

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

GENE R. ROMERO, <i>et al.</i>,	:	
	:	
Plaintiffs,	:	CIVIL ACTION
	:	
v.	:	NO. 01-3894
	:	
	:	CONSOLIDATED WITH
ALLSTATE INSURANCE COMPANY,	:	
<i>et al.</i>,	:	NO. 01-6764 (Romero II)
	:	NO. 03-6872 (Romero III)
Defendants.	:	NO. 15-1017 (McLaughlin)
	:	NO. 15-1049 (Abell)
	:	NO. 15-1190 (Harris)
	:	NO. 15-2602 (Tabor)
	:	NO. 15-2961 (Siegfried)
	:	NO. 15-3047 (Anzivine)

ORDER

AND NOW, this 22nd day of November 2016, upon consideration of Defendants' Motion for partial summary judgment as to the anti-cutback and breach of fiduciary duty claims (Counts VIII, IX and X) (ECF Doc. No. 917), Plaintiffs' Opposition (ECF Doc. No. 933), Defendants' Reply (ECF Doc. No. 937), following oral argument and for reasons in the accompanying Memorandum, it is **ORDERED** Defendants' Motion (ECF Doc. No. 917) is **GRANTED in part and DENIED in part**:

1. On Count VIII, Defendants' Motion is **DENIED** as to Plaintiffs' "Beef Up" claim, and **GRANTED** as to Plaintiff Brooks' time-barred "Beef Up" claim; and,

2. On Count IX, Defendants' Motion is **GRANTED** as to any argument the 1993 Amendment to the term "Credited Service" constitutes a cutback in violation of ERISA §204(g), and **DENIED** as to Plaintiffs' alternative claim they are employees, not independent contractors.

Plaintiffs' claim seeking credit for service as an employee will be resolved in later individual proceedings; and

3. On Count X, Defendants' Motion is **GRANTED** and the breach of fiduciary duty claim is dismissed.



KEARNEY, J.