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**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON**

**MORELOCK ENTERPRISES,**

**Civil No. 3:04-cv-00583-PA**

**Plaintiff,**

**WEYERHAEUSER CO.**

**REPORT ON CONSULTATION RE:  
ATTORNEYS' FEES AND COSTS**

As noted in the Class' Reply Brief in Support of Bill of Costs and Motions for Attorneys' Fees and Costs, filed June 27, 2008, Class Counsel has consulted with Weyerhaeuser counsel concerning outstanding statutory fee and cost issues in an attempt to narrow issues, and herein reports on this consultation.

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ATTY. FEES AND COSTS - Page 1**

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## **Outstanding Fee and Cost Issues**

In light of Weyerhaeuser's objections, the Class in the Reply (and its attached counsel declarations) reduced its requested statutory fee award in the amount of \$9,100 due to administrative input errors in the original time submissions, and its requested statutory cost award by \$9,910.11. Further, through their declarations, Class Counsel provided explanations for other costs found objectionable by Weyerhaeuser.

In accordance with their representations to the Court, Class Counsel then convened a conference call on Monday, July 7<sup>th</sup>, 2008 with Weyerhaeuser counsel to discuss remaining issues. Weyerhaeuser counsel indicated they were only willing to discuss issues relating to the statutory awards of fees and costs, and not the amount of the appropriate fee and cost award to Class Counsel from the Class equitable fund (once the statutory fee award approved by the Court were added to the judgment amount to determine the size of that fund).

Further, Weyerhaeuser counsel indicated that Class Counsel's explanations of those fee and cost submissions (which had not been withdrawn) have not caused Weyerhaeuser counsel to withdraw or modify any of their remaining objections. Therefore, the remaining Weyerhaeuser objections will require the Court's attention. Attached is a letter from the Thelen firm recapitulating its positions on behalf of Weyerhaeuser, which it has requested be provided with this report.

Weyerhaeuser has also indicated it will forward a settlement offer as to statutory fees

and costs by the close of business Friday, July 11, 2008. If this offer is likely to form the basis of further, good faith negotiations, counsel will so inform the Court as to the fact of these on-going negotiations (but not their substance) by the close of business Tuesday, July 15, 2008.

### **Withdrawal of Nelson Billings**

Weyerhaeuser counsel have correctly pointed out that in April 2005 and October 2007 Mr. Nelson represented to the Court in his expert disclosures he was not going to bill for his services. Accordingly, his submissions are withdrawn and compensation for this time is not sought.

In this regard, the Court should be made aware that Mr. Nelson did not initiate the request for fees. Rather, when preparing to submit fees and costs to the Court, Class Counsel sent messages to all experts asking for any time they had not billed. When Class Counsel received Mr. Nelson's information (which Mr. Nelson had submitted only at Class Counsel's request), Class Counsel put in Mr. Nelson's time when it arrived in late June, having forgotten that he had already made clear he would not bill for his time.

### **Conclusion**

In sum, the Class seeks the following statutory fee and cost awards:

Bill of Costs:	\$ 14,564.00
Statutory Costs:	\$ 444,229.00 [reflecting \$ 9,910.11 reduction]

Statutory Fees: \$ 5,077,552.00 [reflecting \$9,100.00 reduction]

Also, Class Counsel continues to request an award of fees and costs from the equitable Class fund equivalent to 25% of that common fund (defined as the nearly \$84-million verdict and any award of costs and statutory fees awarded to the Class), plus \$1,822,869.89 in costs expended in the creation of the fund. The latter represents a reduction in the original cost request (\$1,832,780) – by the \$9,910.11 reduction noted in the Reply – and does not include any expert fees for Mr. Nelson. The Class notice will reflect the \$1,822,869.89 in costs sought.

Dated July 9, 2008

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**Class Counsel**

Respectfully submitted,

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By: /s/

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**CERTIFICATE OF SERVICE**

R. Stephen Berry certifies that the foregoing was served via email on Defendants' counsel of record through the Court's electronic filing system on July 9, 2008.

/s/\_\_\_\_\_

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