

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

ROBERT SIMS, *et al.*,

Plaintiffs,

v.

BB&T CORPORATION, *et al.*,

Defendants.

No. 1:15-cv-732-CCE-JEP

**PLAINTIFFS' NOTICE OF FILING OF CORRECTED EXPENSE AMOUNT
FOR REIMBURSEMENT FROM GROSS SETTLEMENT FUND**

Per Section 7.2 of the Settlement Agreement, Plaintiffs' Counsel submit this notice of filing correcting the amount of expenses they seek for reimbursement from the Gross Settlement Amount. Doc. 436-2 at *23 of 73 (noting Plaintiffs' motion for reimbursement of costs may be supplemented after submission).

On March 1, 2019, Plaintiffs' Counsel filed their Motion for Attorneys' Fees, Reimbursement of Expenses, and Case Contribution Awards for Named Plaintiffs. Doc. 444. As part of that submission, Plaintiffs requested the reimbursement of expenses in the amount of \$992,280.00. In preparing for the final fairness hearing scheduled for May 1, 2019, Lead Plaintiffs' Counsel conducted their typical final review of submitted time and expenses to be paid from the Gross Settlement Amount. *See* Declaration of Heather Lea ("Lea Declaration").

As part of that standard review, conducted independent of the Court's request for information regarding certain expenses, Lead Plaintiffs' Counsel identified an error in which a paralegal duplicated expenses from a period of time when this case was extremely active. See Lea Declaration ¶¶4–9. This error resulted in duplicates that should not be included as reimbursable items from the Gross Settlement Amount. *Id.* That paralegal is no longer with the firm and prior to the initial submission of these expenses was not involved in any expense reimbursement applications for this firm's settlements. *Id.*

Once this error was identified, Lead Plaintiffs' Counsel, Heather Lea, conducted a new and thorough review, item by item, to identify any duplicate expenses. *Id.* ¶6. As a result of that review, Lead Plaintiffs' Counsel identified duplicate expense entries that should not be reimbursed resulting in a *reduced* amount of expenses *Smith* Plaintiffs' Counsel seek to be reimbursed from the Gross Settlement Amount of \$737,377.63. *Id.* ¶12; *See* Declaration of Sheri O'Gorman.

For these reasons, those set forth in the accompanying declarations, and the underlying reasons set forth in Plaintiffs' Memorandum in Support of their Motion for Attorneys' Fees, Reimbursement of Expenses, and Case Contribution Awards for Named Plaintiffs, Plaintiffs' Counsel request the reimbursement of expenses in the amount of \$768,176.42 (which includes \$30,798.79 for *Sims* Plaintiffs' Counsel).

April 30, 2019

Respectfully submitted,

/s/ Kai H. Richter

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CERTIFICATE OF SERVICE

I certify that on April 30, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically send notification of filing to all counsel of record.

/s/ Troy A. Doles

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DECLARATION OF HEATHER LEA

I, Heather Lea, declare as follows:

1. I am a partner at the law firm of Schlichter Bogard & Denton, LLP. I am one of the attorneys representing the Plaintiffs in this matter. This declaration is submitted in support of Plaintiffs' Notice of Filing of Corrected Expense Amount in support of their Motion for Attorneys' Fees, Reimbursement of Expenses, and Case Contribution Awards for Named Plaintiffs.

2. I have been active in all aspects of this litigation from its inception. I am familiar with the facts set forth below and able to testify to them based on my personal knowledge or review of the records and files maintained by this firm in the regular course of its representation of Plaintiffs in this case.

3. I am licensed to practice in the States of Missouri and Illinois. I am admitted to practice in the United States Supreme Court, the Eighth Circuit Court of Appeal, and numerous district courts across the country.

4. In preparation for the final fairness hearing scheduled for May 1, 2019, I conducted an additional and final review of this firm's submitted expenses and, in many instances, the supporting documentation. Conducting final reviews of submitted expenses in advance of a final fairness hearing is part of this firm's standard process and practice in ensuring submitted expenses are accurately reflected in our request to the Court and appropriate for reimbursement.

5. As a result of this standard review, I identified instances of duplicate expenses in the firm's accounting records entered by a paralegal primarily in a period of four months when this case was very active.

6. In complex cases, some of the expenses are for the same amounts on the same date, such as two attorneys travelling to the same deposition and having identical hotel and air fare. Expense entries with equal amounts by themselves do not necessarily indicate that the entries are in error.

7. During that timeframe, this case was extremely active; we were concluding fact discovery, expert disclosures and mediation with a national mediator. Doc. 445-2 at ¶25, 28. Based on my further research of this particular timeframe, a data entry error was made by a former paralegal of the firm. This error resulted in duplicates that should not be included as reimbursable items from the Gross Settlement Amount. Prior to the initial submission of these expenses, the former paralegal was not involved in any expense reimbursement applications for this firm's settlements.

8. This duplication error was not identified by the firm prior to its submission to the Court. Rather, as explained above, this error was identified in my final review in preparation for the final fairness hearing.

9. Based on this review and analysis, I then instructed the firm's Office Administrator, Sheri O'Gorman, to recalculate the firm expenses, eliminating those duplicate expenses. Contemporaneous with this filing, and at my direction, Ms. O'Gorman is submitting a revised declaration summarizing and totaling by categories the reimbursable amounts.

10. As to the mediation and settlement costs, specifically the amounts are for the mediator's initial charge of \$17,500.00, additional mediation charges for follow on negotiation, and a bill for the website set-up, domain acquisition, and hosting required by the settlement agreement. In the review described above, we have determined that the same paralegal who duplicated entry of expenses did so for the \$17,500.00 charge, and that has been removed. This reduces the mediation and settlement costs from \$45,516.69 to \$28,016.69.

11. I personally reviewed Ms. O'Gorman's recalculated totals and many of the underling submissions. These revised expenses eliminate all duplicate expenses, including a portion of Plaintiffs' Mediation and Costs, set forth above, *Smith* Plaintiffs' Counsel total expenses are reduced to \$737,377.63.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on April 30, 2019 in St. Louis, Missouri.

/s/ Heather Lea
Heather Lea

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DECLARATION OF SHERI O’GORMAN

I, Sheri O’Gorman, under penalty of perjury pursuant to 28 U.S.C. §1746, declare as follows:

1. I am the Office Administrator of Schlichter, Bogard, & Denton, LLP and the Custodian of Records, in charge of payment of expenses in this matter. Based on Heather Lea’s review of the submitted expenses, and at her direction, I recalculated the incurred expenses and ensured that there were no duplicate entries, mistakenly entered by a paralegal no longer employed by this office. A corrected accounting of the incurred case expenses totals \$737,377.63 as of April 29, 2019.

2. Below is a list of expenses according to their categories:

Description	Total
Depositions	\$61,605.98
Experts and Consultants	\$468,715.92
Filing, Transcripts, Subpoena Services and Related Costs	\$4,750.40
Mediation and Settlement Costs	\$28,016.69
Copies, Postage, Phone and Fax	\$34,339.61
Data Development and Document Organization	\$3,666.18

Description	Total
Research and Investigation	\$29,188.70
Travel, Lodging, and Parking	\$102,133.57
Trial Costs (incurred prior to settlement)	\$4,960.58
Total	\$737,377.63

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

Executed on April 30, 2019.



Sheri O'Gorman