

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

FLORENCE WALLACE, ET AL. : **CONSOLIDATED TO:**
:
Plaintiffs, : **CIVIL ACTION NO. 3:09-cv-0286**
:
v. :
: **(JUDGE CAPUTO)**
ROBERT J. POWELL, ET AL. :
:
Defendants. :
:
.....

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

WILLIAM CONWAY, ET AL. :
:
Plaintiffs, : **CIVIL ACTION NO. 3:09-cv-0291**
:
v. :
: **(JUDGE CAPUTO)**
MICHAEL T. CONAHAN, ET AL. :
:
Defendants. :
:
.....

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

H.T., ET AL. :
:
Plaintiffs, : **CIVIL ACTION NO. 3:09-cv-0357**
:
v. :
: **(JUDGE CAPUTO)**
MARK A. CIAVARELLA, ET AL. :
:
Defendants. :
:
.....

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SAMANTHA HUMANIK,	:	
	:	
Plaintiffs,	:	CIVIL ACTION NO. 3:09-cv-0630
	:	
v.	:	
	:	(JUDGE CAPUTO)
MARK A. CIAVARELLA, JR.,	:	
ET AL.	:	
	:	
Defendants.	:	

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ORDER

AND NOW, this ___ day of _____, 2016, upon consideration of Plaintiffs’ Unopposed Motion for Award of Attorneys’ Fees and Costs and any Responses thereto, it is hereby **ORDERED** that said Motion is **GRANTED**.

IT IS FURTHER ORDERED that:

a. Counsel for Plaintiffs and the Class of record herein are hereby awarded combined common benefit attorneys’ fees, disbursements, and costs in the amount of \$1,456,357.91 (30.66% of the gross Settlement Amount).

b. All costs, expenses, and disbursements shall be paid to each of the firms that incurred said costs, expenses and disbursements first. Thereafter, remainder shall be considered the fee. Costs, expenses and disbursements totaling \$31,357.91, are approved. The court will also permit payment of additional costs

incurred and submitted by Co-Lead Counsel in the administration of the settlement out of the Holdback Fund and/or the combined attorneys' fees and costs award.

c. The combined total of the attorneys' fees and reimbursement of disbursements of expenses, totaling \$1,456,357.91, plus interest from date the Escrow Account was funded, covers any and all claims for attorneys' fees and expenses incurred by any and all counsel for common benefit of Plaintiffs and the Class in connection with the Settlement and the administration of such Settlement.

d. The reimbursement of the expenses are to be deposited by the Escrow Agent into an account maintained by Co-Lead Counsel within five business days after entry of this Order and then dispersed to the law firms in the amount each firm incurred and submitted.

e. The attorneys' fees shall remain in Co-Lead Class Counsel's escrow account and shall be dispersed when the class members are paid their awards. The award of common benefit attorneys' fees shall be allocated among plaintiffs' counsel in a fashion which, in the opinion and sole discretion of Co-Lead Class Counsel, fairly compensates plaintiffs' counsel for their respective contributions in the prosecution of the Actions, Individual Actions and Class Actions.

By the Court:

A. Richard Caputo
United States District Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

FLORENCE WALLACE, ET AL.	:	CONSOLIDATED TO:
	:	
Plaintiffs,	:	CIVIL ACTION NO. 3:09-cv-0286
	:	
v.	:	
	:	(JUDGE CAPUTO)
ROBERT J. POWELL, ET AL.	:	
	:	
Defendants.	:	

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

WILLIAM CONWAY, ET AL.	:	
	:	
Plaintiffs,	:	CIVIL ACTION NO. 3:09-cv-0291
	:	
v.	:	
	:	(JUDGE CAPUTO)
MICHAEL T. CONAHAN, ET AL.	:	
	:	
Defendants.	:	

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

H.T., ET AL.	:	
	:	
Plaintiffs,	:	CIVIL ACTION NO. 3:09-cv-0357
	:	
v.	:	
	:	(JUDGE CAPUTO)
MARK A. CIAVARELLA, ET AL.	:	
	:	
Defendants.	:	

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SAMANTHA HUMANIK,	:	
	:	
Plaintiffs,	:	CIVIL ACTION NO. 3:09-cv-0630
	:	
v.	:	
	:	(JUDGE CAPUTO)
MARK A. CIAVARELLA, JR.,	:	
ET AL.	:	
	:	
Defendants.	:	

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**PLAINTIFFS’ UNOPPOSED MOTION FOR AWARD
OF ATTORNEYS’ FEES AND COSTS**

Plaintiffs have, contemporaneously with the filing of the present Unopposed Motion for Attorneys’ Fees and Costs, filed their Unopposed Motion for Final Approval of Settlement and Class Certification. The present Motion and Brief address only the award of attorneys’ fees and costs. In support of their request for a combined award of attorneys’ fees and costs, Plaintiffs by and through their undersigned counsel, aver the following:

1. Plaintiffs’ counsel request a combined award of common benefit attorneys’ fees and expenses of \$1,456,357.91.¹ This amount will be paid directly from the Settlement Amount. The total represents a combined award of common

¹ Upon the payment of the “Second Payment”, plaintiffs will receive the agreed upon 30% unopposed fee.

benefit attorneys' fees and common benefit expenses and costs incurred by plaintiffs' counsel of 30.66%.

2. Pursuant to the terms of the Settlement Agreement, the Powell Defendants agreed not to oppose an attorneys' fee award not to exceed 30% plus an additional amount for common benefit expenses. *See* Master Stipulation and Agreement of Settlement, a copy of which is attached to Plaintiffs' Brief in Support of this Motion, made a part hereof and marked Exhibit "A" at ¶ 44.

3. As stated above, the combined amount of the attorneys' fees and costs will be slightly below 31% (30.66%), with the fee amount at 30% of the total Settlement Amount and is fair and reasonable considering the thousands of people who benefitted from the Settlement, the skill and proficiency of counsel, the complexity and duration of the litigation, and the amount of time expended by Class Counsel in achieving the result for the Class. *See Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190, 195 (3d Cir. 2000) (identifying seven factors to be considered in the Third Circuit when deciding whether to approve a fee petition); *see also Varacallo v. Mass. Mutual Life Ins. Co.*, 226 F.R.D. 207, 248 (N.J. 2005) (finding requested attorneys' fees of \$58.1 million reasonable using common-fund method of fee calculation on settlement valued at \$771.9 million).

4. The percentage that Class Counsel requests as an award of attorneys' fees is also within the range of attorneys' fees approved in similar cases. *See Boone*

v. City of Philadelphia, 668 F. Supp.2d 693, 713 – 15 (finding range of awards for attorneys’ fees only in similar actions to be on average 37.1% in class action settlements ranging from \$1 Million to \$50 Million and finding an award of attorneys’ fees only totaling 30% in civil rights actions regarding strip searches to be reasonable).

5. In the previous Mericle Settlement, this Court approved a 24.4% award of combined attorneys fees and costs. *See* December 14, 2012 Order at ¶ 19 (Doc. No. 1268.).

6. In the previous Provider Defendant Settlement, this Court approved a 29.3% award of combined attorney fees and costs. *See* July 7, 2014 Order at ¶ 19 (Doc. No. 1539).

7. Judicial review of attorneys’ fee applications in class actions is mandated to assure that attorneys’ fees are fair and reasonable. *See* Fed R. Civ. P. 23(h); *see also In re General Motors Pick-up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d 768, 819 (3d Cir. 1995). The decision to approve an attorneys’ fee petition and the amount of an award of attorneys’ fees is within this Court’s sound discretion. *In re Cendant Corp. Prides Litig.*, 243 F.3d 722, 727-30 (3d Cir. 2001). Using the percentage-of-recovery method of calculating fees, and assessing the fee against the seven factors enumerated by the Third Circuit in *Gunter*, Co-Lead

Counsel submit that their request for Common Benefit Fees and Expenses should be granted.

8. Further support for this Motion is set forth, at length, in Plaintiffs' Brief in Support of Plaintiffs' Unopposed Motion for Award of Attorneys' Fees and Costs, which is incorporated herein.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court grant their Unopposed Motion for Award of Attorneys' Fees and Costs.

Dated: November 25, 2015

Respectfully submitted,

By: /s/ William R. Caroselli

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Case No. 09-0630

**CERTIFICATION OF CONCURRENCE PURSUANT TO
LOCAL RULE 7.1**

I, David S. Senoff Esquire, Co-Lead Counsel do hereby certify that I sought concurrence for the within Motion from each and every party who has standing to object to this motion and all of said parties concur in this motion.

RESPECTFULLY SUBMITTED,

ANAPOL WEISS

BY: /s/ DAVID S. SENOFF

DAVID S. SENOFF, ESQUIRE

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Date: November 25, 2015

CERTIFICATE OF SERVICE

I, David S. Senoff, Esquire, hereby certify that, a true and correct copy of the Plaintiffs' Unopposed Motion for Award of Attorneys' Fees and Costs, was filed electronically on November 25, 2015 and is available for viewing electronically. Additionally, the foregoing Motion was served by First Class Mail upon the following *pro se* parties:

Mark Ciavarella 15008-067
FCI Williamsburg
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Salters, SC 29590

Michael Conahan 15009-067
FCI Coleman Low
846 NE 45th Terrace
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