

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

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

Plaintiffs,

v.

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

Defendants.

CIVIL DIVISION – CLASS ACTION
The Honorable Philip A. Ignelzi

No. GD-18-012298

**PLAINTIFFS' APPLICATION FOR
ATTORNEYS' FEES, COSTS, AND
SERVICE AWARDS TO
REPRESENTATIVE PLAINTIFFS**

Filed on behalf of Plaintiffs

Counsel of Record for this Party:

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AWARDS TO REPRESENTATIVE PLAINTIFFS**

Plaintiffs Alan Jones and Richard Gross (collectively, "Plaintiffs" or "Class Representatives") respectfully submit this application for: (1) approval of an award of attorneys' fees and costs to Plaintiffs' counsel in the combined amount of \$57,000; and (2) approval of service awards totaling \$3,000. In support of their application, Plaintiffs state as follows:

1. Plaintiffs initiated this case against Defendants Alder Highland Associates, L.P., Howard's Towing and Recovery, LLC, and Howard Szuminsky by way of class action complaint on September 21, 2018, alleging violations of the Pennsylvania Unfair Trade Practices and Consumer Protection Law ("UTPCPL"), 73 Pa. Stat § 202-1, *et seq.*, the Pennsylvania Fair Credit Extension Uniformity Act ("PaFCEUA"), 73 Pa. Stat. § 2270.1, *et seq.*, and various common law causes of action. (Doc. 1).

2. On February 5, 2019, Plaintiffs filed the operative Amended Complaint to add new defendants, including Alder Highlands Associates, LLC, Richard Brouman, and Arhaus. (Doc. 11).

3. Defendants thereafter filed preliminary objections to the Amended Complaint, which were subsequently fully briefed and argued by the Parties, and later overruled by this Court. (Doc. 15, 19, and 25).

4. Defendants respectively answered the Second Amended Complaint on October 23 and November 18, 2019, denying Plaintiffs' asserted claims. (Doc. 26 and 30).

5. On March 18, 2020, all parties to the Litigation stipulated to the dismissal of Alder Highland Associates, LLC; Alder Highlands Associates L.P.; and Richard Brouman, based on the information then known to the parties concerning the towing services provided by Howard's Towing, with respect to the Parking Lot. (Doc. 36).

6. On May 11, 2020, Plaintiffs filed their Motion for Class Certification and on June 16, 2020, the Court, by Defendants' motion, entered an Order permitting the Parties to conduct discovery in advance of the class certification hearing. (Doc. 37 and 39).

7. Following discovery, Plaintiffs later filed their Renewed Motion for Class Certification on December 21, 2020. (Doc. 47).

8. After Plaintiffs' Motion for Class Certification was briefed and argued by the Parties, the Court granted Plaintiffs' Motion for Class Certification on June 29, 2021, directing the matter to go forward as a class action. (Doc. 52). The Court defined the Class and Subclass:

Class:

All individuals who were nonconsensually towed from the Parking Lot by Howard's Towing within the applicable statutes of limitation.

Subclass:

All individuals who were charged and paid a fee in excess of the limits then set by 5 Pittsburgh Code §§ 525.05 for release or return of any passenger cars, light trucks, motorcycles, and scooters that were nonconsensually towed from the Parking Lot by Howard's Towing within the applicable statutes of limitation.

9. By the same Order, the Court deemed Plaintiffs as proper representatives of the Class and appointed Kelly K. Iverson of Lynch Carpenter, LLP and Joshua Ward of J.P. Ward and Associates, LLC as Class Counsel.

10. The Parties participated in a conciliation session on February 8, 2022, before the Honorable Philip A. Ignelzi. The session resulted in a settlement in principle, with the Parties reaching an agreement on the core terms of their proposed settlement, which if approved by the Court, will resolve all claims in the litigation.

11. After reaching a settlement in principle, the Parties began negotiating and drafting the written terms of their agreement, which resulted in the completion and execution of a Proposed Class Action Settlement Agreement and Release, which is attached to Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement and for Authorization of Class Notice as Exhibit A. (Doc. 60)

12. On February 21, 2023, Plaintiffs moved for preliminary approval of the Settlement and authorization of notice to class members. (Doc. 60).

13. The Court entered an order granting preliminary approval and authorizing notice to the Class on February 22, 2023. (Doc. 61).

14. Under the Settlement Agreement, Defendants have agreed, subject to Court Approval, to pay \$57,000 for Class Counsel's attorneys' fees and costs (\$52,000 of which is to be paid by Arhaus and \$5,000 of which is to be paid by Howard's Towing) and up to \$3,000 in service award payments (\$1,500 to each Class Representative). These amounts are separate from and in

addition to Defendants' payments to establish a Settlement Fund for direct monetary relief to class members and for the actual costs of notice and settlement administration.

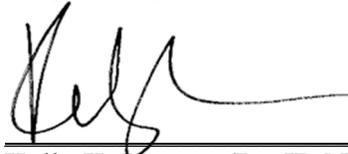
15. The relief requested herein should be considered by the Court at the scheduled fairness hearing on August 4, 2023, in conjunction with Plaintiffs' forthcoming motion for final approval of the Settlement, which will be filed by July 5, 2023, and subject to the Court's review of any objections filed by class members.

16. In further support of their motion, Plaintiffs refer the Court to their attached memorandum of law and the declaration of Co-Class Counsel, Kelly K. Iverson.

WHEREFORE, Plaintiffs respectfully request that along with final approval of the Settlement, the Court: (1) approve a combined award of \$57,000 to Class Counsel as attorneys' fees and reimbursement of litigation expenses; and (2) service awards of \$1,500 to each of the named Plaintiffs for a total of \$3,000.

Dated: May 9, 2023

Respectfully submitted,



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Attorneys for Plaintiffs and the Class

CERTIFICATE OF SERVICE

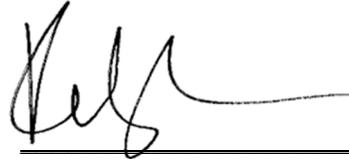
I hereby certify that on May 9, 2023, the foregoing was served by email on the following:

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