

**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

**Supplemental Declaration of C. Darryl Cordero in Support of Motion for Final Approval
and Motion for Award of Attorneys' Fees and Reimbursement of Expenses**

I, C. Darryl Cordero, declare:

1. I am an attorney with the law firm of Payne & Fears LLP, and am lead counsel for Plaintiff Craftwood Lumber Company and the preliminarily certified settlement class in this action. Since 1983 I have been an attorney admitted to practice within the state of California, and since 2011 have been admitted to the general bar of this Court. I have personal knowledge of the following facts, and would and could competently testify thereto if called as a witness in this action.

Fee Allocations Under Co-Counsel Agreements

2. The primary purpose of this declaration is to inform the Court of my final calculation of attorneys' fees allocations under applicable co-counsel agreements. In my original

declaration filed April 5, 2017 (ECF No. 156-1), I identified the two co-counsel agreements that were applicable to an attorneys' fee recovery in this case. As discussed in that declaration, the agreements generally call for any attorneys' fees recovery to be allocated based on the parties' relative shares of "Total Lodestar": (1) all hours worked on the Case,¹ (2) times stated hourly rates.

3. To illustrate the operation of the agreements, in my April 5 declaration, I prepared interim accountings based on time reports that had been provided by the various attorneys and P&F's interim invoice through March 31, 2017. This declaration reports my updated calculations based on time worked through May 31, 2017.

4. **The GSE Fee Calculation.** Under the Co-Counsel Agreement among Guin, Stokes & Evans, LLC, Payne & Fears, and Scott Zimmermann, GSE is allocated its relative share of lodestar with respect to 80 percent of the gross attorneys' fees. Through May 31, 2017, the total lodestars of the four firms (P&F, Owen, GSE, and Zimmermann), calculated at rates set forth in the agreements, was 1,452,814.² GSE accounted for 33,092, or 2.277864 percent of this

¹ The agreement among P&F, Zimmermann and Owen defines "Total Lodestar" as "the sum of all hourly charges on the Case by all attorneys and paralegals."

² I obtained these figures from time reports by each firm. An "invoice" from Scott Zimmermann dated June 2, 2016, indicates that Mr. Zimmermann spent 153.9 hours on the case. At the applicable P&F rates, this produces a lodestar equivalent of 104,244.50. For GSE, a statement dated February 28, 2017, shows that Mr. Watkins spent 43.9 hours on the case. Mr. Watkins informed me on May 30 that he worked an additional 3.4 hours between March and May 2017, bringing his total to 47.3 hours. At the P&F rates, this produces a lodestar of 33,092. For Frank Owen, an invoice dated January 30, 2017, shows that he had worked 34.3 hours on the case through that date. Mr. Owen informed me on May 30 and 31 that he had worked an additional 22 hours after his January 30 report and reasonably expected to spend an additional nine hours in connection with the final approval hearing, bringing his total hours to 65.3. And for P&F, a report prepared by the firm's accounting department and provided to me by firm CFO Peter Hernandez on June 1 shows firm attorneys and paralegals spent 2,295.7 hours on the case, with a lodestar equivalent of 1,246,898. I have reviewed this report, including the underlying time entries by firm attorneys and paralegals, and believe it accurately reflects the time worked on the

amount. A true and correct copy of my final accounting of the GSE fee allocation is attached hereto as Exhibit A.

5. **The Owen Fee Calculation.** As noted in my prior declaration, under the Co-Counsel Agreement among P&F, Owen and Zimmermann, Owen automatically receives 10 percent of the total attorneys' fee. Earlier this week Mr. Owen filed supplemental material reiterating this fact (ECF No. 167, *et seq.*), and I do not object to the request by Mr. Owen that he receive 10 percent of the gross attorneys' fee.

6. **The P&F/Zimmermann Fee Calculation.** Under the same Co-Counsel Agreement, the net fees remaining *after* payments to Owen and GSE are allocated between P&F and Zimmermann based on the two firms' relative lodestars. My calculations show that P&F is entitled to 92.3983615 percent and Mr. Zimmermann is entitled to 7.6016385 percent of the net fees.³ A true and correct copy of my final accounting of the P&F, Owen and Zimmermann fee allocations is attached hereto as Exhibit B.

7. The following table summarizes the indicated allocations. (This is an update of table 3 in ECF no. 160.) The indicated amounts assume the Court grants the motion for attorneys' fees at one-third of the settlement fund. The percentages do not vary by the amount

case by P&F professionals.

³ The P&F lodestar through May 31, 2017, was 1,246,898. Because the agreement calls for the allocation to be calculated at the time fees are received, I have conservatively projected that I will spend no fewer than 20 additional hours after May 31 in connection with the final approval hearing and other settlement administration issues, and that Scott Luskin of my office will spend an additional 10 hours on such matters. This brings the P&F lodestar for purposes of the allocation to 1,267,098. The Zimmermann lodestar is 104,244.50. The combined lodestar of the two firms is therefore 1,371,342.5 for purposes of this co-counsel agreement.

awarded.

Firm	Percentage	Indicated Fees
Frank Owen	10.0000000	98,333.30
Guin, Stokes & Evans, LLC	1.8222291	17,918.58
Payne & Fears LLP	81.4748158	801,168.75
Scott Zimmermann	6.7029552	65,912.37
Total	100.0000000	983,333.00

Supplemental Deposition Transcript Costs

8. In my April 5 declaration, I reported that Payne & Fears had incurred costs to prosecute this case in the amount of \$52,750. This included \$4,456.30 for deposition transcripts. (*See* ECF No. 160, p. 26.) It recently came to my attention that this figure omitted DTI court reporter charges for depositions of SBI employees Lynn Broderick and Michael Britton on March 16, 2016 (2,410.25), and Charles England on March 17, 2016 (\$1,792.70). This brings the total cost of deposition transcripts to \$8,749.25. I therefore respectfully request that the Court award costs in the total amount of \$65,560.26, inclusive of these additional costs.

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

Executed this first day of June 2017 at Indian Wells, California.

/s/ C. Darryl Cordero
C. Darryl Cordero

Certificate of Service

The undersigned, an attorney, states that on this first day of June 2017, I caused the foregoing **Supplemental Declaration of C. Darryl Cordero in Support of Motion for Final Approval and 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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I also hereby certify that on this first day of June 2017, I caused to be emailed a true and correct copy of **Supplemental Declaration of C. Darryl Cordero in Support of Motion for Final Approval and Motion for Award of Attorneys' Fees and Reimbursement of Expenses** sent via electronic mail to Scott Z. Zimmermann at szimm@zkcfc.com and I caused a copy to be placed in an envelope, postage prepaid, addressed as stated below, in the basket for outgoing mail before 4:00 p.m. at PAYNE & FEARS LLP. The firm has established procedures so that all mail placed in the basket before 4:00 p.m. is taken that same day by an employee and deposited in a U.S. Mail box.

Scott Z. Zimmermann
322 10th Street
Santa Monica, CA 90402

Scott Z. Zimmermann
777 S. Figueroa Street, Suite 4000
Los Angeles, CA 90017

/s/ C. Darryl Cordero

C. Darryl Cordero

EXHIBIT A

**GUIN, STOKES & EVANS SENCO BRANDS ACCOUNTING
(FINAL)**

Gross attorneys' fees recovery	983,333.00
Paragraph 5(b) adjustment	(196,666.64)
Net Attorneys' Fees	786,666.36
Total Lodestar ¹	
P&F ²	1,267,098.50
Zimmermann	104,244.50
GSE	33,092.00
Owen ³	48,379.50
Total	1,452,814.00
GSE Fee	
Net Attorneys' Fees	786,666.36
GSE percentage of total lodestar	.02277864
GSE Attorneys' Fees	17,918.58

¹ All lodestar figures are calculated at P&F national rates, per the co-counsel agreement.

² Includes projected 30 hours for final approval hearing and settlement administration after May 31, 2017.

³ Includes a projected nine hours for travel and attendance at final approval hearing.

EXHIBIT B

**PAYNE & FEARS/ZIMMERMANN/OWEN SENCO BRANDS ACCOUNTING
(FINAL)**

Fee Recovery

Gross Fee Recovery	\$983,333.00
Less: Guin, Stokes & Evans Fees	(17,918.58)
Less: Owen Fees	(98,333.30)
Total Net Recovery to Payne & Fears/Zimmermann	\$867,081.42

Fee Percentages

Combined P&F / Zimmermann Lodestar	1,371,342.50
Payne & Fears	
Lodestar	1,267,098.00
Percentage of Net Fee Recovery	92.3983615
Indicated Fees	\$801,169.02
Zimmermann	
Lodestar	104,244.50
Percentage of Net Fee Recovery	7.6016385
Indicated Fees	\$65,912.40