

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

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

Plaintiff,

v.

Senco Brands, Inc.,

Defendant.

Case No. 1:14-cv-06866

**Hon. John Robert Blakey**

**Declaration of Philip K. Lem in Support of Motion for Award of Attorneys' Fees and  
Reimbursement of Expenses**

I, Philip K. Lem, declare:

1. I am an attorney with the law firm of Payne & Fears LLP, counsel for Plaintiff Craftwood Lumber Company in this matter. I have personal knowledge of the following facts and, if called as a witness, I would and could competently testify to these facts.

2. In connection with the motion for award of attorneys fees and reimbursement of expenses and the motion for final approval of settlement and certification of settlement class, I researched attorneys' fees motions and court orders, as well as final approval orders in other

class action settlements in the Seventh Circuit, with particular focus on decisions in the last decade. I found that most fee orders and final approval orders are not published in the West reporting system and are available only on PACER.

3. From my research, I prepared table 1 in Craftwood's Memorandum of Law In Support of Motion for Attorneys' Fees and Reimbursement of Expenses, and table 1 in Craftwood's Memorandum In Support of Motion for Final Approval of Settlement and Certification of Settlement Class. Those tables show all class settlements of junk fax class actions since 2006 in which the gross settlement fund is between \$500,000 and \$5 million, that I was able to identify. I reviewed PACER filings from these cases to identify (1) the total common fund created by the settlement; (2) the number of class members; and (3) how the settlement was structured (i.e., whether the settlement was a claims-made settlement, and whether unclaimed funds reverted to the defendant). From this information I was able to calculate the average class member recoveries by dividing the total common fund by the number of class members.

4. I also reviewed all attorneys' fees awards in these settlements and included the information from those awards in table 1 of the Memorandum In Support of Motion for Attorneys' Fees and Reimbursement of Expenses. Each fee award percentage in that table reflects either the percentage-of-the-fund expressly awarded by the court, or a calculation made by dividing the fee award by the total common fund (minus expenses for settlement administration). The fee award percentages do not, therefore, reflect the percentage of fees awarded to counsel as a percentage of the amount the class *actually* receives, as required by the Seventh Circuit's holding in *Redman v. RadioShack Corp.*, 768 F.3d 622, 630 (7th Cir. 2014).

Had the table reflected the fee percentages as a percentage of the amount actually received by the class, it is likely that all, or nearly all of the attorneys' fees percentages in the reversionary settlements would have been substantially higher. In this settlement, by contrast, there will be an actual class recovery of all or nearly all of the settlement fund (minus costs, expenses, and an incentive award) since checks will be automatically distributed and no funds will revert to SBI.

5. A detailed list of all cases that are profiled in table 1 of Craftwood's Memorandum of Law In Support of Motion for Attorneys' Fees and Reimbursement of Expenses, and in table 1 of Craftwood's Memorandum of Law In Support of Motion for Final Approval of Settlement and Certification of Settlement Class is attached to this declaration as Exhibit 1.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this fifth day of April 2017 at Irvine, California.

  
\_\_\_\_\_  
Philip K. Lem

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, states that on this fifth day of April, 2017, he caused the foregoing **Declaration of Philip K. Lem in Support of Motion for Award of Attorneys' Fees and Reimbursement of Expenses** to be filed electronically with the Clerk of Court using the CM/ECF system, and which will send electronic notification to the following:

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*/s/ C. Darryl Cordero*  
\_\_\_\_\_  
C. Darryl Cordero

# Exhibit 1

**Exhibit 1**

1. *Rhada Geismann, M.D. P.C. v. Allscripts-Misys Healthcare Solutions, Inc.*, No. 09-cv-5114, Dkts. 138, 142 (N.D. Ill. Feb. 16, 2012)
2. *Sawyer v. Atlas Heating & Sheet Metal Works, Inc.*, No. 2:10-cv-00311, Dkt. 59 (E.D. Wis. July 19, 2013)
3. *Clendenin v. CareCredit, LLC*, No. 08 C 6559, Dkts. 61, 63 (N.D. Ill. May 11, 2011)
4. *Inspe Assocs., Ltd. v. CSL Biotherapies, Inc.*, No. 08-cv-837, Dkts. 62, 65 (N.D. Ill. May 26, 2009)
5. *Bridgeport Pain Control Ctr., Ltd. v. Cutera, Inc.*, No. 08-cv-0116, Dkts. 67, 72 (N.D. Ill. Apr. 6, 2010)
6. *CE Design Ltd. v. Cy's Crab House, Inc.*, No. 07 C 5456, Dkt. 424 (N.D. Ill. Oct. 27, 2011)
7. *G.M. Sign, Inc. v. Finish Thompson, Inc.*, No. 08 C 5953, Dkt. 146 (N.D. Ill. Nov. 1, 2010)
8. *Americana Art China Co., Inc. v. Foxfire Printing & Packaging, Inc.*, No. 08-cv-6992, Dkt. 240 (N.D. Ill. June 19, 2013), *aff'd*, 743 F.3d 243 (7th Cir. 2014)
9. *Hoppe v. Great Western Bus. Servs., LLC*, No. 06-3026, Dkts. 219, 232 (N.D. Ill. Feb. 11, 2010)
10. *Affiliated Health Care Assocs., P.C. v. Handit2 Network, LLC*, No. 13 C 5782, Dkt. 110 (N.D. Ill. Feb 3, 2015)
11. *Illinois Nut & Candy Home of Fantasia Confections, LLC v. Grubhub, Inc. et al*, No. 14-cv-949, Dkts. 38, 42 (Jan. 23, 2015)
12. *Ballard Nursing Ctr., Inc. v. Kinray Inc.*, No. 08 C 5310, Dkts. 52, 65, 69 (N.D. Ill. July 28, 2010)
13. *Glen Ellyn Pharmacy, Inc. v. LaRoche-Posay, LLC*, No. 11-cv-968, Dkts. 33, 34 (N.D. Ill. Oct. 27, 2011)
14. *Locklear Elec., Inc., v. Lay*, No. 09-cv-0531, Dkt. 67 (S.D. Ill. Sept. 8, 2010)
15. *Hinman v. M & M Rental Ctr.*, No. 06 C 1156, Dkts. 225, 254-1, 267 (N.D. Ill. Oct. 6, 2009)
16. *Wilder Chiropractic, Inc. v. Pizza Hut of S. Wis., Inc.*, No. 10-cv-229, Dkt. 67 (W.D. Wis. July 28, 2011)
17. *Targin Sign Sys., Inc. v. Preferred Chiropractic Ctr., Ltd.*, No. 09 C 1399, Dkt. 140 (N.D. Ill. May 26, 2011)
18. *Clearbrook v. Rooflifters, LLC*, No. 08 C 3276, Dkt. 94 (N.D. Ill. Dec. 19, 2011)
19. *Saf-T-Guard Int'l, Inc. v. Seiko Corp. of Am.*, No. 09 C 0776, Dkts. 98, 100 (N.D. Ill. Jan 14, 2011)
20. *Glen Ellyn Pharmacy, Inc. v. Sepracor, Inc.*, No. 10-cv-01594, Dkt. 44 (N.D. Ill. Mar. 17,

2011)

21. *Paldo Sign & Display Co. v. Topsail Sportswear*, No. 08-cv-05959, Dkt. 116 (N.D. Ill. Dec. 21, 2011)
22. *The Savanna Group, Inc. v. Trynex, Inc.*, No. 10-cv-7995, Dkt. 243 (N.D. Ill. Mar. 4, 2014)
23. *Inspe Assocs., Ltd. v. UScoot, LLC*, No. 09-cv-2690, Dkt. 45 (N.D. Ill. Oct. 18, 2010)
24. *In re Zydus Unsolited Fax Litig.*, Case No. 1:13-cv-03105, Dkt. 90 (N.D. Ill. Jan. 4, 2016), consolidated with *Advanced Arlington Sports Med., Ctr. v. Commc'n Media*, Case No. 1:14-cv-09529 (N.D. Ill.).