

**IN THE COURT OF COMMON PLEAS
OF ALLEGHENY COUNTY, PENNSYLVANIA**

ALAN JONES and RICHARD GROSS,
individually and on behalf of all others
similarly situated,

CIVIL DIVISION – CLASS ACTION
The Honorable Philip A. Ignelzi
Class Action Judge

Plaintiffs,

v.

No. GD-18-012298

ALDER HIGHLAND ASSOCIATES, LLC;
ALDER HIGHLANDS ASSOCIATES, L.P.;
RICHARD BROURMAN; ARHAUS, LLC;
HOWARD’S TOWING AND RECOVERY,
LLC; and HOWARD SZUMINSKY,

Defendants

**ORDER OF COURT GRANTING PRELIMINARY APPROVAL OF CLASS
SETTLEMENT**

AND NOW, to wit, this 22nd day of February, 2023, upon consideration of Plaintiffs’ Unopposed Motion for Preliminary Approval of Proposed Settlement Agreement as between Plaintiffs Alan Jones and Richard Gross (“Plaintiffs” or “Class Representatives”), individually and on behalf of all others similarly situated, and Defendants Arhaus LLC (“Arhaus”) and Howard’s Towing and Recovery, LLC and Howard Szuminsky (collectively “Howard’s Towing”) (and together with Arhaus, “Defendants”), it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1. The Court has reviewed the Parties’ Proposed Settlement Agreement and Exhibits attached thereto (the “Agreement” or the “Settlement”), Plaintiffs’ Unopposed Motion for Preliminary Approval of Proposed Settlement Agreement, and Memorandum in Support.

2. To the extent not otherwise defined herein, all capitalized terms shall have the meanings attributed to them in the Agreement.

3. The Court has jurisdiction over the subject matter of this action, and personal jurisdiction over all parties to the litigation, including all Class Members and Sub-class Members.

Reasonableness of the Proposed Settlement

4. The Court finds that: (i) the proposed Settlement resulted from extensive and good-faith negotiations at arms' length; (ii) the proposed Settlement was concluded only after extensive discovery and litigation; and (iii) the terms of the proposed Settlement as evidenced by the Agreement appears to be sufficiently fair, reasonable, and adequate in light of the risks, delays, and expenses of further litigation, warranting the sending and website publication of the Notices of Class Action Settlement in the forms attached to the Agreement as Exhibits B and C , and the scheduling of a final fairness hearing.

5. The Court finds that the proposed Settlement includes sufficient monetary consideration to provide all Class Members and Sub-class Members with a full financial recovery, and the proposed Settlement creates an equitable claims process that will allow Class Members and Sub-class Members an opportunity to obtain additional reimbursement as a result of the nonconsensual tow of their motor vehicle from the Parking Lot by Howard's Towing. This consideration appears to be within the range of reasonableness and an adequate exchange for the Class's release of claims as described in the Agreement.

6. Accordingly, the Court grants preliminary approval of the Settlement, subject to final approval, and authorizes the Parties to conduct their plan for Notice as described in the Agreement.

Notice Plan and Form of Notice

7. The Court finds that the form, content, and method of giving notice to the Class as described in the Agreement: (a) constitutes the best practicable notice to the Class; (b) are

reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the action, the terms of the proposed Settlement, and their rights under the proposed Settlement; (c) are reasonable and constitute due, adequate, and sufficient notice to those persons entitled to receive notice; and (d) satisfy the requirements of Pa. R. Civ. P. 1712 and 1714, the constitutional requirement of due process, and any other legal requirements. The Court further finds that the notices are written in plain language, use simple terminology, and are designed to be readily understandable by Class Members.

8. The Parties and Settlement Administrator are authorized to make non-material modifications to the notices and claim form, such as proofing and formatting alterations, without further Order from this Court.

9. Analytics Consulting, LLC is approved as the Settlement Administrator. The Settlement Administrator is directed to carry out the Notice Program in conformance with the Settlement and to perform all other tasks that the Agreement requires, including the creation of a Qualified Settlement Fund.

10. Within 10 days from the entry of this Order, Class Counsel will provide, or will cause to be provide, available contact information to the Settlement Administrator for all Class Members, and by the Notice Deadline, the Parties and Settlement Administrator shall cause Notice to be disseminated to Class Members and Sub-class Members. The Notice shall be sent to all Class Members identified by the Settlement Administrator based on the information provided by Howard's Towing's Towbook Records, and upon reasonable investigation, as needed to identify Class Members. The Notice from Exhibit B shall also be posted on a Settlement Website created by the Settlement Administrator. The Settlement Administrator shall also establish a toll-free

phone line for Class Members and Sub-class Members to call in order to receive information about the Settlement.

Exclusion from the Class

11. Any Class Member who wishes to be excluded from the Class must mail a written notification of the intent to exclude himself or herself to the Settlement Administrator, Class Counsel, and Defendants' counsel at the addresses provided in the Notice, postmarked no later than sixty (60) days after the Notice Deadline (the "Opt-Out Deadline") and sent via first class postage pre-paid United States mail. The written request for exclusions must include the name of this Litigation or a decipherable approximation (*Jones, et al. v. Alder Highlands Associates LLC, et al.*, GD-18-012298 (Allegheny Ct. Com. Pl.)), the full name, address, and telephone number of the Class Member or the name, address, telephone number, relationship, and signature of any individual who is acting on behalf of a deceased or incapacitated Class Member; and the words "Request for Exclusion" at the top of the document or a statement in the body of the document requesting exclusion from the Settlement.

12. All Class Members who submit valid and timely notices of their intent to be excluded from the Settlement shall not receive any benefits of or be bound by the terms of the Settlement. Any Class Member that does not timely and validly exclude himself or herself from the Settlement shall be bound by the terms of the Settlement. If final judgment is entered, any Class Member that has not submitted a timely, valid written notice of exclusion from the Settlement (in accordance with the requirements of the Settlement) shall be bound by all subsequent proceedings, orders, and judgments in this matter, the Settlement including but not limited to the releases set forth in the Settlement, and the Final Approval Order and Judgment.

Objections to the Settlement

13. A Class Member who complies with the requirements of this Order may object to the Settlement, the request of Class Counsel for an award of attorneys' fees, costs, and expenses, and/or the request for Service Awards.

14. No Class Member shall be heard, and no papers, briefs, pleadings, or other documents submitted by any Class Member shall be received and considered by the Court, unless the objections is (a) filed with the Court by the Objection Deadline; or (b) mailed first-class postage prepaid to the Clerk of Court, Class Counsel, and Defendants' counsel, at the addresses listed in the Notices, and postmarked by no later than the Objection Deadline, which shall be sixty (60) days after the Notice Deadline, as specified in the Agreement. For the objection to be considered by the Court, the objection shall set forth:

- a. the name of the Litigation: *Jones et al. v. Alder Highlands Associates, LLC et al.*, case number GD-18-012298, in the Court of Common Pleas of Allegheny County, Pennsylvania, or a decipherable approximation;
- b. the full name of the objector and full name, address, email address, and telephone number of any person acting on the objector' behalf;
- c. an explanation of the basis upon which the objector claims to be a Class Member;
- d. whether the objection applies only to the objector, a specific subset of the Class, or the entire Class;
- e. all grounds for the objection stated, with specificity, accompanied by any legal support for the objection;
- f. the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement Agreement, Class Counsel's request for attorney's fees, costs, and expenses, or the application for Service Awards;
- g. the identity of all representatives (including counsel representing the objector) who will appear at the Final Approval Hearing;

- h. the number of times in which the objector has objected to a class action settlement within the five years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior such objections that were issued by the trial and appellate courts in each listed case;
- i. if the objector is represented by an attorney who intends to seek fees and expenses from anyone other than the objectors he or she represents, the objection should also include: (i) a description of the attorney's legal background and prior experience in connection with class action litigation; (ii) the amount of fees sought by the attorney for representing the objector and the factual and legal justification for the fees being sought; (iii) a statement regarding whether the fees being sought are calculated on the basis of a lodestar, contingency, or other method; (iv) the number of hours already spent by the attorney and an estimate of the hours to be spent in the future; and (v) the attorney's hourly rate;
- j. any and all agreements that relate to the objection or the process of objecting, whether written or verbal, between the objector or objector's counsel and any other person or entity;
- k. a description of all evidence to be presented at the Final Approval Hearing in support of the objection, including a list of any witnesses, a summary of the expected testimony from each witness, and a copy of any documents or other non-oral material to be presented;
- l. a statement indicating whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and
- m. the objector (or the objector's attorney's) signature on the written objection.

15. In addition, any Class Member that objects to the proposed Settlement must make himself or herself available to be deposed regarding the grounds for the objection and must provide, along with the objection, the dates when the objector will be available to be deposed during the period from when the objection is filed through the date seven days before the Final Approval Hearing.

16. Any Class Member who fails to comply with the provision in this Order will waive and forfeit any and all rights it may have to object, and shall be bound by all the terms of

the Settlement, this Order, and by all proceedings, orders, and judgments, including, but not limited to, the releases in the Settlement, if finally approved. Any Class Member who both objects to the Settlement and opts out will be deemed to have opted out and the objection shall be deemed null and void.

Distribution Plan

17. The Settlement establishes a process and methodology for paying Class Members their share of the Settlement Fund. Specifically, the Settlement Administrator will employ the following procedure to distribute the Settlement Fund. After subtracting the Costs of Settlement Administration from the Settlement Fund, the Settlement Administrator will review Howard's Towing's Towbook Records related to tows from the Parking Lot to determine the amount each Class Member paid to Howard's Towing following the nonconsensual tow of his or her vehicle from the Parking Lot, if any. Upon calculation of the aggregate value of all the payments made to Howard's Towing, the Settlement Administrator will then calculate the *pro rata* share of the remainder of the Settlement Fund owed to each Class Member. The Settlement Administrator will then distribute to each Class Member the combined total of his or her payments made to Howard's Towing and his or her *pro rata* share of the remainder of the Settlement Fund. The Court preliminarily approves this process.

Termination of the Settlement and Use of this Order

18. This Order shall become null and void and shall be without prejudice to the rights of the Parties, all of which shall be restored to their respective positions existing immediately before this Court entered this Order, if the Settlement is not finally approved by the Court or is terminated in accordance with the terms of the Settlement. In such event, the Settlement shall become null and void and be of no further force and effect, and neither the Settlement (including

any Settlement-related filings) nor the Court's orders, including this Order, relating to the Settlement shall be used or referred to for any purpose whatsoever.

19. If the Settlement is not finally approved or there is no Effective Date under the terms of the Settlement, then this Order shall be of no force and effect; shall not be construed or used as an admission, concession, or declaration by or against Defendants of any fault, wrongdoing, breach, or liability; shall not be construed or used as an admission, concession, or declaration by or against any Class Representative or any other Class Member that his or her claims lack merit or that the relief requested is inappropriate, improper, unavailable; and shall not constitute a waiver by any party of any defense or claims it may have in this Litigation or any other lawsuit.

Stay of Proceedings

20. Except as to effectuate this Order, this matter and any deadlines set by the Court in this matter are stayed and suspended pending the Final Approval Hearing and issuance of the Final Approval Order and Judgement, or until further order of this Court.

Continuance of Final Approval Hearing

21. The Court reserves the right to adjourn or continue the Final Approval Hearing and related deadlines without further written notice to the Class. If the Court alters any of those dates or times, the revised dates and times shall be posted on the Settlement Website.

Actions by Class Members

22. The Court stays and enjoins, pending Final Approval of the Settlement, any actions, lawsuits, or other proceedings brought by the Class Members against Defendants related to nonconsensual tows of motor vehicles from the Parking Lot by Howard's Towing during the applicable statute of limitations.

Final Approval Hearing

23. A Final Approval Hearing shall take place before the Court on August 4, 2023 at 9:30 a.m. p.m. in Courtroom 820 before Judge Philip A. Ignelzi of the Court of Common Pleas of Allegheny County, Pennsylvania, City-County Building, 414 Grant Street, Pittsburgh, PA 15219, to determine, among other things: (a) the Settlement should be finally approved as fair, reasonable and adequate and, in accordance with the Settlement's terms, all claims in the Litigation should be dismissed with prejudice; (b) Class Members should be bound by the releases set forth in the Settlement; (c) the proposed Final Approval Order and Judgment should be entered; (d) the application of Class Counsel for an award of attorneys' fees, costs, and expenses should be approved; and (e) the application for Service Awards to the Class Representatives should be approved. Any other matters that the Court deems necessary and appropriate will also be addressed at the hearing.

24. Class Counsel shall submit their application for fees, costs, and expenses and the application for Service awards at least 14 days before the Opt-out/Objection Deadline. Objectors, if any, shall file any response to Class Counsel's motions no later than 17 days prior to the Final Approval Hearing. By not later than 10 days prior to the Final Approval Hearing, responses shall be filed, if any, to any filings by objectors, and any replies in support of final approval of the Settlement and/or Class Counsel's application for attorneys' fees, costs, and expenses and for Service Awards shall be filed.

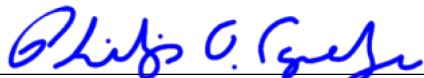
25. Any Class Member that has not timely and properly excluded himself or herself from the Class in the manner described below, may appear at the Final Approval Hearing in person or by counsel and be heard, to the extent allowed by the Court, regarding the proposed Settlement; provided,, however, that no Class Member that has elected to exclude himself or herself from the

Class shall be entitled to object or otherwise appear, and, further provided, that no Class Member shall be heard in opposition to the Settlement unless the Class Member complies with the requirements of this Order pertaining to objections, which are described above and in the Notice.

26. The Settlement, as preliminarily approved in this order, shall be administered according to its terms pending the Final Approval Hearing. Deadlines arising under the Settlement and this Order include but are not limited to the following:

- Notice Deadline: [30 days after the entry of this Order]
- Objection and Opt-Out Deadlines: [90 days after the entry of this Order]
- Final Approval Hearing: [a date to be set by the Court no earlier than 150 days after entry of this Order]
- Application for Attorneys' Fees, Expenses, and Service Awards ("Fee Application"): [76 days after entry of this Order]
- Motion for Final Approval of Settlement ("Final Approval Motion"): [30 days before the Final Approval Hearing]
- Objectors', if any, Response to Final Approval Motion and Fee Application: [17 days before the Final Approval Hearing]
- Replies in Support of final Approval and Fee Motion: [10 days before the Final Approval Hearing].

BY THE COURT:

 , J.
The Honorable Philip A. Ignelzi