

For Immediate Release

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COURT ASKED TO SCRUTINIZE EXCESSIVE CONTINGENCY FEE IN CLASS ACTION CASE

(Vizcaino, et al., v. Microsoft Corp., et al.)

The Washington Legal Foundation (WLF) filed formal objections last week with the United States District Court for the Western District of Washington in Seattle on behalf of several class members to the proposed attorneys' fee award being sought in this major class action case. The attorneys are seeking 28 percent of the common settlement fund of approximately \$98 million. This amounts to approximately \$27 million in attorneys' fees.

This lawsuit was originally filed against Microsoft in late 1992 on behalf of employees of Microsoft who were classified as temporary employees or independent contractors. They claimed that they should have been treated as permanent employees, and should have been entitled to participate in employee benefit plans such as health insurance, the company's stock purchase plan, and similar benefits.

During the ensuing litigation, the class members prevailed on some issues, such as the right to participate in Microsoft's Employee Stock Purchase Plan, but lost on other issues. On December 12, 2000, a proposed settlement was reached between the parties. It is estimated that there are 10,000 to 12,000 class members who could receive benefits under the settlement.

WLF objected to the proposed attorneys' fees of 28 percent of the common fund as being excessive. In its brief, WLF cited numerous cases supporting its position, including a recent case in which WLF also participated, *In re Synthroid Marketing Litigation*. In that case, the court reduced a fee award request of 29 percent of an \$86 million common fund to only 10 percent as WLF had suggested. At a minimum, WLF requested that the court order the plaintiffs' attorneys to submit time and billing records to determine how much work was performed on the case. The court can then review the records to determine whether the \$28 million in fees is excessive. WLF filed the objections as co-counsel with Lawrence Schonbrun of California, who specializes in class action cases.

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