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APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Case No. 20-1174

[Filed: April 20, 2021]

MICHIGAN EDUCATION ASSOCIATION FAMILY RETIRED STAFF ASSOCIATION, a Michigan nonprofit corporation; GLENNA PARKER; CAROLEE SMITH,	)
Plaintiffs-Appellants,	)
v.	)
MICHIGAN EDUCATION ASSOCIATION, a union affiliated with local unions that represent public school employees and other employees in the state of Michigan; MICHIGAN EDUCATION SPECIAL SERVICES ASSOCIATION, a Michigan nonprofit corporation; MEA FINANCIAL SERVICES, a Michigan corporation,	)
Defendants-Appellees.	)

NOT RECOMMENDED FOR PUBLICATION
File Name: 21a0207n.06

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN

OPINION

BEFORE: COOK, BUSH, and NALBANDIAN, Circuit Judges.

JOHN K. BUSH, Circuit Judge. This case presents yet another iteration of the question whether retirement healthcare benefits have vested under collective bargaining agreements and related documents. Defendants are several affiliated organizations in Michigan that began to make changes to their retirement healthcare benefits in January 2019. Later that year, current and former employees of those organizations sought a preliminary injunction to stop further changes, arguing that those benefits were vested. The district court denied the injunction, finding that Plaintiffs were unlikely to succeed on the merits of their case. Their claims rest on a letter of understanding signed by purported representatives of the relevant employers and employees and on language in healthcare plan documents. Because the district court did not determine whether the letter of understanding is an enforceable contract apart from the collective bargaining agreements, we vacate and remand the denial of the preliminary injunction. But because the plan documents do not clearly manifest an intent for the retirement healthcare benefits to vest,

the district court correctly determined that the plan documents do not support granting Plaintiffs a preliminary injunction.

I.

Defendants are closely affiliated Michigan organizations. Michigan Education Association is a union; Michigan Education Special Services Association and MEA Financial Services are nonprofit organizations that provide health insurance and retirement programs to MEA and its affiliates' employees and retirees. Plaintiff Michigan Education Association Family Retired Staff Association is a nonprofit corporation whose members are Defendants' and their predecessors' retired employees and their families. Plaintiffs Glenna Parker and Carolee Smith are also retired employees of Defendants. Many of RSA's members, including Parker and Smith, were members of collective bargaining units represented by the United Staff Organization or its predecessors and affiliates. USO and Defendants entered into a series of collective bargaining agreements, which specified that Defendants would provide eligible retirees with healthcare benefits.

Plaintiffs contend that USO and Defendants understood and agreed that the retiree healthcare benefits would vest for life upon retirement. They argue that this understanding is shown in two ways: first, it was expressly committed to writing in a signed "Letter of Understanding," a separate enforceable contract from the CBAs. Second, it is explicitly stated in plan documents, adopted as part of Defendants' retiree medical plan under the Employee Retirement

Income Security Act of 1974, 29 U.S.C. §§ 1001–1191c, that retiree insurance benefits become vested for participants who satisfy the necessary age and service conditions.

The LOU was signed in 1993 by purported representatives of Defendants and USO. It provides in pertinent part: "The parties acknowledge that retiree fringe benefits described in Schedules A and B become vested for life on commencement of monthly retirement benefits under the MEA/MESSA/MEDNA/MEA-FS Staff Retirement Plan and Trust." The plan documents, specifically language from the Amended and Restated MEA, MESSA, MEA Financial Services Retiree Health Benefit Plan and Trust, provide in pertinent part:

> Vesting. A Participant whose retirement benefits are the subject of a collective bargaining agreement with an Employer Member shall become vested in the post-retirement health benefit described in Article V in accordance with the terms of the relevant sections of pertinent collective bargaining agreement(s), copies of which are attached as Schedule A. A Participant whose retirement benefits are not the subject of a collective bargaining agreement with an Employer Member shall become vested in the post-retirement health benefit described in Article V in accordance with the terms of Schedule B.

In January 2019, Defendants began to change retiree healthcare benefits. In July 2019, Defendants notified retirees that more changes would be made but

postponed implementation until January 2020 to provide time to negotiate. After negotiations broke down, Plaintiffs filed suit in federal court seeking a temporary restraining order and a preliminary injunction to prevent Defendants from implementing the new policies. The district court denied the motion for a temporary restraining order. So, in January 2020, Defendants implemented their new policies.[1]

After taking testimony and hearing oral argument, the district court also denied Plaintiffs' motion for a preliminary injunction. It held that none of Plaintiffs' claims are likely to succeed on the merits, which it deemed dispositive. The court nonetheless considered the other preliminary injunction factors, finding that Plaintiffs did not show irreparable harm sufficient to overcome their failure to show likelihood of success on the merits and that the public interest favoring Plaintiffs did not tip the scales in their favor. Plaintiffs appeal the denial of the preliminary injunction.

II.

We review a district court's ruling on a motion for a preliminary injunction for an abuse of discretion. *Daunt v. Benson*, 956 F.3d 396, 406 (6th Cir. 2020). This entails reviewing factual findings for clear error and legal conclusions de novo. *Id.* Whether a party is

[1] The relevant changes included (1) replacing the prescription plan with a plan charging increased prices, (2) eliminating Medicare Part B premium reimbursements for retirees' spouses and dependents and reducing it for retirees, (3) raising deductibles for retirees under the age of 65, and (4) increasing deductibles and decreasing annual limits on retirees' dental and vision coverage.

likely to succeed on a claim's merits is a conclusion of law. *Fowler v. Benson*, 924 F.3d 247, 256 (6th Cir. 2019).

The decision to grant a preliminary injunction requires weighing whether the moving "party (1) 'establish[ed] that he is likely to succeed on the merits,' (2) 'that he is likely to suffer irreparable harm in the absence of preliminary relief,' (3) 'that the balance of equities tips in his favor,' and (4) 'that an injunction is in the public interest.'" *Id.* (original alteration) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)).

Because the district court's decision to deny Plaintiffs' motion for a preliminary injunction rested on the likelihood of success on the merits, we consider whether either of Plaintiffs' claims is likely to succeed.[2]

A. THE LOU CLAIM

Plaintiffs contend that the LOU is an enforceable contract, separate from the CBAs, that establishes that healthcare benefits vested. Defendants disagree. Whether a contract exists is a factual question. *See Bobbie Brooks, Inc. v. Int'l Ladies' Garment Workers Union*, 835 F.2d 1164, 1168 (6th Cir. 1987); *Determining the existence of a contract*, 11 Williston on Contracts § 30:3 (4th ed. 2012) ("It is generally a question of fact for the jury whether or not a contract

[2] Plaintiffs have not appealed the district court's denial of the preliminary injunction based on their claims of equitable estoppel or breach of oral and written promises made outside of any particular plan.

. . . actually exists."). And factual questions are for the district court to resolve. Fed. R. Civ. P. 52(a); *see also Cont'l Cas. Co. v. Indian Head Indus., Inc.*, 941 F.3d 828, 837 (6th Cir. 2019). Unfortunately, the district court made no findings of fact on the question whether the LOU is an enforceable contract. When a district court "fail[s] to make findings of fact essential to a proper resolution of the legal question," we must remand for it to make those findings. *Icicle Seafoods, Inc. v. Worthington*, 475 U.S. 709, 714 (1986); *see also United States v. Buchanan*, 933 F.3d 501, 518 (6th Cir. 2019) ("[I]f the district court failed to make a factual finding on a required element, we have no facts to review, and remand is the appropriate course of action."). That is the case here.

Instead of addressing the contract formation question, the district court asked only whether the LOU was extrinsic evidence that proved that the relevant CBA between the parties vested employees' retirement benefits. To be sure, the Supreme Court's cases in this area, as well as ours, have focused on whether there is "clear, affirmative language" in a CBA indicating that its general durational clause does not apply to healthcare benefits. *See Fletcher v. Honeywell Int'l, Inc.*, 892 F.3d 217, 223 (6th Cir. 2018); *M & G Polymers USA, LLC v. Tackett*, 574 U.S. 427, 442 (2015). But that focus on CBAs is merely a consequence of the fact that CBAs are typically the only contract governing these types of relationships; it does not follow that only a CBA can vest rights.[3]

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[3] In any event, Plaintiffs also contend that the LOU itself is effectively a CBA.

Here, if the LOU is a valid, standalone contract that vested benefits for retirees, then it would vest non-negotiable healthcare benefits to anyone who had retired by the day the parties signed it. *See Williams v. WCI Steel Co., Inc.*, 170 F.3d 598, 605 (6th Cir. 1999) ("While a union may bargain away non-vested retiree benefits in favor of more compensation for active employees, it may not do such with the vested rights of its retirees."). True, the subsequent CBA, signed only a week after the LOU and containing an integration clause, offered the sole source of the parties' legal relationship when signed. *See ADR N. Am., L.L.C. v. Agway, Inc.*, 303 F.3d 653, 657 (6th Cir. 2003) ("Under Michigan's parol evidence rule, prior agreements or negotiations cannot contradict the terms of a document intended to be the final and complete expression of the parties' agreement."). But that limitation on the LOU's potential prospective force does not wipe away the possibility that the LOU vested benefits for employees who retired before the parties signed the subsequent CBA.[4] Only a determination that the parties did not form a contract that vested rights in the first place can wipe away that possibility. And that determination is not ours to make. Therefore, we must remand Plaintiffs' LOU claim to the district court.[5]

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[4] Nor does it necessarily resolve the possibility that the LOU vested benefits for non-CBA employees who may not be covered by the subsequent CBA.

[5] On remand, the district court must determine whether Plaintiffs are likely to succeed in showing that the LOU is a contract that vests retirees' rights. In doing so, it should closely consider at least two aspects of the LOU. First, whether the parties' decision to sign

B. THE PLAN-DOCUMENTS CLAIM

Plaintiffs argue that the plan documents independently provide for vested retirement benefits. The district court found that this claim was unlikely to succeed on the merits because the plan documents reference the CBA as a whole, so the general durational clause controls. Plaintiffs argue that the district court's interpretation of the plan documents is contrary to the plain language. Plaintiffs are correct.

The Retiree Health Benefit Plan states that a participant whose benefits are subject to a CBA "shall become vested in the post-retirement health benefit described in Article V in accordance with the terms of the relevant sections of pertinent collective bargaining

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a CBA with an integration clause just a week later without any mention of the LOU shines light on their understanding of whether the LOU was a binding contract. Second, whether its use of the word "acknowledge," in combination with the era in which it was signed, suggests it does not represent a promise to vest benefits to retirees for life. At the time the parties signed the LOU, the shadow of our now-repudiated *Yard-Man* inferences hung over them. Those inferences effectively meant that an employer that provided retiree benefits could rarely avoid a court finding that the employer intended to vest the benefits for life. *See IUE-CWA v. Gen. Electric Co.*, 745 F. App'x 583, 588–93 (6th Cir. 2018) (detailing the saga of the *Yard-Man* inferences and their ultimate and repeated rejection by the Supreme Court). So the parties' past CBAs here provided a likely source for them to acknowledge vesting from the mere presence of retirement benefits. The district court must determine whether the LOU merely acknowledged the legal regime under which it operated or whether it rose to a promise to vest retirees with benefits for life. The district court may also want to consider whether those who signed the LOU on behalf of Defendants had actual or apparent authority to do so.

agreement(s), copies of which are attached as Schedule A." Similarly, it states that a participant whose benefits are not subject to a CBA "shall become vested in the post-retirement health benefit described in Article V in accordance with the terms of Schedule B." Plaintiffs are correct that the final clause of the former—"copies of which are attached as Schedule A"—must modify "relevant sections of pertinent collective bargaining agreement(s)." This means that it does not refer to the CBAs in their entirety but only to the sections that are attached. It also distinguishes our decision in *Gallo v. Moen Inc.*, 813 F.3d 265 (6th Cir. 2016). There, we construed language in a plant closing agreement that healthcare benefits would continue "as indicated under the Collective Bargaining Agreement" to refer to the whole CBA. *Id.* at 273. But here, the final clause specifies that the relevant sections of the CBA are those attached in Schedule A; there is no reference to the CBAs as a whole. Similarly, the latter sentence concerning non-CBA employees does not reference the CBAs at all. Therefore, Plaintiffs are correct that the Retiree Health Benefit Plan does not incorporate the CBAs' general durational clauses.

Still, Plaintiffs have not shown that the language, read in conjunction with the referenced portions of the CBAs, contains "clear, affirmative language" of vesting. *Fletcher*, 892 F.3d at 223. The Retiree Health Benefit Plan language states that a member "shall become vested . . . in accordance with the terms of the relevant sections" of the CBAs attached in Schedule A or, for non-CBA employees, "in accordance with the terms of Schedule B." Neither Schedule A nor Schedule B, however, contains terms that provide for vesting.

Plaintiffs appear to assume that the "eligibility requirements" listed in the schedules constitute the terms, that is, if a retiree satisfies the conditions then his or her benefits are vested. But this is not what the language says. It does not say that benefits "shall become vested upon satisfaction of the eligibility requirements" or "shall become vested in accordance with fulfillment of the terms of the relevant sections" or some other formulation that clearly indicates vesting occurs when the listed eligibility requirements are met. In other words, finding vesting requires an analytical jump between the language of the Retiree Health Benefit Plan and the referenced schedules. The Supreme Court has made clear that we may not make that jump. *See Tackett*, 574 U.S. at 442 (requiring a CBA to provide "in explicit terms" that benefits vest (quoting *Litton Fin. Printing Div. v. NLRB.*, 501 U.S. 190, 207 (1991)).[6] Accordingly, Plaintiffs have not

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[6] This interpretation does not render the "shall become vested" language surplusage. It merely takes the words at face value; if the referenced schedules contained lifetime-vesting terms, then the language would be a clear, affirmative indication of vesting. Indeed, testimony at the hearing on the motion for a preliminary injunction established that the eligibility and funding levels in the schedules were subject to change. Given the possibility of changing the schedules, the parties could have included vesting terms. In addition, this interpretation is consistent with reading the two documents together. *See Forge v. Smith*, 580 N.W.2d 876, 881 (Mich. 1998). If the Retiree Health Benefit Plan itself used language identical to that in Schedules A and B, that similarly would not show the required language. Reading the documents together does not remove the clear, affirmative-vesting-language requirement. *See Fletcher*, 892 F.3d at 223.

established "clear, affirmative language" of vesting. *Fletcher*, 892 F.3d at 223.

This conclusion is supported by the reservation-of-rights language in the Retiree Health Benefit Plan, which allows the employer to make amendments to the plan or "terminate the [p]lan at any time." We have stated on numerous occasions that reservation-of-rights provisions are inconsistent with vesting. *Gallo*, 813 F.3d at 270 ("How can one simultaneously say that healthcare benefits are 'vested' but may be 'cancel[ed]' by the employer?" (original alteration)); *Cooper v. Honeywell Int'l, Inc.*, 884 F.3d 612, 621 (6th Cir. 2018) ("[A reservation-of rights clause is] manifestly inconsistent with vesting; by definition, vested benefits may not be unilaterally terminated."); *IUE-CWA*, 745 F. App'x at 594 ("The reservation-of-rights clause . . . strongly implies an intention *not* to vest."). Therefore, based on the lack of clear vesting language in the plan documents and in the reservation of rights clauses in those documents, Plaintiffs have not established that the plan-documents claim is likely to succeed on the merits.

III.

Accordingly, we vacate the district court's denial of Plaintiffs' motion for a preliminary injunction and remand for further proceedings consistent with this opinion. As Defendants note, the district court currently has before it a motion for judgment on the pleadings. If it determines that it can resolve the case on the pleadings, then it should do so (in which case Plaintiffs' motion for a preliminary injunction would be moot). If it instead revisits the preliminary injunction

question, it should also make a finding on the question of irreparable harm that does not turn on its determination of the likelihood of success on the merits. As we have noted, "[i]rreparable harm is an 'indispensable' requirement for a preliminary injunction, and 'even the strongest showing' on the other factors cannot justify a preliminary injunction if there is no 'imminent and irreparable injury.'" *Memphis A. Philip Randolph Inst. v. Hargett*, 978 F.3d 378, 392 (6th Cir. 2020) (quoting *D.T. v. Sumner Cnty. Schs.*, 942 F.3d 324, 326–27 (6th Cir. 2019)). Thus, an independent factual finding on the likelihood of irreparable harm—rather than one that is bound up in the likelihood-of-success-on-the-merits inquiry, as here—will aid appellate review.

APPENDIX B

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

No. 1:19-cv-1074

[Filed: January, 31. 2020]

MICHIGAN EDUCATION ASSOCIATION FAMILY RETIRED STAFF ASSOCIATION, et al., Plaintiffs,	)
-v-	)
MICHIGAN EDUCATION ASSOCIATION, et al., Defendants.	)

HON. PAUL L. MALONEY

OPINION

This matter is now before the Court on competing motions. Defendants have moved to dismiss Plaintiff Michigan Education Association Family Retired Staff Association (ECF No. 27). Plaintiffs have moved for a preliminary injunction (ECF No. 2), seeking an order requiring Defendants to return retiree health insurance coverage to the levels in effect on December 31, 2019. For the reasons to be explained, the Court will deny both motions.

I. Background

Defendant Michigan Education Association ("MEA") is a union based in East Lansing, Michigan. Defendants Michigan Education Special Services Association ("MESSA") and MEA Financial Services ("MEA-FS") are Michigan nonprofit corporations closely affiliated with MEA. Plaintiff MEA Family Retired Staff Association ("RSA") is a voluntary Michigan nonprofit corporation whose members are all retired employees, or family members thereof, of Defendants or their predecessors. RSA has approximately 550 members and has revocable powers of attorney from 460 of those members to litigate on their behalf. Plaintiffs Parker and Smith are retirees of Defendants and members of RSA.

Many of RSA's members, including Plaintiffs Parker and Smith, were members of collective bargaining units represented by the United Staff Organization, its predecessors, and its affiliates (collectively, "USO"). It remains unclear how many RSA members were represented by USO, how many were represented by other unions, and how many were non-union employees.

The core of this case is Plaintiffs' allegation that at all times, Defendants and USO intended, understood, and agreed that the retiree health benefits should vest for life upon retirement, at the level in effect upon the date of retirement. Plaintiffs further allege that every CBA between USO and the Defendants memorialized this intent. In support of this position, Plaintiffs have provided a 1993 Letter of Understanding ("1993 LOU") signed by representatives of both Defendants and USO,

stating that "the retiree fringe benefits described in Schedules A and B become *vested for life* on commencement of monthly retirement benefits under the [plan]. . ." (ECF No. 1-2) (emphasis added). Plaintiffs also point to two plan documents that refer to benefits as "vested." These documents provide, in relevant part:

> A participant whose retirement benefits are the subject of a collective bargaining agreement with an Employer Member shall become vested in the post-retirement health benefit described in Article V in accordance with the terms of the relevant sections of the pertinent collective bargaining agreement(s), copies of which are attached as Schedule A.

(ECF No. 1-4 at PageID.42; ECF No. 1-5 at PageID.216.) Plaintiffs maintain that based on the 1993 LOU and the provided plan documents, which are independent contracts and exist separate and apart from the CBAs, Defendants may not reduce the coverage amounts provided to retirees below the level of coverage in effect at the time the retirees retired.

In January 2019, Defendants unilaterally reduced some of the prescription drug benefits provided to retirees. In July 2019, Defendants notified retirees that it would again be changing the benefits provided to retirees, this time effective September 1, 2019. The parties agreed to delay the effective date to January 1, 2020, to provide time to negotiate. However, negotiations broke down in the fall of 2019, and Defendants implemented the new policies on January 1, 2020. The relevant changes include:

- Replacing the current 50-cent prescription plan with a plan that charges $4 for generic prescriptions and between $10 and $30 for other prescriptions;
- Eliminating Medicare Part B premium reimbursements for retirees' spouses and dependents;
- Reducing retirees' Medicare Part B premium reimbursements to 80% on September 1, 2020, and reducing the reimbursement by an additional 20% each year thereafter;
- Raising deductibles for retirees under the age of 65; and
- Increasing deductibles and decreasing annual limits on retirees' dental and vision coverage.

On December 20, 2019, Plaintiffs sought a temporary restraining order to prevent Defendants from making the January 1, 2020 change. That request was denied on December 27, 2019 (ECF No. 24). Plaintiffs now seek a preliminary injunction, asking the Court to order Defendants to return insurance coverage to the levels in effect on December 31, 2019. The Court took testimony and heard oral argument on the issue on January 17, 2020, at which time MEA moved to dismiss RSA for lack of standing. That issue has now been fully briefed (See ECF Nos. 27-30), and the Court now considers both motions.

II. Motion to Dismiss Plaintiff RSA

To satisfy the Constitution's standing requirements, a plaintiff must show that it has "(1) suffered an injury

in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision." *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016). As an association, RSA must also demonstrate associational standing, which is met when "(1) the organization's members would otherwise have standing to sue in their own right; (2) the interests it seeks to protect are germane to the organization's purpose; and (3) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Friends of Tims Ford v. Tenn. Valley Authority*, 585 F.3d 955, 967 (6th Cir. 2009) (quoting *Hunt v. Wash. State Apple Adver. Comm'n*, 432 U.S. 333, 343 (1977) (quotation marks omitted)). This requires an association to "allege that its members, *or any one of them*, are suffering immediate or threatened injury as a result of the challenged action of the sort that would make out a justiciable case had them members themselves brought suit." *United Food & Commercial Workers Union Local 751 v. Brown Group, Inc.*, 517 U.S. 544, 552 (quoting *Warth v. Seldin*, 422 U.S. 490, 511 (1975) (quotation marks removed, emphasis added)).

MEA does not challenge the first or second elements of the associational standing test, so only the third element will be evaluated. The "third prong of the associational standing test is best seen as focusing on these matters of administrative convenience and efficiency, not on elements of a case or controversy within the meaning of the Constitution." *United Food*, 517 U.S. at 557. The requirement exists to ensure that individual plaintiffs are joined if their participation as

a *party* is necessary to the administration of the case. It does not require that all association members who may have evidence regarding the claims to be joined as parties, as the Sixth Circuit has made clear: "The individual participation of an organization's members is not normally necessary when the association seeks prospective or injunctive relief for its members." *Sandusky City Democratic Party v. Blackwell*, 387 F.3d 565, 574 (6th Cir. 2004) (quoting *United Food*, 517 U.S. at 544 (quotation marks omitted)). While the unique facts of each association member may be slightly different, the association can litigate the case by seeking injunctive relief without the participation of individual members and "still ensure that 'the remedy, if granted, will inure to the benefit of those members of the association actually injured.'" *Int'l Union, United Auto., Aerospace & Agr. Implement Workers of Am. v. Brock*, 477 U.S. 274, 288 (1986) (quoting *Warth*, 422 U.S. at 515).

MEA argues that the claim asserted in RSA's preliminary injunction requires the participation of RSA's individual members, so RSA does not have associational standing. The Court disagrees.

The thrust of MEA's argument is that RSA has failed to show that irreparable harm will befall all, or even most, of its members. Thus, in MEA's eyes, the participation of individual plaintiffs is necessary. This position is contrary to Supreme Court precedent: the association must only allege an injury affecting one member to satisfy standing. *United Food,* 517 *U.S. at* 552; *Warth,* 422 U.S. at 511. There is no requirement that RSA must show an injury on behalf of all, or even

most, of its members to have standing to bring a claim, nor is there a requirement that RSA must join individual plaintiffs just to show that those plaintiffs have been harmed. To be sure, the scope and magnitude of harm is certainly relevant to the evaluation of RSA's motion for a preliminary injunction, but standing is not reviewed on a motion-by-motion basis. The Court is satisfied that RSA has met its burden of alleging in the complaint that at least one of its members will suffer harm from MEA's actions. There is no indication that the participation of any individual RSA member as a party is necessary; the association appears well situated to litigate on the behalf of its members. Further, RSA seeks prospective and injunctive relief in the form of a declaratory judgment and permanent injunction; this is the type of relief that would benefit all its members. *See Brock*, 477 U.S. at 288. Accordingly, RSA has standing to bring this suit on behalf of its members, and MEA's motion to dismiss RSA will be denied.

III. Preliminary Injunction

A. Legal Framework

A trial court may issue a preliminary injunction under Federal Rule of Civil Procedure 65. A district court has discretion to grant or deny preliminary injunctions. *Planet Aid v. City of St. Johns, Mich.*, 782 F.3d 318, 323 (6th Cir. 2015). A court must consider each of four factors: (1) whether the moving party demonstrates a strong likelihood of success on the merits; (2) whether the moving party would suffer irreparable injury without the order; (3) whether the order would cause substantial harm to others; and

(4) whether the public interest would be served by the order. *Ohio Republican Party v. Brunner*, 543 F.3d 357, 361 (6th Cir. 2008) (quoting *Northeast Ohio Coal. for Homeless & Service Employees Int'l Union v. Blackwell*, 467 F.3d 999, 1009 (6th Cir. 2006)).

The four factors are not prerequisites that must be established at the outset but are interconnected considerations that must be balanced together. *Northeast Ohio Coal.*, 467 F.3d at 1009; *Coal. to Defend Affirmative Action v. Granholm*, 473 F.3d 237, 244 (6th Cir. 2006). "A preliminary injunction is an extraordinary remedy which should be granted only if the movant carries his or her burden of proving that the circumstances clearly demand it." *Overstreet v. Lexington-Fayette Urban Cty. Gov't*, 305 F.3d 566, 573 (6th Cir. 2002) (internal citation omitted); *see Patio Enclosures, Inc. v. Herbst*, 39 F. App'x 964, 967 (6th Cir. 2002) (citing *Leary v. Daeschner*, 228 F.3d 729, 736 (6th Cir. 2000)). Thus, a preliminary injunction may not issue where plaintiff has not shown a likelihood of success on the merits. *Cooper v. Honeywell International, Inc.*, 884 F.3d 612, 615 (6th Cir. 2018).

B. Analysis

Plaintiffs bring four claims: that Defendants have breached the relevant labor contracts because the contracts vest retiree healthcare benefits for life; that Defendants have breached the Employee Retirement Income Security Act of 1974 ("ERISA"); that Plaintiffs are entitled to relief under the doctrine of equitable estoppel; and that Plaintiffs are entitled to relief on a state-law breach of contract claim. Plaintiffs have not

shown a likelihood of success on the merits of any of their claims.

Plaintiffs' first claim requires the Court to determine if the applicable CBA vested retirees with benefits for life. The Sixth Circuit handily summarized the tangled history of caselaw on this question in 2018:

> Our circuit's law on interpreting CBAs to determine whether retiree healthcare benefits have vested has recently undergone significant changes. Until 2015, we followed the "*Yard-Man* framework," named for the case *UAW v. Yard-Man, Inc.*, 716 F.2d 1476 (6th Cir. 1983). In *Yard-Man*, this court interpreted a CBA to provide for vested lifetime healthcare benefits for retirees. *Id.* at 1479. As it evaluated the CBA, the *Yard-Man* court purported to apply "traditional rules for contractual interpretation [as long as they are] consistent with federal labor policies." *Id.* However, in *Tackett*, the Supreme Court found numerous faults with *Yard-Man* and its progeny, specifically noting that "*Yard-Man* violates ordinary contract principles by placing a thumb on the scale in favor of vested retiree benefits in all collective-bargaining agreements." *Tackett*, 135 S. Ct. at 935.
>
> The Court admonished the Sixth Circuit to look to record evidence of industry customs or usages, not to our own assumptions about the intentions of employees, unions, and employers negotiating retiree benefits. *Id.* It then criticized the *Yard-Man* cases for their "refus[al] to apply

general durational clauses to provisions governing retiree benefits," *id.* at 936, emphasizing "the traditional principle that contractual obligations will cease, in the ordinary course, upon termination of the bargaining agreement," *id.* at 937 (internal quotation marks and citation omitted). It stressed that "courts should not construe ambiguous writings to create lifetime promises." *Id.* at 936.

In April 2017, we released a trio of decisions, all addressing the issue of whether particular CBAs provided for vested retiree healthcare benefits: *Int'l Union, United Auto., Aerospace and Agric. Implement Workers of America (UAW) v. Kelsey-Hayes Co.*, 854 F.3d 862 (6th Cir. 2017), *Reese v. CNH Indus. N.V.*, 854 F.3d 877 (6th Cir. 2017), and *Cole v. Meritor, Inc.*, 855 F.3d 695 (6th Cir. 2017). In *Cole*, we found the CBA to be materially indistinguishable from the one in *Gallo*; thus, we held that the CBA unambiguously did not provide for vested retiree healthcare benefits. *Cole*, 855 F.3d at 700–02. However, in *Kelsey-Hayes* and *Reese*, we found the CBAs ambiguous and looked to extrinsic evidence, ultimately concluding that the parties intended retiree healthcare benefits to vest. *Kelsey-Hayes*, 854 F.3d at 869–71; *Reese*, 854 F.3d at 883. In *Kelsey-Hayes*, we relied chiefly on the fact that the CBA at issue "include[d] three distinct kinds of durational language for specific provisions": specific-duration periods for less than life, specific-duration periods for life, and

the healthcare provisions, which stated that healthcare "shall be continued" without clarifying for how long. *Kelsey-Hayes*, 854 F.3d at 868. Lastly, in *Reese*, we held that the CBA's general durational clause and the absence of specific durational language for healthcare benefits created ambiguity because "the parties in this case carved out certain benefits, such as life insurance and healthcare insurance, and stated that those coverages ceased at a time different than other provisions of the CBA." *Reese*, 854 F.3d at 882. We emphasized that under *Tackett*, we could not infer an affirmative intent to vest from the absence of specific durational language for healthcare benefits, but reasoned that such absence did create *ambiguity*, allowing us to consult extrinsic evidence. *Id.* 882–83.

But on February 20, 2018, the Supreme Court reversed our decision in *Reese* and in a *per curiam* opinion explained that "[*Reese*'s] analysis cannot be squared with *Tackett*." *CNH Indus. N.V. v. Reese*, 583 U.S. ——, 138 S. Ct. 761, 763, 200 L.Ed.2d 1 (2018). The Court saw *Reese* as impermissibly applying "the same *Yard-Man* inferences [the Sixth Circuit] once used to presume lifetime vesting ... to render a collective bargaining agreement ambiguous as a matter of law." *Id.* Absent the *Yard-Man* inferences, the Court reasoned that *Reese* was "straightforward" —the CBA contained a general durational clause, and "[n]o provision specified that the health care benefits were subject to a different

durational clause." *Id.* at 766. Therefore, the CBA did not provide retirees with vested healthcare benefits. *Id.* And on February 26, 2018, in light of this decision, the Court also vacated our judgment in *Kelsey-Hayes* and remanded the case "for further consideration." *Kelsey-Hayes Co. v. Int'l Union*, —— U.S. ——, 138 S. Ct. 1166, 200 L.Ed.2d 313 (2018).

The Court's *Reese* opinion indicates that where a CBA has a general durational clause, that clause must be enforced absent a specific alternative end date provided for retiree healthcare benefits, or some other clear indication in the CBA that the general durational clause is not intended to apply to retiree healthcare. Two of our most recent cases align with this principal, *Watkins v. Honeywell International, Inc.* and *Cooper v. Honeywell International, Inc*. In *Watkins*, the CBA stated, "[f]or the duration of this Agreement, the Insurance Program shall be that which is attached hereto, hereinafter referred to as the Program." 875 F.3d 321, 325 (6th Cir. 2017). Based on the language expressly limiting insurance benefits to "the duration of this Agreement," we unanimously held that the CBA was unambiguous and thus, "Honeywell's obligation to pay for its Fostoria retirees' healthcare ended when the agreement expired." *Id.* at 322.

In *Cooper*, unlike in *Watkins*, the CBA did not contain express language limiting retiree

> healthcare benefits to the agreement's expiration date; in fact, it stated that "Retirees under age 65 ... will continue to be covered under the [health insurance plan], *until age 65* ...." 884 F.3d 612, 614 (6th Cir. 2018) (emphasis added). Nonetheless, we reversed the district court's grant of a preliminary injunction enjoining Honeywell from terminating healthcare benefits. *Id.* In reversing the preliminary injunction, we held that the retirees were unlikely to succeed on the merits because the CBA was governed by a general durational clause and the "until age 65" language "did not clearly provide an alternative end date" for the healthcare benefits. *Id.* Instead, we concluded that the promise to continue providing benefits until the retirees reached age 65 only lasted until the CBA expired. *Id.* at 618–21.

Fletcher v. Honeywell International, Inc., 892 F.3d 217, 222-23 (6th Cir. 2018). From this summary, the circuit was able to distill a clear rule: "a CBA's general durational clause applies to healthcare benefits unless it contains clear, affirmative language indicating the contrary." *Id*. at 223. In effect, this means that the general durational clause adds "a final phrase" to the end of each term in the CBA: "until this agreement ends." *Cooper*, 884 F.3d at 618.

Plaintiffs rely heavily on the 1993 LOU and the other plan documents noted above as the requisite clear, affirmative evidence that the parties intended retirees' benefits to vest for life. However, the Court is bound by the caselaw: the analysis must begin with the

relevant CBA, not with extrinsic evidence. Such evidence, like the 1993 LOU and the other documents, is not relevant at this stage. Therefore, none of Plaintiffs' cited evidence helps the Court answer the preliminary question: what is the general durational clause of the relevant CBA?

While this appears to be a straightforward question, it remains unclear what CBAs apply to Plaintiffs, as RSA includes retirees represented by many unions, and Plaintiffs have failed to provide the Court with any of the governing CBAs. Defendants note that there are possibly dozens of relevant CBAs, and that multiple CBAs might have applied at any given time. Defendants have provided the Court with CBAs that contain general durational clauses, as well as testimony from MEA's Director of Human Resources, Tracy Stablein. Stablein indicated that she reviewed all of the CBAs available in MEA's database, dating from 1992 to the present, that each CBA contains a general durational clause providing for termination of the agreement on a date certain. Further, none of the CBAs contain explicit language about health benefits for retirees extending beyond the general durational clause specified in that CBA. Plaintiffs have failed to identify any "clear, affirmative language" in any CBA indicating that the healthcare benefits were intended to extend beyond those general durational clauses. Thus, the Court is required to assume that the CBAs' general durational clauses govern. Accordingly, based on status of the law and the evidence currently before the Court, Plaintiffs have not demonstrated a likelihood of success on their first claim.

Plaintiffs' second claim is closely related: they argue that Defendants have breached ERISA because the plan documents state that the healthcare benefits are "vested." However, the full sentence provides:

> A participant whose retirement benefits are the subject of a collective bargaining agreement with an Employer Member shall become vested in the post-retirement health benefit described in Article V *in accordance with the terms of the relevant sections of the pertinent collective bargaining agreement(s)*, copies of which are attached as Schedule A.

(ECF No. 1-4 at PageID.42; ECF No. 1-5 at PageID.216.) (emphasis added). Plaintiffs have failed to provide the relevant CBA(s), so it is not clear that Plaintiffs will succeed on the merits of this claim. Plaintiffs emphasize the excerpt of the CBA attached as Schedule A, arguing that Schedule A is the only part of the CBA the Court must consider. However, given the reference to the CBA as a whole, the Court must return to the CBA as a whole. That includes a general durational clause, which requires a return to the clear *Fletcher* rule. Again, absent clear evidence to the contrary, the healthcare benefits expired when the CBA expired. Thus, Plaintiffs have not demonstrated a likelihood of success on their second claim.

Third, Plaintiffs argue that they are entitled to relief under the doctrine of equitable estoppel. However, estoppel "cannot be applied to vary the terms of unambiguous plan documents; estoppel can only be invoked in the context of ambiguous plan provisions." *Sprague v. General Motors Corp.*, 133 F.3d 388, 404

(6th Cir. 1998). Nowhere in the complaint nor in the preliminary injunction motion do Plaintiffs explain what CBA provision is ambiguous. Accordingly, it does not appear that equitable estoppel applies, and Plaintiffs have failed to show a likelihood of success on this claim.

Fourth and finally, Plaintiffs argue that Defendants made promises of "lifetime health benefits" to individual RSA members, creating contracts that have now been breached. Plaintiffs make only the vaguest of arguments here, alleging that Defendants made some promises. It is unclear who made promises to whom, when the promises were made, and what the terms of the promises were. Absent any evidence supporting their claim, Plaintiffs have not demonstrated a likelihood of success on this claim.

In sum, Plaintiffs have failed to show a likelihood of success on their claims. This failure is dispositive, and the Court must deny the motion. *See Cooper*, 884 F.3 at 623. Regardless, the remaining factors will be analyzed for completeness.

First, the Court considers irreparable harm. Generally, harm from the denial of a temporary restraining order is not irreparable if it is fully compensable by monetary damages. *Overstreet v. Lexington-Fayette Urban Cnty. Gov't*, 305 F.3d 566, 578 (6th Cir. 2002). However, courts throughout the Sixth Circuit have held that reductions in retiree insurance coverage may constitute irreparable harm. *See Welch v. Brown,* 551 Fed. App'x 804, 813 (6th Cir. 2014) (collecting cases). In these cases, the Circuit has considered affidavits from retirees who would have to

"forgo necessary medical care" because of the increased cost, *see id.*, or would have to shoulder a substantial increase in monthly healthcare expenses. *See Wood v. Detroit Diesel Corp.*, 213 F. App'x 463, 472 (6th Cir. Jan. 17, 2007) (affirming the district court's conclusion that a new expense of $260 to $834 per month may be irreparable harm). The Sixth Circuit has not determined whether irreparable harm must be shown for all members of an unidentified class, such as in this case. *Id.* The Circuit simply noted that the possibility and severity of harm is one of many factors to consider when weighing the merits of a preliminary injunction. *Id.*

The Court is not prepared to find that Plaintiffs have shown irreparable harm of a magnitude so large it overcomes their failure to show a strong likelihood of success on the merits. The two named plaintiffs have submitted affidavits stating that they would be unable to absorb the new costs under the January 1 changes; one named plaintiff will incur new costs of about $167.50 per month, and the other named plaintiff will see new costs of about $254.40 per month. (See ECF No. 4-2.) Plaintiffs argue that based on these examples, the changes in retiree benefits will irreparably harm all RSA members by way of financial harm, emotional distress, concern about potential financial disaster, and possibly deprivation of life's necessities to afford healthcare. However, these affidavits do not allege that the named Plaintiffs will be forced to go without healthcare or to forgo filling prescriptions. And, as Defendants point out, the affidavits submitted may contain an incomplete financial picture: neither Plaintiff has explained how much her monthly social

security benefit is, what her husband's pension or social security benefits are, and she does not outline what, if any, additional assets or income she has. Further, Defendants have presented evidence regarding retirees who are in a very different financial situation: many MEA retirees receive pensions of over $8,000 per month and are likely able to absorb the new healthcare costs without incident. Finally, Defendants note that RSA is composed of over 500 members. It is not at all clear, based on the current record evidence, that harm will befall all, or even most, RSA members.

Considering all this information together, there is a possibility that some RSA members, like Parker and Smith, will suffer financial harm. Remaining sensitive to the possibility of financial harm to those individual plaintiffs, it remains unclear that all RSA members will face increased costs they cannot absorb; even if they do face increased costs, there have not yet been allegations that those costs will force retirees to forgo healthcare or other necessary life expenses. Accordingly, the Court finds that Plaintiffs have not shown irreparable harm of sufficient magnitude to change the outcome of this motion.

The Court does note that the public interest favors Plaintiffs, as the public has an interest in the preservation of a healthy population. *See Schalk v. Teledyne, Inc.*, 751 F. Supp. 1261, 1268 (W.D. Mich. 1990). However, this does not tip the scales in Plaintiffs' favor. The Court need not undergo a lengthy balancing process: the dispositive factor is Plaintiffs' failure to show a likelihood of success on their claims.

This requires the Court to deny the motion. *See Cooper,* 884 F.3d at 623.

IV. Conclusion

For the forgoing reasons, Defendants' motion to dismiss Plaintiff RSA (ECF No. 27) is **DENIED**. Plaintiffs' motion for a preliminary injunction (ECF No. 2) is also **DENIED**.

IT IS SO ORDERED.

Date: January 31, 2020

/s/ Paul L. Maloney
Paul L. Maloney
United States
District Judge

APPENDIX C

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No. 20-1174

[Filed: May 25, 2021]

MICHIGAN EDUCATION ASSOCIATION FAMILY RETIRED STAFF ASSOCIATION, A MICHIGAN NONPROFIT CORPORATION; GLENNA PARKER; CAROLEE SMITH,	)
Plaintiffs-Appellants,	)
v.	)
MICHIGAN EDUCATION ASSOCIATION, A UNION AFFILIATED WITH LOCAL UNIONS THAT REPRESENT PUBLIC SCHOOL EMPLOYEES AND OTHER EMPLOYEES IN THE STATE OF MICHIGAN; MICHIGAN EDUCATION SPECIAL SERVICES ASSOCIATION, A MICHIGAN NONPROFIT CORPORATION; MEA FINANCIAL SERVICES, A MICHIGAN CORPORATION,	)
Defendants-Appellees.	)

ORDER

BEFORE: COOK, BUSH, and NALBANDIAN, Circuit Judges.

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court. No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

ENTERED BY ORDER OF THE COURT

/s/ Deborah S. Hunt
Deborah S. Hunt, Clerk

APPENDIX D

[Filed December 20, 2019]

LETTER OF UNDERSTANDING

During the 1992 Retirement Negotiations, the parties agreed that henceforth fringe benefits for retirees would be paid for from the retirement plan. The parties further acknowledged that, during negotiations on the issue, neither side had immediate access to experienced legal counsel on this issue, but would implement the agreement to the extent it was legally possible.

Since September 1, 1992, when the tentative agreement was reached, both sides have learned that due to funding limitations it is not legally possible for the employers to immediately put adequate resources into the fund to fully implement the tentative agreement at this time. To accommodate this concern, sections 19.04 C and 19.05 have been drafted to give the employers the option of funding fringe benefits either from the plan or from other sources. The intent of the parties is that the employers will make a good faith effort to pay in to the plan funds for retiree fringe benefits up to the extent authorized by law and regulations having the force of law. It is further the intent of the parties that, until such time as the fund is adequate to pay for all retiree fringe benefits from plan

assets, the employers will fund such benefits from other sources.

The parties acknowledge that retiree fringe benefits described in Schedules A and B become vested for life on commencement of monthly retirement benefits under the MEA/MESSA/MEDNA/MEA-FS Staff Retirement Plan and Trust, regardless of whether premium payments are made through the plan or from other sources.

/s/ S. Dale Lathers	3/26/93
S. Dale Lathers, Union Chief Negotiator for Retirement	Date

/s/ Robert Marshall	3/26/93
Robert Marshall, Representing Management for Retirement Purposes	Date

BENEFITS INTO RETIREMENT SCHEDULE A

MEA Professional Staff Association

A. For all PSA bargaining unit members who retired prior to April 1, 1986, the Employer shall provide, without cost to the bargaining unit member, the fringe benefits listed in 17.13 A.2. below, provided they satisfy the requirements listed in 17.13 A.1. below:

   1. Eligibility requirements:

      a. The member was actively employed by the MEA full-time at the time of retirement.

      b. The member was employed for at least ten (10) consecutive years prior to retirement on a full-time basis, or was employed an equivalent number of consecutive years on a part-time basis.

      c. The employment referred to above was with the Employer or another participant/affiliate Employer in the MEA-MESSA-MEAFS-MEDNA Staff Retirement Plan and Trust.

   2. Eligible retired PSA bargaining unit members shall receive the following benefits:

      a. Health insurance pursuant to Section 17.1 of the 1989-92 Labor Agreement

      b. Dental insurance pursuant to section 17.2 of the 1989-92 Labor Agreement

c. Vision insurance pursuant to Section 17.7 of the 1989-92 Labor Agreement

B. For all PSA bargaining unit members who retired between April 1, 1986 and September 1, 1992, the Employer will provide, without cost to the bargaining unit member, the fringe benefits listed in below, provided they satisfied the eligibility requirements in effect at the time of their retirement for fringe benefits into retirement.

Eligible retired PSA bargaining unit members shall receive the following benefits:

1. Health insurance pursuant to Section 17.1 of the 1989-92 Labor Agreement

2. Dental insurance pursuant to Section 17.2 of the 1989-92 Labor Agreement

3. Vision insurance pursuant to Section 17.7 of the 1989-92 Labor Agreement

C. For all PSA bargaining unit members who retire on September 1,1992 or later, the Employer shall provide without cost to the bargaining unit member, the fringe benefits listed in 17.13 C. 2. below, provided they satisfy the requirements listed in 17.13 C. 1. below:

1. Eligibility requirements:

a. The member is actively employed by the MEA full-time at the time of retirement.

b. The member is employed full time for at least ten (10) consecutive years after age 45 except they shall be eligible if:

(1) The member retires with thirty (30) or more years of service credit regardless of age, or

(2) The member takes a disability retirement, or

(3) The member retires at age 60 or older and has been employed for at least the previous five (5) consecutive years.

(4) The above requirement (b) is waived and/or modified by a job share or part-time employment agreement approved by the parties.

2. Eligible PSA bargaining unit members shall receive the following fringe benefits:

a. Health insurance pursuant to Section 17.1 of the 1992-96 Labor Agreement

b. Dental insurance pursuant to Section 17.2 of the 1992-96 Labor Agreement except for the orthodontic and sealant coverage

c. Vision insurance pursuant to Section 17.7 of the 1992-96 Labor Agreement

3. The parties will implement an option plan(s) to the benefits listed in Paragraph 2. above which shall be approximately fifty percent (50%) or

more of the benefit premium(s) or other mutually agreeable option plan.

E. Upon the death of a retired bargaining unit member the surviving spouse and his/her sponsored dependents and any other eligible dependents as defined by MESSA, shall continue to receive without cost to the surviving spouse all of the above coverage until the death of the surviving spouse.

F. In lieu of the health insurance provided above, MESSA Limited Medicare Supplement (or its successor program) premiums and Medicare premiums shall be paid on behalf of the bargaining unit member and any and all other persons covered above that are eligible for medicare.

Michigan Executive Directors Association

a. For all MEDA bargaining unit members who retired prior to April 1, 1986, the Joint Employers shall provide, without cost to the bargaining unit member, the fringe benefits listed in 18.3, a (2) below, provided they satisfy the requirements listed in 18.3, a. (1) below:

(1) Eligibility Requirements

(a) The bargaining unit member was actively employed by the Joint Employers, including the MEA, on a full-time basis at the time of retirement.

(b) The bargaining unit member was employed for at least ten (10) consecutive years prior to retirement on a full-time basis, or was employed

an equivalent number of consecutive years on a part-time basis.

(c) The employment referred to above was with the Joint Employers, including the MEA, or another participant/affiliate employer in the MEA-MESSA-MEAFS-MEDNA Staff Retirement Plan and Trust.

(2) Eligible retired bargaining unit members shall receive the following benefits:

(a) Health insurance pursuant to Section 16.1 of the 1989-92 Master Agreement

(b) Dental insurance pursuant to Section 16.2 of the 1989-92 Master Agreement

(c) Vision insurance pursuant to Section 16.7 of the 1989-92 Master Agreement

b. For all bargaining unit members who retired between April 1, 1986, and September 1, 1992, the Joint Employers will provide, without cost to the bargaining unit member, the fringe benefits listed below, provided that they satisfied the eligibility requirements for "Fringe Benefits Upon Retirement" in effect at the time of their retirement.

(1) Health insurance pursuant Section 16.1 of the 1989-92 Master Agreement

(2) Dental insurance pursuant to Section 16.2 of the 1989-92 Master Agreement

(3) Vision insurance pursuant to Section 16.7 of the 1989-92 Master Agreement

c. For all bargaining unit members who retire on September 1, 1992, or later, the Joint Employers shall provide, without cost to the bargaining unit member, the fringe benefits listed in 18.3 c, (2), provided they satisfy the requirements listed in 18.3, c, (1) below:

(1) Eligibility requirements:

(a) The bargaining unit member is actively employed by the Joint Employers, including the MEA, on a full-time basis at the time of retirement.

(b) The bargaining unit member is employed on a full-time basis for at least ten (10) consecutive years after age 45, except he/she shall be eligible if:

1) The bargaining unit member retires with thirty (30) or more years of service credit regardless of age, or

2) The bargaining unit member takes a disability retirement; or

3) The bargaining unit member retires at age 60 or older and has been employed for at least the previous five (5) consecutive years; or

4) The above requirement [18.3, c, (1), (b)] is waived and/or modified by a job share or part-time employment agreement approved by the parties.

(2) Eligible bargaining unit members shall receive the following fringe benefits:

(a) Health insurance pursuant to Section 17.1 of the 1992-96 Master Agreement

(b) Dental insurance pursuant to Section 17.2 of the 1992-96 Master Agreement, except for the orthodontic and sealant coverage

(c) Vision insurance pursuant to Section 17.7 of the 1992-96 Master Agreement

(3) The parties will implement an option plan(s) to the fringe benefits listed above in 18.3, c (2), which shall be approximately fifty percent (50%) of more of the fringe benefit premium(s) or other mutually agreeable option plan.

d. Upon the death of a retired bargaining unit member, the surviving spouse and his/her sponsored dependents and any other eligible dependents as defined by MESSA, shall continue to receive without cost to the surviving spouse all of the above coverage until the death of the surviving spouse.

e. In lieu of the health insurance provided above, MESSA Limited Medicare Supplement (or its successor program) premiums and Medicare premiums shall be paid on behalf of the bargaining unit member and/or any and all other persons covered above that are eligible for Medicare.

Associate Staff Organization/USO

19.5 **Benefits Into Retirement**

A. For all bargaining unit members who retire between September 1, 1983, and September 1, 1992, and who satisfy the requirements listed below, the Employer will provide MESSA Super Care 2 major medical plan, dental insurance and vision insurance for the member, his/her spouse and dependent children. The eligibility requirements for the benefit provided by this section are:

1. The member is actively employed full time at the time of retirement;

2. The member was employed for at least ten (10) consecutive years immediately prior to retirement on a full time basis or was employed an equivalent number of consecutive years on a part-time basis;

3. The employment referred to above was with the Employer or another participant/affiliate Employer in the MEA-MESSA-MEDNA- MEA Financial Services Staff Retirement Plan and Trust.

B For each member who retired prior to September 1, 1983, and who satisfies the requirements listed above (19.51 a,b,c), the Employer will provide MESSA Super Care 2, dental insurance and vision insurance pursuant to the provisions of Article 19.16 and 19.17 of the 1989-92 labor agreement.

C. For all bargaining unit members who retire on September 1, 1992 or later, the Employer shall provide, without cost to the bargaining unit member, the fringe benefits listed below, provided they satisfy the requirements listed below:

1. Eligibility Requirements:

   a. The member is actively employed full time at the time of retirement.

   b. The member is employed full time for at least ten (10) consecutive years after age 45 except they shall be eligible if:

      1 The member retires with thirty (30) or more years of service credit regardless of age, or

      2. The member takes a disability retirement, or

      3. The member retires at age 60 or older and has been employed for at least the previous five (5) consecutive years.

      4. The above requirement (b) is waived and/or modified by a job share or part-time employment agreement approved by the parties.

2. Eligible bargaining unit members shall receive the following fringe benefits:

   a. Health insurance pursuant to Article 19.1,A of the 1992-96 labor agreement.

b. Dental insurance pursuant to Article 19.1,G of the 1992-96 labor agreement except for the orthodontic and sealant coverage.

c. Vision insurance pursuant to Article 19.1,F of the 1992-96 labor agreement.

3. The parties will implement an option plan(s) to the benefits listed in paragraph 2 above which shall be approximately fifty percent (50%) or more of the benefit premium(s) or other mutually agreeable option plan.

D. For purposes of this benefit, consecutive years of employment include time spent on layoff and approved leave.

E. Upon the death of a retired bargaining unit member who satisfies the requirements listed above, the surviving spouse and his/her sponsored dependents and any other eligible dependents as defined by MESSA, shall continue to receive without cost to the surviving spouse the insurance protection of this section until the death of the surviving spouse. In lieu of the health insurance provided above, MESSA Limited Medicare Supplement (or its successor program) premiums and Medicare premiums shall be paid on behalf of the bargaining unit member and any and all other persons covered above that are eligible for Medicare.

F. Those persons who are vested in the MEA-MESSA-MEDNA-MEA Financial Services Staff Retirement Plan, but who terminate their employment with their Employer prior to age 55 or prior to fulfilling the requirements of Article 4.01 of the MEA-

MESSA-MEDNA-MEA Financial Services Staff Retirement Plan, will not be eligible for the benefits provided by this section.

19.6 **Death of a Bargaining Unit Member**

In the event a bargaining unit member dies, the Employer shall continue the payment of the premiums for health insurance for twelve (12) months for the surviving spouse and his/her sponsored dependents and any other eligible dependents as defined by MESSA. In addition, the Employer shall pay to the bargaining unit member's beneficiary an amount equal to the total per diem salary for the bargaining unit member for each day of accumulated vacation and personal days at the time of the death of the bargaining unit member. If at the time of death of the bargaining unit member, the bargaining unit member would have been eligible by virtue of his/her age and vested credited service to receive a retirement allowance from the Staff Retirement Plan & Trust, then the surviving spouse and his/her sponsored dependents and any other eligible dependents as defined by MESSA shall continue to receive without cost to the spouse MESSA Super Care 2 coverage until the death of the surviving spouse.

MESSA Professional Staff Association

C. Retirement

l. For all bargaining unit members who retired prior to September 1, 1992, the employer will provide, without cost to the bargaining unit member, the fringe benefits listed below,

provided they satisfied the eligibility requirements in effect at the time of their retirement for fringe benefits into retirement.

-MESSA/Delta Dental Plan "Auto +" with no orthodontic rider; class I and II policy year maximum $1,500; with four cleanings.
-Full family VSP3+
-$5,000 Employee Group Term Life for retirees
-Full family Super Care 2 (Super Med 2 for bargaining unit members retired prior to June 1, 1989)
-Cash in lieu of Super Meals II at the monthly premium rate in effect the month of September, 1992.

2. For all PSA bargaining unit members who retire on September 1, 1992 or later, the employer shall provide, without cost to the bargaining unit member, the fringe benefits listed in 20.C.1. above, provided they satisfy the requirement listed in 20.C.2.a. below:

   a. Eligibility Requirements:

      l.) The member is actively employed by MESSA full-time at the time of retirement

      2.) The member is employed full time for at least ten (10) consecutive years after age 45 except they shall be eligible if:

         a.) The member retires with thirty (30) or more years of service credit regardless of age, or

b.) The member takes a disability retirement, or

c.) The member retires at age 60 or older and has been employed for at least the previous five (5) consecutive years .

d.) The above requirement (b) is waived and/or modified by a job share or part-time employment agreement approved by the parties.

3. The parties will implement an option plan(s) to the benefits listed in paragraph 2 above which shall be approximately fifty percent (50%) or more of the benefit premium(s) or other mutually agreeable option plan.

4. Upon the death of a retired bargaining unit member, the surviving spouse and his/her eligible dependents as defined by MESSA shall continue to receive without cost to the surviving spouse all of the above coverage until the death of the surviving spouse.

In lieu of the health insurance provided above, MESSA Limited Medicare Supplement (or its successor program) premiums and Medicare premiums shall be paid on behalf of the bargaining unit member and any and all other persons above that are eligible for Medicare.

For purposes of this benefit, those persons who are vested in the MEA-MESSA-MEFSA-MEDNA Staff Retirement Plan but who terminate employment with the employer prior to age 55 or prior to

fulfilling he requirements of Section 4.01 of the MEA-MESSA-MEFSA-MEDNA Staff Retirement Plan will not be eligible for the benefits provided by this Section.

D. In the event a bargaining unit member dies, the surviving spouse and/or his/her sponsored dependents and other eligible dependents as defined by MESSA shall continue to receive for twelve (12) months, without cost, full family Super Care 2 coverage. If at the time of death of the bargaining unit member, the bargaining unit member would have been eligible by virtue of his/her age and vested service to receive a retirement allowance from the Staff Retirement Plan & Trust, then the surviving spouse and/or his/her eligible dependents as defined by MESSA shall continue to receive Super Care 2 coverage beyond the aforementioned twelve (12) months. In lieu of the health coverage provided above, MESSA Limited Medicare Supplement (or its successor program) premiums and Medicare premiums shall be paid on behalf of the bargaining unit member and any and all persons covered above that are eligible for Medicare.

BENEFITS INTO RETIREMENT SCHEDULE B

Management Benefits - Grades 1-8

- The following benefits into retirement shall be provided to retirees who meet the eligibility requirements:
  - MESSA Super Care II for self and dependents.
  - MESSA Dental insurance for self and dependents. The same as for active employees, except it shall not include orthodontic and sealant coverage.
  - Vision Insurance---VSP3 + for self and dependents.
  - Term Life Insurance: Two times annual salary at retirement with a minimum of$60,000. At age 65, the term life insurance shall be reduced to $30,000.
  - Dependent Life Insurance: $25,000 for spouse and $12,500 for each child.
- Eligibility Requirements:
  - Actively employed full time at time of retirement
  - Employed full time for at least ten (10) consecutive years after age 45 except shall be eligible if the employee:
    - Retires with thirty (30) years or more of service credit, regardless of age, or
    - Takes a disability retirement, or

- Retires at age 60 or older and has been employed for at least the previous five (5) consecutive years.

- Surviving spouse benefits:

  Upon the death of the retired employee who was eligible for benefits into retirement, the surviving spouse and his/her sponsored dependents and any other eligible dependents as defined by MESSA, shall continue to receive without cost to the surviving spouse all of the above coverage until the death of the surviving spouse.

Management Benefits - Grades 9 and above

- The following benefits into retirement shall be provided to retirees who meet the eligibility requirements:

  - MESSA Super Care II for self and dependents.
  - MESSA Dental insurance for self and dependents. The same as for active employees, except it shall not include orthodontic and sealant coverage.
  - Vision Insurance---VSP3 + for self and dependents.
  - Term Life Insurance: Two times annual salary at retirement with a minimum of $60,000. At age 65, the term life insurance shall be reduced to $30,000.

- Dependent Life Insurance: $25,000 for spouse and $12,500 for each child.

- Eligibility Requirements:
  - Actively employed full time at time of retirement.
  - Employed full time for at least ten (10) consecutive years after age 45 except shall be eligible if the employee:
    - Retires with thirty (30) years or more of service credit, regardless of age, or
    - Takes a disability retirement, or
    - Retires at age 60 or older and has been employed for at least the previous five (5) consecutive years.

- Surviving spouse benefits:

  Upon the death of the retired employee who was eligible for benefits into retirement. the surviving spouse and his/her sponsored dependents and any other eligible dependents as defined by MESSA, shall continue to receive without cost to the surviving spouse all of the above coverage until the death of the surviving spouse.

APPENDIX E

[Filed December 20, 2019]

Excerpts from the "MEA MESSA MEA Financial Services Staff Retirement Plan And Trust September 1, 2009 Restatement (Incorporating Amendment One through Amendment Twelve)" consisting of Section 4.08.A, Section 19.03.A, and Appendix B

* * *

[pp. 58]

4.08. Vesting

A. Vesting Schedule

In the event a Participant terminated employment for any reason other than normal retirement, death or Disability, the Participant shall become eligible for a vested interest in the employer's accrued benefit in accordance with the following schedule:

If Years of Vesting Service Are	Then the Participant's Nonforfeitable Vested Interest in the Employer's Accrued Benefit Will Be
Less than five	0%
Five or more	100%

* * *

[pp. 158]

ARTICLE 19: RETIRANT HEALTH BENEFIT

* * *

19.03. Vesting/Forfeiture of Retirant Health Benefit

A. Benefits Result from Bargaining Agreement

A Participant whose retirement benefits are the subject of collective bargaining shall become vested in the post-retirement health benefit described in this Article in accordance with the terms of the relevant sections of pertinent collective bargaining agreements, all of which are attached to the Plan as **Appendices B, C, D and E**. All other Participants shall become vested in said benefit in accordance with **Appendices F and G**, a copy of which is attached to the Plan. In no event shall any such post retirement health benefit be paid from assets of the Plan.

* * *

[pp. 117] **APPENDIX B**

BENEFITS INTO RETIREMENT
MEA Professional Staff Association/USO
Covering September l, 2007 through August 31, 2010

17.8 Death of a Bargaining Unit Member

In the event a bargaining unit member dies, the MEA shall continue the payment of the premiums for health insurance for twelve (12) months. In addition, the MEA shall pay to the bargaining unit member's beneficiary an amount equal to the total per diem salary for the bargaining unit member for each day of accumulated vacation and personal days at the time of the death of the bargaining unit member. If at the time of death of the bargaining unit member, the bargaining unit member would have been eligible by virtue of his/her age and vested credited service to receive a retirement allowance from the Staff Retirement Plan and Trust, then the surviving spouse and his/her sponsored dependents and any other eligible dependents as defined by MESSA shall continue to receive without cost to the spouse, health, dental and vision insurance pursuant to Section 17.12 E, F or G respectively, subject to the eligibility requirements of Section 17.12 E, F or G respectively, depending upon which of these sections would have applied had the deceased employee been retired at the time of death, until the death of the surviving spouse. In lieu of the health insurance provided above, MESSA Limited Medicare Supplement (or its successor program)

premiums and Medicare premiums shall be paid on behalf of the bargaining unit member and any and all other persons covered above that are eligible for Medicare.

17.12 Fringe Benefits Upon Retirement

A. For all PSA bargaining unit members who retired prior to April 1, 1986, the Employer shall provide, without cost to the bargaining unit member, the fringe benefits listed in 17.12 A.2 below, provided they satisfy the requirements listed in 17.12 A.1 below:

1. Eligibility requirements:

a. The member was actively employed by the MEA full-time at the time of retirement.

b. The member was employed for at least ten (10) consecutive years prior to retirement on a full-time basis, or was employed an equivalent number of consecutive years on a part-time basis.

c. The employment referred to above was with the Employer or another participant/affiliate Employer in the MEA-MESSA-MEAFS-MEDNA Staff Retirement Plan and Trust.

2. Eligible retired PSA bargaining unit members shall receive the following benefits:

a. Health insurance pursuant to Section 17.1 of the 1989-92 Labor Agreement.

b. Dental insurance pursuant to Section 17.2 of the 1989-92 Labor Agreement.

c. Vision insurance pursuant to Section 17.7 of the 1989-92 Labor Agreement.

B. For all PSA bargaining unit members who retired between April 1, 1986 and September 1, 1992, the Employer wil1 provide, without cost to the bargaining unit member, the fringe benefits listed below, provided they satisfied the eligibility requirements in effect at the time of their retirement for fringe benefits into retirement.

Eligible retired PSA bargaining unit members shall receive the following benefits:

1. Health insurance pursuant to Section 17.1 of the 1989-92 Labor Agreement.

2. Dental insurance pursuant to Section 17.2 of the 1989-92 Labor Agreement.

3. Vision insurance pursuant to Section 17.7 of the 1989-92 Labor Agreement

C. For all PSA bargaining unit members who retire on September 1, 1992, or later, but before September 1, 1996, the Employer shall provide without cost to the bargaining unit member, the fringe benefits listed in 17.12 C.2 below, provided they satisfy the requirements listed in 17.12 C.1 below:

1. Eligibility requirements:

   a. The member is actively employed by the MEA full-time at the time of retirement.

   b. The member is employed full-time for at least ten (10) consecutive years after age 45 except the member shall be eligible if:

      (1) The member retires with thirty (30) or more years of service credit regardless of age, or

      (2) The member takes a disability retirement, or

      (3) The member retires at age 60 or older and has been employed for at least the previous five (5) consecutive years.

      (4) The above requirement (b) is waived and/or modified by a job share or part-time employment agreement approved by the parties.

2. Eligible PSA bargaining unit members shall receive the following fringe benefits:

   a. Health insurance pursuant to Section 17.1 of the 1992-96 Labor Agreement.

   b. Dental insurance pursuant to Section 17.2 of the 1992-96 Labor Agreement except for the orthodontic and sealant coverage.

   c. Vision insurance pursuant to Section 17.7 of the 1992-96 Labor Agreement.

3. The parties will implement an option plan(s) to the benefits listed in Paragraph 2. above which shall be approximately fifty percent (50%) or more of the benefit premium(s) or other mutually agreeable option plan.

D. For all PSA bargaining unit members who retire on September 1, 1996 through December 31, 2007, the Employer shall provide without cost to the bargaining unit member, the fringe benefits listed in 17.12 D.2 below, provided they satisfy the requirements listed in 17.12 D.1 below:

1. Eligibility requirements:

a. The member is actively employed by the MEA full-time at the time of retirement.

b. For bargaining unit members hired on or after September 1, 1992, the member is employed full-time for at least ten (10) consecutive years (which shall include any time spent on layoff and/or approved leave) after age 45 except the member shall be eligible if:

(1) The member retires with thirty (30) or more years of service credit regardless of age, or

(2) The member takes a disability retirement, or

(3) The member retires at age 60 or older and has been employed for at least the

previous five (5) consecutive years and was hired before September 20, 1996.

(4) The above requirement (b.) is waived and/or modified by a job share or part-time employment agreement approved by the parties.

2. Eligible PSA bargaining unit members shall receive the following fringe benefits:

   a. Health insurance pursuant to Section 17.1 of the 1996-2007 Labor Agreement.

   b. Dental insurance pursuant to Section 17 .2 of the 1996-2007 Labor Agreement except for the orthodontic and sealant coverage.

   c. Vision insurance pursuant to Section 17.7 of the 1996-2007 Labor Agreement.

3. lnstead of choosing health and/or dental and/or vision coverage, a retiree retiring after August 31, 1996, may elect to receive a subsidy allowance equal to one-half (1/2) of the premium for health and/or dental and/or vision, provided that the amount due for health coverage shall not exceed the single subscriber amount.

E. For all PSA bargaining unit members who were employed by the MEA on August 31, 2007, who retire on January 1, 2008, or later and who have fifteen (15) or more years of service (not including purchased service, service grants or voluntary unpaid leave) on January 1, 2008, the employer shall provide without cost to the bargaining unit

member, the fringe benefits listed in 17.12 E.2 below, provided they satisfy the requirements listed in 17.12 E.1 below:

1. Eligibility requirements:

    a. The member is actively employed by the MEA full-time at the time of retirement.

    b. For bargaining unit members hired on or after September 1, 1992, the member is employed full-time for at least ten (10) consecutive years (which shall include any time spent on layoff pursuant to Article 9 of this Agreement and/or approved leave) after age 45 except the member shall be eligible if:

        (1) The member retires with thirty (30) or more years of service credit regardless of age, or

        (2) The member takes a disability retirement.

2. Eligible PSA bargaining unit members shall receive the following fringe benefits:

    a. Health insurance pursuant to Section 17.1 of the 2007-2010 Labor Agreement.

    b. Dental insurance pursuant to Section 17.2 of the 2007-10 Labor Agreement except for the orthodontic and sealant coverage.

    c. Vision insurance pursuant to Section 17.6 of the 2007-2010 Labor Agreement.

3. Instead of choosing health and/or dental and/or vision coverage, a retiree may elect to receive a subsidy allowance equal to one-half (1/2) of the premium for health and/or dental and/or vision, provided that the amount due for health coverage shall not exceed the single subscriber amount.

F. For all PSA bargaining unit members who were employed on August 31, 2007, who retire on or after January 1, 2008, and who have less than fifteen (15) years of service (not including purchased service, service grants or voluntary unpaid leave) on January 1, 2008, the employer shall provide without cost to the bargaining unit member upon his/her retirement from the employer, the fringe benefits listed in 17.12 F.2 below, provided they satisfy the requirements listed in 17.12 F.1 below:

1. Eligibility requirements:

   a. The member is actively employed by the MEA full-time at the time of retirement.

   b. The member is employed full-time for at least fifteen (15) consecutive years (which shall include any time spent on layoff pursuant to Article 9 of this Agreement and/or approved leave) after age 45, except the member shall be eligible if:

      (1) The member takes a disability retirement, or

      (2) The member retires with thirty (30) years or more of service credit in the

MEA/MESSA/MEA-Financial Services Staff Retirement Plan and Trust, in which case the member may retire prior to age sixty (60) and begin receiving the benefits in 17.12 F.2 below in the month in which he/she reaches age sixty (60), or

(3) The member shall be eligible for fringe benefits into retirement under the terms of 17.12 F.2 below, if on January 1, 2008 the member was within ten (10) years of qualifying for a pension under the MEA/MESSA/MEA-Financial Services Staff Retirement Plan and Trust and is employed full-time for at least ten (10) consecutive years (which shall include any time spent on layoff pursuant to Article 9 of this Agreement and/or approved leave) after age 45, or

(4) The member shall be eligible for fringe benefits into retirement under the terms of 17.12 F.2 below, if on January 1, 2008 the member was a vested member of the MEA/MESSA/MEA-Financial Services Staff Retirement Plan and Trust and is employed full-time for at least ten (10) consecutive years (which shall include any time spent on layoff pursuant to Article 9 of this Agreement and/or approved leave) after age 45, or

(5) The member shall be eligible for fringe benefits into retirement under the terms of 17.12 F.2 below, if the member worked

a total of thirty (30) years (not including purchased service, service grants or voluntary unpaid leave) for one or more of the participating employers prior to retirement, in which case the member may retire prior to age fifty-five (55) and begin receiving the benefits in 17.12 F.2 below in the month in which s/he reaches age fifty-five (55).

2. Eligible PSA bargaining unit members shall receive the following fringe benefits:

   a. Health insurance pursuant to Section 17.1 of the 2007-2010 Labor Agreement.

   b. Dental insurance pursuant to Section 17.2 of the 2007-2010 Labor Agreement except for the orthodontic and sealant coverage.

   c. Vision insurance pursuant to Section 17.6 of the 2007-2010 Labor Agreement

3. Instead of choosing health and/or dental and/or vision coverage, a retiree may elect to receive a subsidy allowance equal to one-half (1/2) of the premium for health and/or dental and/or vision, provided that the amount due for health coverage shall not exceed the single subscriber amount.

G. For all PSA bargaining unit members who are hired after August 31, 2007 the Employer shall provide to the bargaining unit member upon his/her retirement from the employer, the fringe benefits

listed in 17.12 G.2 below, provided they satisfy the requirements listed in 17.12 G.1 below:

1. Eligibility requirements:

    a. The member is actively employed by the MEA full-time at the time of retirement.

    b. The member is employed full-time for at least fifteen (15) consecutive years (which shall include any time spent on layoff pursuant to Article 9 of this Agreement and/or approved leave) after age 45, except the member shall be eligible if:

        (1) The member retires with thirty (30) years or more of service credit in the MEA/MESSA/MEA-Financial Services Staff Retirement Plan and Trust, in which case the member may retire prior to age sixty (60) and begin receiving the benefits in 17.1 G.2 below in the month in which he/she reaches age sixty (60), or

        (2) The member takes a disability retirement,

2. Eligible PSA bargaining unit members shall receive the fringe benefits specified in a, b and c below, subject to the limitations listed in d and e below:

    a. Health insurance pursuant to Section 17.1 of the 2007-2010 Labor Agreement, as modified by d below.

b. Dental insurance pursuant to Section 17.2 of the 2007-2010 Labor Agreement except for the orthodontic and sealant coverage, as modified by d below.

c. Vision insurance pursuant to Section 17.6 of the 2007-2010 Labor Agreement, as modified by d below.

d. Employees hired after August 31, 2007, who retire from the Employer who qualify for benefits under this sub-section (17.12 G.2) shall continue to receive health, dental and vision insurance benefits in retirement, except the specific insurance plans shall be changed to be the same as the health, dental or vision insurance that is provided to active employees after the employee retires, including but not limited to the same deductibles, co-pays and premium sharing costs as active employees have under such changed insurance plans, and reimbursement for any out-of-pocket charges on the same basis as active employees.

e. In lieu of the health, dental and vision benefits above, the MEA shall provide to employees hired after August 31, 2007, who subsequently retire from the MEA a subsidy equal to twenty-five (25) percent of the cost of the premium for health, dental and vision insurance benefits in sub-sections a through d above for which the retiree would be eligible if the following conditions are met:

(1) The retiree and the dependents and sponsored dependents of the retiree, as defined by MESSA, are eligible for health, dental and vision insurance benefits provided by the Michigan Public School Employees Retirement System (MPSERS), and

(2) The retiree and dependents and sponsored dependents are eligible to receive the maximum subsidy toward these benefits from MPSERS.

(3) If at any time the retiree and/or his/her dependents cease to be eligible for MPSERS health, dental and vision benefits or for the maximum subsidy toward such benefits from MPSERS, then the retiree and/or his/her dependents shall immediately receive the insurance coverage specified in a through d above.

3. Instead of choosing health and/or dental and/or vision coverage, a retiree may elect to receive a subsidy allowance equal to one-half (1 /2) of the premium for health and/or dental and/or vision, provided that the amount due for health coverage shall not exceed the single subscriber amount.

H. Upon the death of a retired bargaining unit member the surviving spouse and his/her sponsored dependents and any other eligible dependents as defined by MESSA, shall continue to receive

without cost to the surviving spouse all of the above coverage until the death of the surviving spouse.

I. In lieu of the health insurance provided above, MESSA Limited Medicare Supplement (or its successor program) premiums and Medicare premiums shall be paid on behalf of the bargaining unit member and any and all other persons covered above that ate eligible for Medicare.

APPENDIX F

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

Case No. 1:19-CV-1074

[Filed: February 20, 2020]

MICHIGAN EDUCATION ASSOCIATION FAMILY RETIRED STAFF ASSOCIATION, a Michigan nonprofit corporation, GLENNA PARKER, and CAROLEE SMITH, individuals,	)
Plaintiffs,	)
v.	)
MICHIGAN EDUCATION ASSOCIATION, a union affiliated with local unions that represent public school employees and other employees in the State of Michigan, MICHIGAN EDUCATION SPECIAL SERVICES ASSOCIATION, a Michigan nonprofit corporation, and MEA FINANCIAL SERVICES, INC., a Michigan Corporation,	)
Defendants.	)

* * * *

MOTION HEARING

* * * *

BEFORE: THE HONORABLE PAUL L. MALONEY
United States District Judge
Kalamazoo, Michigan
January 17, 2020

APPEARANCES:

APPEARING ON BEHALF OF THE PLAINTIFFS:

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[pp. 17]

* * *

Q. And that is the reference to commencement upon retirement -- the benefits were dictated at the time of retirement?

A. Correct.

Q. But they were vested for life?

[pp. 18]

A. Correct.

Q. Now, vested for life, was that a contentious issue between management and union?

A. No. Can I elaborate a little bit?

* * *