

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Craftwood Lumber Company,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

Senco Brands, Inc.,

Defendant.

Case No. 14 CV 6866

Judge John Robert Blakey

Order Preliminarily Approving Class Action Settlement

THIS MATTER, having come before the Court on the motion of Plaintiff Craftwood Lumber Company (“Plaintiff”) requesting preliminary approval of a settlement of this class action litigation (the “Action”) with Defendant Senco Brands, Inc. (“SBI”), in accordance with a Class Action Settlement Agreement made between them that, together with the exhibits annexed thereto (collectively, the “CASA”) a copy of which was filed on December 13, 2016, sets forth the terms and conditions for the proposed settlement, and the Court having heard argument of counsel and being otherwise fully advised in the premises, the Court hereby finds that:

(a) The settlement proposed in the CASA has been negotiated at arms’ length and is not collusive, and is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the proposed Settlement Class (as defined

below);

(b) With respect to the proposed Settlement Class, this Court preliminarily finds, solely for purposes of effectuating the proposed settlement, that class certification is appropriate; and

(c) The Notices of Class Action and Proposed Settlement (short-form attached as Exhibit 2 to the CASA and long-form attached as Exhibit 4 to the CASA), the Class Member Information Form (attached as Exhibit 3 to the CASA), and the method of providing such Notices and Forms to the proposed Settlement Class (as described in CASA ¶ 7), comply with Federal Rule of Civil Procedure 23(e) and due process, constitute the best notice practicable under the circumstances, and provide due and sufficient notice to all persons entitled to notice of the settlement of this Action.

IT IS THEREFORE ORDERED THAT:

1. The settlement proposed in the CASA is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Settlement Class. The settlement is therefore preliminarily approved, subject to further consideration at the Final Approval Hearing described below.

2. For purposes of effectuating the settlement only, the following class (the “Settlement Class”) is conditionally certified:

All subscribers of facsimile telephone numbers to which SBI transmitted, on or after September 5, 2010, one or more facsimiles, as recorded in Senco024902 attached as Exhibit 1 to the Settlement Agreement (the “Faxes”).

3. Plaintiff is designated and appointed representative of the Settlement

Class.

4. The Court designates and appoints C. Darryl Cordero of Payne & Fears LLP, as lead Settlement Class Counsel, and Frank F. Owen of Frank Owen & Associates P.C., and Charles R. Watkins of Guin, Stokes & Evans LLP, as Settlement Class Counsel.

5. The Court designates and appoints Kurtzman Carson Consultants LLC as Settlement Administrator under the CASA.

6. The Notices of Class Action and Proposed Settlement and Class Member Information Form attached to the CASA as Exhibits 2, 3, and 4 are approved.

7. Within 10 days after the entry of this Order, SBI shall deposit \$1,500,000, representing one-half the cash consideration (CASA ¶ 3.A), into an escrow account established by the Settlement Administrator.

8. Within 30 days after the entry of this Order, the Settlement Administrator shall (a) send Notices of Class Action and Proposed Settlement and Class Member Information Form attached to the CASA as Exhibits 2 and 3 to all putative Settlement Class Members in accordance with paragraph 7 of the CASA, and shall include an IRS Form W-9 in the notice to Settlement Class Members reasonably projected to receive \$600 or more; (b) establish a settlement website in accordance with paragraph 4.B of the CASA; and (c) post on the settlement website the long-form Notice of Class Action and Proposed Settlement attached to the CASA as Exhibit 4 and other documents called for by paragraph 4.B. This notice complies

with FED. R. CIV. P. 23(e) and due process, constitutes the best notice practicable under the circumstances, and is sufficient notice to all persons entitled to notice of settlement of this Action.

9. The provisions for settlement administration set forth in the CASA shall be followed in administering the settlement.

10. The deadline for Settlement Class Members to submit their respective Class Member Information Forms and completed Form W-9s to the Settlement Administrator shall be June 6, 2017.

11. Members of the Settlement Class may request exclusion from the Settlement Class as provided in the CASA. Any request for exclusion must be received by the Settlement Administrator on or before March 17, 2017. Any request for exclusion received after the aforementioned date, or that does not comply with the requirements as set forth in the CASA shall not be valid. The Settlement Administrator shall file documents with the Court reporting on the Settlement Class Members that timely and validly requested exclusion no later than March 24, 2017.

12. Settlement Class Counsel and/or Plaintiff shall file a motion for final approval of the CASA no later than April 5, 2017.

13. Settlement Class Counsel and/or Plaintiff shall file a "Motion for Fees" and a "Motion for Incentive Award" (as those terms are defined in paragraphs 5.A and 5.C, respectively, of the CASA) no later than April 5, 2017.

14. Members of the Settlement Class shall have the right to object to the

proposed settlement, the Motion for Fees and the Motion for Incentive Award. No Settlement Class Member shall be heard, and no papers, briefs, pleadings, or other documents submitted by any Settlement Class Member shall be received and considered by the Court unless, no later than May 2, 2017, the Settlement Class Member files with the Clerk of Court and concurrently personally serves or mails to addresses of Settlement Class Counsel specified in the Notice to the Settlement Class, written objections and if the objector intends to appear at the Final Approval Hearing, a notice of intention to appear, each of which conforms to the requirements as set forth in paragraph 12 of the Class Action Settlement Agreement. Plaintiff and Defendant shall file their written responses to timely-filed objections, if any, no later than May 26, 2017. There shall be no replies.

15. A hearing to determine whether the settlement should be given final approval, and to decide the Motion for Fees and Motion for Incentive Award (the “Final Approval Hearing”), will be conducted on June 6, 2017, at 9:45 A.M. in Courtroom 1725 of this Court.

16. All proceedings in this Action, other than such proceedings as may be necessary to carry out the terms and conditions of the CASA and this Order, are hereby stayed and suspended until further order of this Court.

17. If the settlement proposed in the CASA, this Order and the Judgment and Order contemplated by the CASA do not receive full and final judicial approval in all material respects, or are reversed, vacated, or modified in any material respect, then neither the CASA, this Order nor the contemplated Final Judgment

and Order shall have any force or effect; the Parties shall be restored, without waiver, to their respective positions immediately prior to entering into of the CASA; any certification of the Settlement Class shall be vacated; the Action shall proceed as though the Settlement Class had never been certified; Plaintiff shall have the right to prosecute its motion for certification of a class, and SBI shall have the right to prosecute its renewed motion for summary judgment, motion to dismiss for lack of jurisdiction, oppose certification and respond to Plaintiff's Amended Class Action Complaint, provided, however, that the incurred costs of notice and settlement administration shall be deducted from the funds returned to SBI.

18. The Court may extend any of the deadlines set forth in this Order or adjourn or continue the Final Settlement Hearing without further notice to the Settlement Class.

Dated: December 15, 2016

ENTERED:



John Robert Blakey
United States District Judge