

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

ABANTE ROOTER AND PLUMBING, )  
INC., individually and on behalf of a class of ) Case No. 1:15-cv-09025  
all persons and entities similarly situated, )  
)

Plaintiff, )  
)

v. )  
)

OH INSURANCE AGENCY and )  
ALLSTATE INSURANCE COMPANY, ) Hon. Judge Jorge L. Alonso  
) Hon. Mag. Judge Young B. Kim  
Defendants. )

**SUPPLEMENTAL DECLARATION OF MATTHEW P. MCCUE  
IN SUPPORT OF PLAINTIFF’S MOTION  
FOR ATTORNEYS’ FEES, EXPENSES, AND INCENTIVE AWARD**

I, Matthew P. McCue, declare under penalty of perjury as follows:

1. I am an attorney duly admitted to practice in the Commonwealth of Massachusetts, I am over 18 years of age, am competent to testify and make this affidavit on personal knowledge. I have extensive experience in the prosecution of class actions on behalf of consumers.

2. I am admitted to practice in this case *pro hac vice* as co-counsel of record to Plaintiff Abante Rooter and Plumbing, Inc.

3. I respectfully submit this supplemental declaration in further support of Plaintiff’s Motion for Attorneys’ Fees, Expenses and Incentive Award and to address questions raised by the Court at the hearing on that motion held on August 29, 2019.

4. I was involved in every stage of litigation in this case, from pre-trial investigation, analysis of Plaintiff’s potential claims, drafting and researching the complaint and discovery work, review of documents, discovery responses, motion practice, expert work, and general preparation for mediation and trial. I also additionally participated in settlement

negotiations and strategy, contributed on preparing the proposed settlement agreement and motion for preliminary approval and final approval.

5. I graduated from Suffolk Law School in Boston, Massachusetts with honors. Following graduation from law school, I served as a law clerk to the Justices of the Massachusetts Superior Court. I then served a second year as a law clerk for the Hon. F. Owen Eagan, United States Magistrate Judge for the USDC District of Connecticut.

6. In 1994, I was admitted to the Bar in Massachusetts. Since then, I have been admitted to practice before the United States District Court for the District of Massachusetts, the First Circuit Court of Appeals, the United States District Court for the District of Colorado, the Sixth Circuit Court of Appeals and the United States Supreme Court.

7. Following my clerkships, I was employed as a litigation associate with the Boston law firm of Hanify & King. In 1997, I joined the law firm of Mirick O'Connell as a litigation associate where I focused my trial and appellate practice on plaintiff's personal injury and consumer protection law.

8. In the summer of 2002, I was recognized by the legal publication Massachusetts Lawyers Weekly as one of five "Up and Coming Attorneys" for my work on behalf of consumers and accident victims.

9. In November of 2004, I started my own law firm focusing exclusively on the litigation of consumer class actions and serious personal injury cases.

10. I am in good standing in every court to which I am admitted to practice.

11. My billable rate is \$700 and has been the same for a number of years. Multiple courts have approved my billable rate in other nationwide TCPA class actions. *See e.g., Mey v.*

*Frontier Communications Corporation*, No. 3:13-cv-1191-MPS (D. Ct. June 9, 2017) (court approves attorneys' fees based on lodestar hourly rate of \$700); *Heidarpour v. Central Payment Co.*, No. 16-cv-01215 (M.D. Ga. May 4, 2017) (same); *Mey v. Interstate National Dealer Services, Inc.*, No. 14-01846 (N.D. Ga. June 8, 2016) (same); *Jay Clogg Realty Group, Inc. v. Burger King Corporation*, No. 13-cv-00662 (D. Md. April 15, 2015) (same); *Kensington Physical Therapy, Inc. v. Jackson Therapy Partners, LLC*, No. 11-02467 (D. Md. Feb. 12, 2015) (same).

12. Answers to the Court's questions from the motion hearing specific to my firm on August 29, 2019 are set forth below:

13. **Question:** How many TCPA cases did Attorney McCue file between 2014-2015? **Answer:** Along with my co-counsel, I filed 43 TCPA class actions between 2014-2015.

14. **Question:** How many of those TCPA cases filed between 2014 and 2015 ended in summary judgment in favor of the defendant? **Answer:** One. In *Mey v. Honeywell*, 1:2014cv00059 (W.D.Va.), a TCPA class action suit was filed against manufacturers of home security equipment and plaintiff alleged the manufacturers were vicariously liable for the actions of authorized dealers who sold the equipment. The trial court disagreed finding vicarious liability did not extend to the manufacturers. An appeal was taken to the Fourth Circuit Court of Appeals and the decision of the trial court was affirmed.

15. **Question:** How many of those TCPA cases filed between 2014 and 2015 ended in a verdict against the plaintiff? **Answer:** None.

16. **Question:** How many of those TCPA cases filed between 2014 and 2015 went to trial? **Answer:** One. In a five-day jury trial in North Carolina, a verdict was rendered in favor of the plaintiff class of approximately \$20,000,000. This amount was then trebled by the Court

based on a finding of willfulness. The defendant then appealed to the Fourth Circuit who affirmed the verdict and the decision of the Court to treble the award. Defendant has indicated that it will file a Petition for Writ of Certiorari and has received an extension for filing until October 15, 2019. In addition, in *Fitzhenry v. The ADT Corporation f/k/a ADT Security Services, Inc. et al*, 9:2014cv80180, SDFL, class certification was denied.

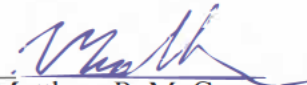
17. **Question:** How many of those TCPA cases filed between 2014 and 2015 ended in a settlement? **Answer:** Twelve of the cases filed in 2014-2015 resulted in class settlements.

18. **Question:** How many of those TCPA cases filed between 2014 and 2015 have pending motions to approve settlements? **Answer:** In addition to this case, there is one other case that was filed between 2014 and 2015 where a motion to approve settlement is currently pending.

19. **Question:** How many hours did Attorney McCue spend working on this case? **Answer:** I have spent approximately 270 hours working on this case since it was initially filed back in October of 2015.

20. **Question:** What proof do you have regarding the expenses that were incurred in the litigation? **Answer:** All of my expenses were paid either via my professional credit card or from my business checking account. An itemized listing of those expenses is attached hereto as Exhibit 1.

PURSUANT TO 28 U.S.C. § 1746, I DECLARE SIGNED UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED THIS 19th DAY OF SEPTEMBER, 2019 IN THE COMMONWEALTH OF MASSACHUSETTS.

  
Matthew P. McCue

# EXHIBIT 1 to McCue Declaration

Date	Bank	Account	Description	Amount	Type	Category	Receipt	Notes
12/31/2018	Middlesex Savings Bank	Work Checking	Check	-6350	Business	Legal and professional service	N	Allstate Hunter Hughes
12/18/2018	JetBlue Business Card	Company Acct	Loews Hotels	-456.51	Business	Travel expenses	N	Allstate
12/18/2018	JetBlue Business Card	Company Acct	Atlanta Airport	-4.67	Business	Travel expenses	N	Allstate
12/18/2018	JetBlue Business Card	Company Acct	Dunkin Donuts	-2.2	Business	Meals	N	Allstate
12/17/2018	JetBlue Business Card	Company Acct	Federal Express	-80.53	Business	Legal and professional service	N	Allstate
12/17/2018	JetBlue Business Card	Company Acct	Loews Hotel Fb	-67.63	Business	Travel expenses	N	Allstate
12/17/2018	JetBlue Business Card	Company Acct	American	-374.3	Business	Travel expenses	N	Allstate
12/17/2018	JetBlue Business Card	Company Acct	American	-374.3	Business	Travel expenses	N	Allstate
12/17/2018	JetBlue Business Card	Company Acct	American	-374.3	Business	Travel expenses	N	Allstate
12/17/2018	JetBlue Business Card	Company Acct	American	-118.55	Business	Travel expenses	N	Allstate
12/17/2018	JetBlue Business Card	Company Acct	American	-24.76	Business	Travel expenses	N	Allstate
12/17/2018	JetBlue Business Card	Company Acct	American	-22.51	Business	Travel expenses	N	Allstate
12/17/2018	JetBlue Business Card	Company Acct	JetBlue	-16.8	Business	Travel expenses	N	Allstate
12/17/2018	JetBlue Business Card	Company Acct	JetBlue	-11.2	Business	Travel expenses	N	Allstate
12/16/2018	JetBlue Business Card	Company Acct	Starbucks	-4.23	Business	Meals	N	Allstate
12/16/2018	JetBlue Business Card	Company Acct	CITY KITCHEN	-328.82	Business	Meals	N	allstate
12/16/2018	JetBlue Business Card	Company Acct	Legal Seafoods	-37.18	Business	Meals	N	Allstate
11/14/2018	Middlesex Savings Bank	Work Checking	Check	-545	Business	Legal and professional service	N	Allstate Janet Oh Depo Cancelled