr. Co.*, No. 18 C 7918, 2021 WL 679068, at \*7 (N.D. Ill. Feb. 21, 2021); *George v. Kraft Foods Glob., Inc.*, 251 F.R.D. 338, 353 (N.D. Ill. 2008); *Smith v. Aon Corp.*, 238 F.R.D. 609, 618 (N.D. Ill. 2006). However, Plaintiff requests the opportunity to move for class certification under Rule 23(b)(3) and Rule 23(c)(4) should the Court deny Rule 23(b)(1) or Rule 23(b)(2) certification. Further, Plaintiff seeks class certification only with respect to Counts I-V in his Amended Complaint.

<sup>2</sup> See Field Decl. ¶ 13.

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