

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS**

DAVIS NEUROLOGY, P.A.,
On behalf of itself and all other entities and
persons similarly situated,

Plaintiffs,

v.

DENTAL EQUITIES, LLC d/b/a
PEER UNITED, FIRST ARKANSAS BANK
& TRUST and JOHN DOES 1–10,

Defendants.

Case No. 4:16-cv-00371-BSM

**REPRESENTATIVE PLAINTIFF’S MOTION FOR ATTORNEY’S FEES, COSTS, AND
INCENTIVE AWARD**

Plaintiff Davis Neurology, P.A. (“Representative Plaintiff”), on its own behalf and on behalf of a preliminarily certified settlement class (“Settlement Class”), by and through its undersigned counsel (“Class Counsel”), and pursuant to the proposed settlement agreement in this case (the “Settlement”), hereby respectfully moves the Court for an order:

1. Awarding attorney’s fees to Settlement Class Counsel in the amount of 30% of the \$1,525,000 common fund obtained for the benefit of the Settlement Class, or \$457,500;
2. Reimbursing Class Counsel for their costs;¹ and
3. Approving an incentive award of \$10,000 to the Representative Plaintiff.

In support of this Motion, the Representative Plaintiff submits contemporaneously herewith (1) a Memorandum of Law, (2) the Declaration Joe P. Leniski, Jr.; (3) the Declaration of James A.

¹ As of the date of filing, those costs total \$4,243.51. Final approval submissions are not due until March 23, 2017. To the extent that Settlement Class Counsel incurs any additional costs in bringing this case to resolution, the Court should also award payment of those costs and expenses.

Streett, and (4) the Affidavit of Sidney H. McCollum. As explained in the Representative Plaintiff's Memorandum and as supported by the accompanying materials, the requested fees, costs, and incentive award are reasonable and are well within the Court's discretion to approve.²

Dated: March 3, 2017

Respectfully submitted,

/s/ Joe P. Leniski, Jr.

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² See *Huyer v. Buckley*, 2017 U.S. App. LEXIS 2772 (8th Cir. Feb. 16, 2017) (upholding award of 38% of common fund to class counsel); *Huyer v. Wells Fargo & Co.*, 314 F.R.D. 621 (S.D. Iowa 2016), *aff'd Huyer*, 2017 U.S. App. LEXIS 2772 (awarding \$10,000 incentive payments to each class representative); *Thut Life Time Fitness, Inc. (In re Life Time Fitness, Inc., Tel. Consumer Protection Act Litig.)*, 2017 U.S. App. LEXIS 1843 (8th Cir. Oct. 19, 2016) (endorsing use of percentage-of-the-benefit award in TCPA common fund class action settlement); *Koenig v. United States Bank, N.A. (In re. U.S. Bancorp Litig.)*, 291 F.3d 1035 (8th Cir. 2002) (approving fees of 36% in common fund class settlement); *Prater v. Medicredit, Inc.*, 2015 U.S. Dist. LEXIS 167215 (E.D. Mo. Dec. 7, 2015) (approving fee award of 33% of settlement fund and \$20,000 incentive award to plaintiff in TCPA common fund class action settlement).

CERTIFICATE OF SERVICE

I, Joe P. Leniski, Jr., hereby certify that I am an attorney for the Plaintiffs, and on this day I caused this filing to be served on all counsel of record in this proceeding via CM/ECF.

DATED: March 3, 2017

/s/ Joe P. Leniski, Jr.

JOE P. LENISKI, JR.