

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

DANA COHEN, JACK LEON, and JAMES
MILLER, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

UPMC PRESBYTERIAN SHADYSIDE;
BOSTON MARKET CORPORATION;
HOWARD'S TOWING AND RECOVERY,
LLC; and HOWARD SZUMINSKY,

Defendants.

CIVIL DIVISION – CLASS ACTION
The Honorable Philip A. Ignelzi

No. GD-18-012332

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

Plaintiffs Dana Cohen, Jack Leon, and James Miller (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 \$34,800; and (2) approval of service awards of \$1,500 to each of the Class Representatives. In support of their motion, Plaintiffs state as follows:

1. Plaintiffs initiated this case against UPMC Presbyterian Shadyside and Howard’s Towing by way of class action complaint on September 24, 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 Boston Market as a new defendant. (Doc. 11).

3. Defendants and UPMC Presbyterian Shadyside thereafter filed preliminary objections which were subsequently fully briefed and argued by the parties, and later overruled by the Court. (Doc. 15, 18, & 19).

4. Defendants answered the Amended Complaint on November 11 and December 12, 2019, denying Plaintiffs' asserted claims. (Doc. 23 & 25).

5. Thereafter, the Parties agreed to a voluntary discontinuance as to UPMC Presbyterian Shadyside on January 29, 2020. (Doc. 29).

6. On May 11, 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. 31 & 34).

7. Following discovery, Plaintiffs later filed their Renewed Motion for Class Certification on December 21, 2020. (Doc. 36).

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 as a class action. (Doc. 45). The Court defined the Class and Subclass as follows:

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 Ignelzi. While the Parties were unable to reach an agreement in principle that day, they made substantial progress in resolving the matter and agreed to engage in a second mediation session.

11. The Parties then participated in a second conciliation session on February 25, 2022, before Judge 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 third conciliation session.

12. The Parties then participated in a third conciliation session which 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.

13. 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 Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement and for Authorization of Class Notice as Exhibit A. (Doc. 48).

14. On July 3, 2023, Plaintiffs moved for preliminary approval of the Settlement and authorization of notice to Class Members. (Doc. 47 & 48).

15. The Court entered an order granting preliminary approval of the Settlement and authorizing notice to the Class on July 5, 2023. (Doc. 49).

16. Under the Settlement Agreement, Defendants have agreed, subject to court-approval, to pay \$34,800 for Class Counsel's attorneys' fees and costs (\$32,800 of which is to be paid by Boston Market and \$2,000 of which is to be paid by Howard's Towing) and to pay service awards of up to \$1,500 to each of the Class Representatives (which is to be paid by Boston Market). 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.

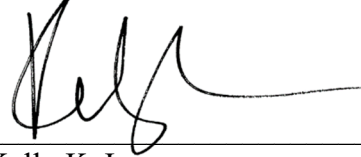
17. The relief requested herein should be considered by the Court at the scheduled fairness hearing on December 7, 2023, in conjunction with Plaintiffs' forthcoming motion for final approval of the Settlement, which will be filed by November 16, 2023, and subject to the Court's review of any objections filed by Class Members.

18. 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 \$34,800 to Class Counsel as attorneys' fees and reimbursement of litigation expenses; and (2) service awards of \$1,500 to each of the Class Representatives.

Dated: October 2, 2023

Respectfully submitted,



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CERTIFICATE OF SERVICE

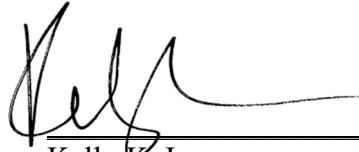
I hereby certify that on October 2, 2023, the foregoing was served by email on the following:

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