

DAVID CERICOLA, RYAN GINSBERG, GINA ANGELOTTI, RICHARD KOSAK, TYLER RISSLER, ROBERT SZOSTKIEWICZ, and PICKERING MEADOWS COMMUNITY ASSOCIATION, individually and on behalf of all others similarly situated,

Plaintiffs,

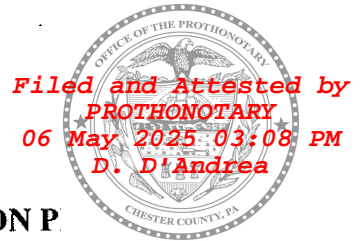
v.

A.J. BLOSENSKI, INC., a Pennsylvania Corporation,

Defendant

COURT OF COMMON P
CHESTER COUNTY

No. 2023-10303-CT



ORDER GRANTING PLAINTIFFS' ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARDS

WHEREAS, Plaintiffs and Defendant A.J. Blosenski, Inc. executed an agreement to settle this matter, subject to Court approval;

WHEREAS, the Court reviewed the parties' Settlement Agreement and issued an order granting preliminary approval to it;

WHEREAS, pursuant to the Settlement Agreement, Plaintiffs are permitted to move for attorneys' fees in an amount not to exceed one-third of the value of the total Settlement Funds, net of costs, for their efforts on behalf of the Class;

WHEREAS, Plaintiffs filed a motion seeking one-third of the settlement fund (\$125,000) in attorneys' fees and expenses, as well as \$500 for each Plaintiff, not to exceed \$750 per household (\$4,500 total);

WHEREAS, after considering Plaintiffs' motion, memorandum of law and support materials (including the declaration from counsel) as well as any materials that may be filed in

opposition thereto, the Court having concluded that Plaintiffs' request for fees, expenses, and the payment of incentive awards is reasonable and permissible under applicable law;

IT IS ORDERED AS FOLLOWS:

1. The Court finds the attorneys' fees and costs requested by Class Counsel are fair and reasonable, given Class Counsel's lodestar of \$145,055.00 at the time of filing their motion. The Court has reviewed the declaration submitted by Class Counsel and finds Class Counsel reasonably spent over 308.70 hours representing the interests of the Class through this litigation, that Class Counsel's hourly rates are reasonable and in line with the prevailing rates in the community for complex class action litigation, and that the costs incurred by Class Counsel to prosecute the litigation were reasonable.

2. The Court finds that Class Counsel are entitled to an award of attorneys' fees because there is both express statutory authorization for their fee request in addition to a clear agreement of the parties. *Gall v. Crawford*, 982 A.2d 541 (Pa. Super. 2009). The express statutory authorization comes from Plaintiffs' claim under the Pennsylvania Unfair Trade Practices and Consumer Protection Law, which permits the Court to award reasonable attorneys' fees and costs. Pennsylvania's common fund doctrine also permits the award of fees from a fund within the jurisdiction of the court pursuant to 42 Pa. Stat. and Cons. Stat. Ann. § 2503(8). The clear agreement of the parties comes from the parties' Settlement Agreement. SA § IX, IV.

3. The Court finds that the factors enumerated in Pa. R. Civ. P. 1717 support Plaintiffs' request. Specifically:

- a. The time and effort reasonably expended by the attorney in the litigation supports the requested attorneys' fees. As of September 27, 2024, Class Counsel's actual lodestar of \$145,055.00 had already exceeded the requested

fee and expense award. The Court further finds that Class Counsel's lodestar will continue to increase as they assist Settlement Class Members with the claims process.

- b. The quality of services rendered supports the requested attorneys' fees. The Court finds that Class Counsel is highly experienced in class action litigation, and conducted an extensive investigation into the alleged service disruptions by, *inter alia*, interviewing members of the putative class and reviewing their documents, researching consumer reporting on various websites, reviewing local Township's meeting minutes related to service issues with AJB, researching potential causes of action, drafting pre-litigation demand letters to AJB, and drafting a detailed Complaint and Amended Complaint. Further, Class Counsel and Counsel for AJB engaged in extensive, complex, and arm's-length negotiations regarding the resolution of the claims alleged in this lawsuit, and exchanged confirmatory discovery subject to Rule 408 of the Pennsylvania Rules of Evidence.
- c. The results achieved also supports the requested attorneys' fees. The Settlement makes substantial relief available to approximately 100,000 Settlement Class Members, and the relief afforded by the Settlement is demonstrative of both the vigor and persistence with which Class Counsel prosecuted this litigation.
- d. The magnitude, complexity, and uniqueness of the litigation supports the requested attorneys' fees. The Court finds that any class action presents complex and unique questions regarding both liability and damages. Further, had the case not settled, the parties would engage motions to dismiss, motions

for summary judgment, the parties would enter discovery and file discovery motions, and eventually arrive at class certification years from now.

- e. The last factor, whether receipt of a fee was contingent on success, also supports the requested attorneys' fees, as Class Counsel has prosecuted this litigation on a purely contingent basis and the risk of non-recovery was substantial.

4. The Court finds that Class Counsel's request for one-third of the Settlement Fund is reasonable, as numerous other courts have. *Myers v. Jani-King of Philadelphia, Inc.*, No. 09-cv-1738, 2019 WL 4034736, at *11 (E.D. Pa. Aug. 26, 2019) (citing cases and noting that "the requested fee of one-third (1/3) of the settlement amount is reasonable in comparison to awards in other cases."); *Stagi v. Nat'l R.R. Passenger Corp.*, 880 F. Supp. 2d 564, 571 (E.D. Pa. 2012) (noting that fee awards generally range between nineteen and forty-five percent of the common fund); *In re Merck & Co., Inc. Vytarin Erisa Litig.*, No. 08-cv-285, 2010 WL 547613, at *11 (D.N.J. Feb. 9, 2010) (stating "review of 289 settlements demonstrates "average attorney's fee percentage [of] 31.71% with a median value that turns out to be one-third"); *Milkman v. Am. Travellers Life Ins. Co.*, 61 Pa. D. & C.4th 502, 567 (Com. Pl. 2002) (finding fee awards between twenty and thirty percent of the common fund to be "quite common").

5. The Court finds that the Settlement Class Members were adequately apprised of Plaintiffs' intention to seek attorneys' fees in an amount not to exceed one-third of the value of the total Settlement Funds, net of costs, for their efforts on behalf of the Class as well as an amount not to exceed \$1,000 for each Plaintiff, not to exceed \$1,000 per household (\$6,000 total), as the Notice of Settlement stated such intention, and a copy of Plaintiffs' motion for attorneys' fees, expenses, and service awards was posted on the Settlement Website on October 3, 2024, substantially in advance of the October 18, 2024 deadline to object and/or opt-out of the

Settlement.

6. The Court also finds that the proposed incentive awards are reasonable. The Court has considered the following factors and finds that each supports the requested incentive awards: (1) the risk to the class representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the class representative; (3) the amount of time and effort spent by the class representative; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation. *In re Bridgeport Fire Litig.*, 2010 PA Super 181, 5 A.3d 1250, 1257-58 (2010). Specifically, each Plaintiff searched for and produced documents related to their claims, stayed abreast of developments in the litigation, participated in conferences with their attorneys, and attached their names to this litigation. Had the case not settled, each Plaintiff was prepared to go forward to trial.

7. In light of the foregoing, and upon the Court's consideration of the briefing and declarations submitted, Plaintiffs' Motion for Attorneys' Fees, Expenses, and Service Awards is **GRANTED**. Any objections to Plaintiffs' Motion for Attorneys' Fees, Expenses, and Service Awards are hereby overruled.

8. One-third of the Settlement Fund (\$125,000) shall be distributed to Class Counsel for payment of their attorneys' fees and expenses.

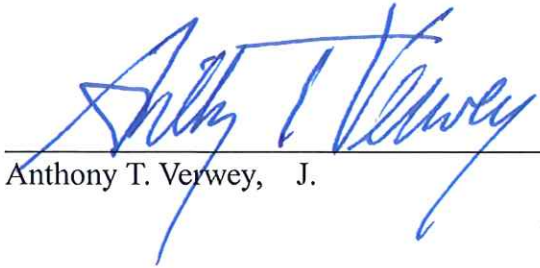
9. \$750 to each Plaintiff, not to exceed \$750 per household (\$4,500 total) shall be distributed to the Plaintiffs as service awards.

10. All other payments and costs shall be borne as set forth in the Settlement Agreement or as agreed to by the parties.

IT IS SO ORDERED.

BY THE COURT:

Dated: 5/6/2025



Anthony T. Verwey, J.