

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

BRYAN MAHON and SEAN NOLAN,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

PENN MANAGEMENT REALTY LLC;
PENN MANAGEMENT, INC. D/B/A PENN
SUNOCO; HOWARD'S TOWING AND
RECOVERY, LLC; and HOWARD
SZUMINSKY,

Defendants.

CIVIL DIVISION – CLASS ACTION
The Honorable Philip A. Ignelzi

No. GD-18-12021

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

Filed on behalf of Plaintiffs

Counsel of Record for this Party:

Kelly K. Iverson
(Pa. ID No. 307175)
Elizabeth Pollock-Avery
(Pa. ID No. 314841)
LYNCH CARPENTER LLP
1133 Penn Ave., 5th Floor
Pittsburgh PA, 15222
P: 412.322.9243
Kelly@lcllp.com
Elizabeth@lcllp.com

Joshua P. Ward
(Pa. ID No. 320347)
J.P. WARD & ASSOCIATES, LLC
201 S. Highland Ave, #201
Pittsburgh, PA 15206
P: 412.545.3016
jward@jpward.com

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AWARDS TO REPRESENTATIVE PLAINTIFFS**

Plaintiffs Bryan Mahon and Sean Nolan (collectively, "Plaintiffs" or "Class Representatives") respectfully submit this application for (1) approval of an award of attorneys' fees and costs to Class Counsel in the combined amount of \$17,773.00; and (2) approval of service awards of \$1,000.00 to each of the Class Representatives. In support of their motion, Plaintiffs state as follows:

1. Plaintiffs initiated this case against Penn Management Realty LLC and Howard's Towing by way of class action complaint on September 17, 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. Plaintiffs then filed the operative Amended Class Action Complaint on February 5, 2019, to add Penn Management, Inc. d/b/a Penn Sunoco as a new defendant. (Doc. 14).

3. Defendants thereafter filed preliminary objections which were subsequently fully briefed and argued by the Parties, and later overruled by the Court. (Doc. 17, 19, & 23).

4. Defendants answered the Amended Complaint on October 26 and November 18, 2019, denying Plaintiffs' asserted claims. (Doc. 24 & 25).

5. On May 12, 2020, Plaintiffs filed their Motion for Class Certification and on June 16, 2020, the Court entered an Order permitting the parties to conduct discovery in advance of the class certification hearing. (Doc. 29 & 31).

6. Following discovery, Plaintiffs later filed their Renewed Motion for Class Certification on December 21, 2020. (Doc. 34).

7. 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 as a class action. (Doc. 39). The Court defined the Class as:

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.

8. 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. (*Id.*).

9. The Parties participated in a conciliation session on February 8, 2022, before the Honorable Philip A. Ignelzi. While the Parties were unable to reach an agreement in principle that day, they made substantial progress to resolving the matter and agreed to engage in a second conciliation session.

10. The Parties then participated in a second conciliation session on February 25, 2022, before Judge 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 as Exhibit A to Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement and For Authorization of Class Notice. (Doc. 44)

12. On July 3, 2023, Plaintiffs moved for preliminary approval of the Settlement and authorization of notice to Class Members. (Doc. 43 & 44).

13. The Court entered an order granting preliminary approval of the Settlement and authorizing notice to the Class on July 6, 2023. (Doc. 45).

14. Under the Settlement Agreement, Defendants have agreed, subject to court-approval, to pay \$17,773.00 for Class Counsel's attorneys' fees and costs (\$12,773.00 of which is to be paid by Penn Management and \$5,000.00 of which is to be paid by Howard's Towing) and to pay service awards up to \$1,000.00 to each of the Class Representatives (which is to be paid by Penn Management). These amounts are separate from and in addition to Penn Management's 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 December 7, 2023, in conjunction with Plaintiffs' forthcoming motion for final approval of the Settlement, which will be filed by November 16, 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 brief in support and the declaration of 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 \$17,773.00 to Class Counsel as attorneys' fees and reimbursement of litigation expenses; and (2) service awards of \$1,000.00 to each of the Class Representatives.

Dated: October 2, 2023

Respectfully submitted,



Kelly K. Iverson
(Pa. ID No. 307175)
Elizabeth Pollock-Avery
(Pa. ID No. 314841)
LYNCH CARPENTER LLP
1133 Penn Ave., 5th Floor
Pittsburgh PA, 15222
P: 412.322.9243
Kelly@lcllp.com
Elizabeth@lcllp.com

Joshua P. Ward
(Pa. ID No. 320347)
J.P. WARD & ASSOCIATES, LLC
201 S. Highland Ave, #201
Pittsburgh, PA 15206
P: 412.545.3016
jward@jpward.com

Attorneys for Plaintiffs and the Class

CERTIFICATE OF SERVICE


I hereby certify that on October 2, 2023, the foregoing was served by email on the following:

Joseph A. Hudock, Jr.
Jeffrey C. Catanzarite
Summers McDonnell Hudock Guthrie & Rauch, LLC
Gulf Tower
707 Grant Street, Suite 2400
Pittsburgh, PA 15219
jhudock@summersmcdonnell.com
jcatanzarite@summersmcdonnell.com

Counsel for Howard's Towing and Recovery, LLC and Howard Szuminsky

Eric Soller
Pietragallo Gordon Alfano Bosick & Raspanti
One Oxford Centre, 38th Floor
Pittsburgh, PA 15219
EGS@Pietragallo.com

*Counsel for Penn Management Realty, LLC and Penn Management, Inc.
d/b/a Penn Sunoco*



Kelly K. Iversen