

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

CHRISTOPHER ZIMMERMAN, COREY  
MIZELL, STEPHANIE DAWSON, and  
MIKE LEWIS, individually and on behalf of  
all others similarly situated,

Plaintiffs,

v.

SONYA LAZAREVIC, ZORAN  
LAZAREVIC, SYLVIA DUDA; COGO'S  
CO.; and BRIAN HAENZE d/b/a AUTO  
GALLERY & ACCESSORIES and as TAG  
TOWING AND COLLISION,

Defendants.

CIVIL DIVISION – CLASS ACTION

No. GD-18-012068

**AMENDED CLASS ACTION  
COMPLAINT**

Filed on behalf of Plaintiff

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Defendants.

**NOTICE TO DEFEND**

**YOU HAVE BEEN SUED IN COURT.** If you wish to defend against the claims set forth in the following pages, you must take action within **TWENTY (20)** days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you. **YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE.**

**IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.**

**IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.**

LAWYER REFERRAL SERVICE  
The Allegheny County Bar Association  
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436 Seventh Avenue  
Pittsburgh, PA 15219  
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**AMENDED CLASS ACTION COMPLAINT**

COMES NOW PLAINTIFF, CHRISTOPHER ZIMMERMAN, COREY MIZELL, STEPHANIE DAWSON, and MIKE LEWIS, individually and on behalf of all others similarly situated, ("Plaintiffs"), individually and on behalf of a class of similarly situated persons, by and through undersigned Counsel of Record, and files this Amended Class Action Complaint against the above named Defendants, including SONYA LAZAREVIC, ZORAN LAZAREVIC, SYLVIA DUDA, COGO's CO., and Brian HAENZE D/B/A AUTO GALLERY & ACCESSORIES AND AS TAG TOWING AND COLLISION (collectively "Defendants"), showing the Court as follows:

**INTRODUCTION**

1. This civil action arises out of Defendants' predatory and illegal towing practices, perpetrated against thousands of people, for Defendants' financial gain.
2. Upon information and belief, Defendants Sonya Lazarevic, Zoran Lazarevic, and Sylvia Duda own the property known as 925 East Carson Street, Pittsburgh, PA 15203, bearing an

Allegheny County Parcel Identification Number: 0003-G-00066-0000-00, upon which CoGo's Co. operates a Cogo's filling station and convenience store. Hereinafter, Sonya Lazarevic, Zoran Lazarevic, Sylvia Duda, and CoGo's Co. are collectively referred to as "Property Defendants."

3. Haenze and Auto Gallery and Accessories are registered as the owners of the fictitious name TAG Towing & Collision (hereinafter "Haenze" or "TAG Towing").

4. To attract and retain tenants, and thus maximize revenue, Property Defendants engaged Brian Haenze, a known hyper-vigilant towing business, to remove vehicles that are left unattended by drivers who park in Cogo's but who do not patronize the business at that address.

5. Haenze, on behalf of himself and the Property Defendants, retains possession of these towed vehicles and will not release the vehicles to their owners until he is paid a fee that substantially exceeds the maximum fees the City of Pittsburgh allows for such non-consensual towing services.

6. Against this backdrop, Plaintiffs assert claims under Pennsylvania's Vehicle Code, common law, and for violations of Pennsylvania's Unfair Trade Practices and Consumer Protection Law.

#### **THE PARTIES**

7. At all times relevant herein, Plaintiff Christopher Zimmerman, is and was a citizen of Pennsylvania, residing in Pittsburgh, PA.

8. At all times relevant herein, Plaintiff Corey Mizell, is and was a citizen of Pennsylvania, residing in Baldwin, PA.

9. At all times relevant herein, Plaintiff Stephanie Dawson, is and was a citizen of Pennsylvania, residing in Pittsburgh, PA.

10. At all times relevant herein, Plaintiff Mike Lewis, is and was a citizen of Pennsylvania, residing in Pittsburgh, PA.

11. At all times relevant herein, Defendant Sonya Lazarevic is and was a resident of Allegheny County, Pennsylvania, with a residence at 48 South 10<sup>th</sup> Street, Pittsburgh, PA 15203.

12. At all times relevant herein, Defendant Zoran B. Lazarevic is and was a resident of Allegheny County, Pennsylvania, with a residence at 911 East Carson Street, Pittsburgh, PA 15203.

13. At all times relevant herein, Sylvia E. Duda is and was a resident of California, with a last known residence at 505 West Avenida De Las Flores, Thousand Oaks, CA 91360-1507.

14. Lazarevic, Lazarevic, and Duda are the owners of 925 East Carson Street, Pittsburgh, PA 15203.

15. Defendant CoGo's Co. is a Pennsylvania corporation with its principal place of business at 2589 Boyce Plaza Road, Pittsburgh, PA 15214. Upon information and belief, CoGo's Co. operates a CoGo's gas station on the property located at 925 East Carson Street, Pittsburgh, PA 15203 and at issue in this Amended Complaint.

16. Upon information and belief, at all times relevant herein, Defendant Brian Haenze is and was a resident of Allegheny County, Pennsylvania. Haenze and Auto Gallery and Accessories "LLC" hold themselves out to be the owners of the fictitious name, TAG Towing. However, Auto Gallery and Accessories is not registered as an LLC in the Commonwealth of Pennsylvania and, instead, is merely a registered fictitious name owned by Haenze. Upon information and belief, Haenze is a sole proprietor operating under various fictitious names, including TAG Towing.

17. At all times relevant herein, Auto Gallery and Accessories is and was a domestic fictitious name organized and existing under the laws of Pennsylvania with an address of 4617 Easy St., West Mifflin, Allegheny County, PA 15122.

18. At all times relevant herein, TAG Towing & Collision is and was a domestic fictitious name organized and existing under the laws of Pennsylvania with an address of 5945 Buttermilk Hollow Rd., Pittsburgh, Allegheny County, Pennsylvania, 15207.

### **JURISDICTION AND VENUE**

19. The Court has subject matter jurisdiction over this action pursuant to 42 Pa. C.S.A. § 931 and 73 Pa. Stat. Ann. § 201-9.2.

20. The Court has personal jurisdiction over Defendant pursuant to 42 Pa. C.S.A. § 5301.

21. Venue in Allegheny County is proper pursuant to Pa. R.C.P. No. 2179(a) because it is where Defendants reside and/or own the Property; where Defendants regularly conduct business; and where the cause of action arose.

### **FACTUAL ALLEGATIONS**

#### **I. The Cogo's Filling Station and Convenience Store**

22. Cogo's is located at 925 East Carson Street, Pittsburgh, PA 15203, bearing an Allegheny County Parcel Identification Number: 0003-G-00066-0000-00 (the "Property"). The Property includes a small parking lot (the "Parking Lot").

23. Property Defendants own the Property and/or operate a CoGo's gas station on the Property.

24. Property Defendants employed TAG Towing to remove vehicles that are left

unattended by drivers who park in the Parking Lot. Consequently, TAG Towing acts as the agent of, at the behest of, and/or in conspiracy with Property Defendants when engaging in the unlawful non-consensual towing that is the subject of this complaint.

25. Upon information and belief, Property Defendants installed and maintains signs at the Property that identify TAG Towing as its agent responsible for removing unattended, unauthorized vehicles from the Parking Lot.

## **II. TAG Towing**

26. TAG Towing has been in business since least November 15, 2013.

27. TAG Towing engages in, or offers wrecker or towing services, whereby motor vehicles are or may be towed or otherwise removed from one place to another by the use of a motor vehicle specifically adapted to and designed for that purpose.

28. TAG Towing operates in Allegheny County, and does most of its business—non-consensual towing—in Pittsburgh, Pennsylvania.

29. A non-consensual tow “is the towing of a vehicle improperly parked or trespassing on private property at the request of the property owner, or the property owner’s authorized agent without prior consent or authorization by the owner or operator of the vehicle.” *See* 7 Pittsburgh Code § 764.01(f).

30. The centerpiece of TAG Towing’s business model is to patrol private parking lots vigilantly, remove unattended, unauthorized vehicles that are parked there without delay, and hold those vehicles until their owners pay an illegally inflated fee for their return.

31. Upon information and belief, Defendant Haenze participated in and directed the wrongful, injury producing conduct alleged herein while acting in the course and scope of his

position as a sole proprietor.

### **III. Defendants Charge Consumers More Than The Law Allows.**

32. Pennsylvania allows Property Defendants to, in some circumstances, remove (or have removed) “a vehicle [that] is parked or left unattended” in its private parking lot “at the reasonable expense of the owner of the vehicle.” 75 Pa. C.S.A. § 3353(c).

33. In such circumstances, Pennsylvania law gives Property Defendants “a lien against the owner of the vehicle, in the amount of the reasonable value of the costs of removing the vehicle plus the costs of storage.” *Id.*

34. The Pennsylvania legislature allows cities, like Pittsburgh, to establish maximum reasonable “rates to be charged for removal of vehicles.” *Id.*

35. The City of Pittsburgh has taken advantage of the legislature’s deference, and has set the Towing Fees that owners may be charged for a non-consensual tow. This Fee Schedule is provided in Pittsburgh’s City Ordinances, at 5 Pittsburgh Code § 525.02 and § 525.05.

36. Relevant to this case, the City of Pittsburgh amended 5 Pittsburgh Code § 525.02, effective August 11, 1997, setting the Towing Fee that may be charged for a non-consensual tow at one-hundred ten dollars (\$110.00). This amount applies to passenger cars, light trucks, motorcycles, and scooters.<sup>1</sup>

37. The City subsequently amended § 525.02, effective December 28, 2015, increasing

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<sup>1</sup> See the August 11, 1997 version of 5 Pittsburgh Code § 525.02 (available at [https://library.municode.com/pa/pittsburgh/codes/code\\_of\\_ordinances/249908?nodeId=CD\\_OR\\_D\\_TITFIVETR\\_ARTIIITO\\_CH525TOCH\\_S525.02SCTOFE&showChanges=true](https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances/249908?nodeId=CD_OR_D_TITFIVETR_ARTIIITO_CH525TOCH_S525.02SCTOFE&showChanges=true)) (last accessed May 15, 2018).



the Towing Fee for a non-consensual tow to one-hundred thirty-five dollars (\$135.00).<sup>2</sup> This amount also applies to passenger cars, light trucks, motorcycles, and scooters.

38. By law, Defendants are specifically prohibited from charging vehicle owners “any fees, services, costs, expenses or other things than the towing and storage fees permitted [by Section 525.05(b) and (c)].” 5 Pittsburgh Code § 525.05(d).

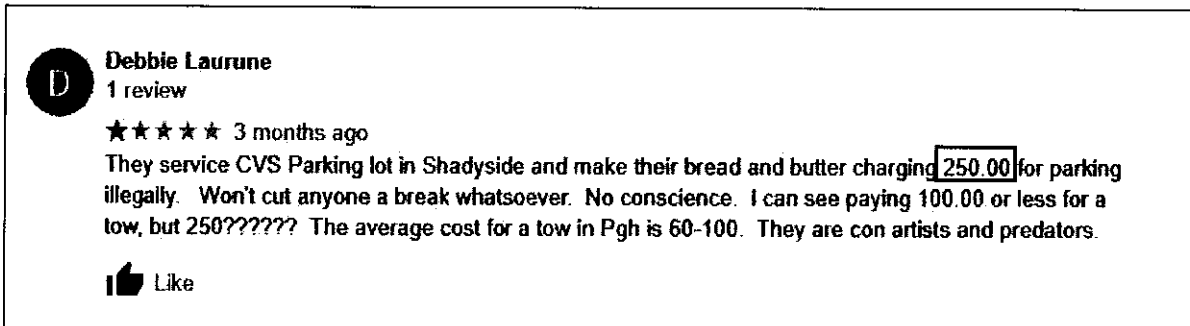
39. Property Defendants engaged TAG Towing to engage in non-consensual tows from the Parking Lot and to enforce Property Defendant’s lien against the vehicles’ owners.

#### IV. TAG Towing Consistently Charges \$220-\$250 Towing Fees.

40. TAG Towing consistently charges vehicle owners approximately \$200-\$250 in fees following a non-consensual tow.

41. For example:

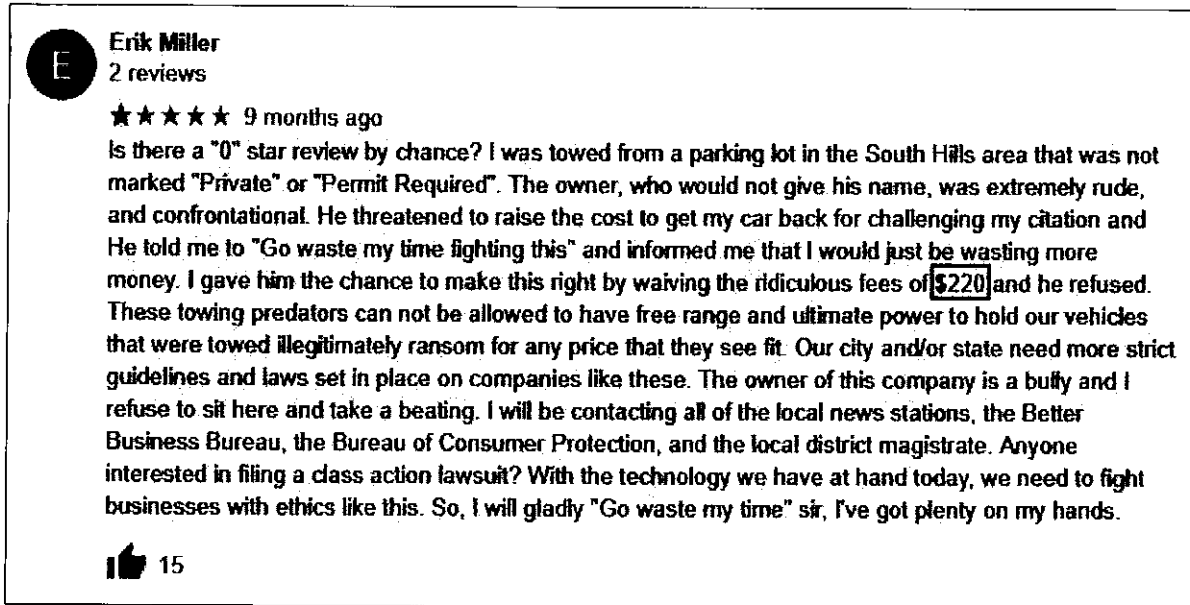
(a) A Google review from approximately March 2018 provides<sup>3</sup>:



<sup>2</sup> See the December 28, 2015 version of 5 Pittsburgh Code 525.02 (available at [https://library.municode.com/pa/pittsburgh/codes/code\\_of\\_ordinances?nodeId=COOR\\_TITFIVE\\_TR\\_ARTIIITO\\_CH525TOCH\\_S525.02SCTOSTFE&showChanges=true](https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=COOR_TITFIVE_TR_ARTIIITO_CH525TOCH_S525.02SCTOSTFE&showChanges=true) (last accessed May 15, 2018)).

<sup>3</sup> See <https://www.google.com/maps/contrib/113542737279949079520/place/ChIJkULjhPDvNIgR4msnqnC0uCI/@40.4971254,-79.9817544,11z/data=!4m6!1m5!8m4!1e1!2s113542737279949079520!3m1!1e1?hl=en-US> (last accessed June 12, 2018).

(b) Another Google review from approximately September 2017 provides<sup>4</sup>:



(c) Another review from approximately June 2017, and TAG Towing's response, confirms that TAG Towing knowingly charges these illegal fees "as the property owner requests"<sup>5</sup>:

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<sup>4</sup> See <https://www.google.com/maps/contrib/110858792239671344754/place/ChIJkULjhPDvNIgR4msnqnC0uCI/@40.3639004,-79.9776239,12z/data=!4m6!1m5!8m4!1e1!2s110858792239671344754!3m1!1e1?hl=en-US> (last accessed June 12, 2018).

<sup>5</sup> See <https://www.google.com/maps/contrib/103534852463176197804/place/ChIJkULjhPDvNIgR4msnqnC0uCI/@40.3329521,-79.9520651,13z/data=!4m6!1m5!8m4!1e1!2s103534852463176197804!3m1!1e1?hl=en-US> (last accessed June 12, 2018).



**Matthew Griener**  
3 reviews · 1 photo

★★★★★ a year ago

Had to pay **\$250** cash only of course, for being parked legally on Rosewood, even after moving from the parking lot across from the Crafthouse on the advice of the staff there because the valet service was causing traffic on Curry Road. I came out an hour later and the car was gone. I gave the person \$260 and he couldn't give me change, claiming "the safe wasn't open".

Nice scam they have going with the Crafthouse and the other local businesses on weekends. The quote from a business owner was "They are out of control."

I live in the city of Pittsburgh and have been towed once, because of parking changes due to the Pittsburgh Marathon, and the pickup was \$100. \$250?? Baffles me how they are still allowed to get away with this.

Like

**Response from the owner** 10 months ago

Please own the fact you parked in a lot you weren't authorized to and totally disregarded signage placed there to make sure you were aware your vehicle would be towed if you did so. You chose to ignore the signs and are making things up now to give us a bad review. This is just plain wrong! I understand your upset but we do as the property owner requests and if you owned a business and your customers couldn't park and went elsewhere because someone was parked illegal in sure you would do the same

(d) A Better Business Bureau complaint from January 30, 2017 states, in part: "The driver, named Sam came out and processed my paperwork and I gave him \$220 in cash."<sup>6</sup>

(e) A March 9, 2018 Yelp review details the disgusting conduct another consumer suffered:

I admit that I parked illegally downtown in a what I thought was a CVS parking lot. The parking was entirely my fault as I didn't see the "do not park" sign in the snow and dark conditions. I admitted defeat and called the number on the sign and was directed to this towing company. We had to get an Uber to a location that was 30 minutes away from where I was parked. I begrudgingly held out my card to pay the \$250 fee to be told it was cash only. I didn't have cash on me. They then offered to "drive me to an ATM" in an old, filthy car. As a small female at after dark this

<sup>6</sup> See <https://www.bbb.org/pittsburgh/business-reviews/used-car-dealers/auto-gallery-the-in-pittsburgh-pa-71003533/reviews-and-complaints?section=reviews> (last accessed June 12, 2018).

situation immediately had me on alert for my safety. My car was not visible at this time. I asked to see the car because I was unsure if this business was legitimate. There were around eight men in an office who were all standing laughing at me and my question. The owner came out and told me in a threatening manner he would "kiss my ass twice". They then asked for the keys to my car to show me that they actually had it. So now they wanted **\$250 cash** and the keys to my car. I was very frightened as these men were some real shady characters. It was clear they were consuming alcohol as there were cocktails laying around. This place looks more like a money laundering front than any kind of car sales and towing business. I'm extremely happy my boyfriend was with me and would caution anyone calling these people for a tow. I will be filing a report to BBB due to this threatening and unprofessional experience.

**V. TAG Towing Has Actual Knowledge Of Pittsburgh's Fee Caps.**

42. At all times relevant herein, TAG Towing has and had actual knowledge of Pittsburgh's Ordinances governing Towing Businesses and the fees that Towing Businesses may charge to operate in the City of Pittsburgh. *See* 5 Pittsburgh Code § 525.01 *et seq.*, and 7 Pittsburgh Code § 761.01 *et seq.* (hereinafter collectively "Towing Ordinances"), which Towing Ordinances are, and at all times relevant herein were available for free on the City of Pittsburgh's website, at <http://pittsburghpa.gov/city-info/open-gov.html>.

43. TAG Towing has repeatedly demonstrated its knowledge of Pittsburgh's Towing Ordinances in its responses to complaints made against it. For example, TAG Towing's owner, Brian Haenze, told KDKA's Andy Sheehan on or about April 16, 2018 that the Towing Ordinances apply only to Pittsburgh's own designated tow company, McGann and Chester, and that Pittsburgh "does not have the power to cap towing fees."<sup>7</sup>

44. Below is the August 11, 1997 version of 5 Pittsburgh Code § 525.02, conspicuously

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<sup>7</sup> Andy Sheehan, KDKA, *KDKA Investigates: Attorney Challenges Predatory Towing Practices* (Apr. 16, 2018) (<http://pittsburgh.cbslocal.com/2018/04/16/kdka-investigates-predatory-towing-challenge/>) (last accessed June 12, 2018).

setting the non-consensual Towing Fee at one-hundred ten dollars (\$110.00) in an easy-to-understand table.

| § 525.02 - SCHEDULE OF TOWING FEES.  |        |
|--|--------|
| The charges for towing each designated type of vehicle to the City towing pound shall be as follows: |        |
| Passenger cars, light trucks, motorcycles and scooters   | \$ 110 |
| Trucks and Truck Tractors:   |        |

45. Similarly, below is the December 28, 2015 version of 5 Pittsburgh Code § 525.02, which also conspicuously sets forth the non-consensual Towing Fee in an easy-to-understand table, and raising it to one-hundred thirty-five dollars (\$135.00).

| § 525.02 - SCHEDULE OF TOWING AND STORAGE FEES.  |        |
|--|--------|
| The charges for towing each designated type of vehicle to the City towing pound shall be as follows: |        |
| Passenger cars, light trucks, motorcycles and scooters   | \$ 135 |
| Trucks and Truck Tractors:   |        |

## **VI. Property Defendants Know And Promote These Illegal Towing Practices.**

46. Property Defendants know or should know that TAG Towing charges illegal Towing Fees to owners for the return of their unattended vehicles. For example:

(a) The City of Pittsburgh requires Property Defendants to give “written consent” to TAG Towing each and every time TAG Towing removes a vehicle from the Parking Lot.

The Tow Truck Operator must first obtain the written consent of the private property owner or the owner's agent for each vehicle to be towed. The written consent should have the date and time of the request for the tow. The written consent from the private property owner or owner's agent must include a written signature that is manually affixed to a hardcopy document that provides a description of each vehicle to be tow. The description, at minimum, shall include:

the make, the color and plate number of each vehicle to be towed.

7 Pittsburgh Code § 764.21(a).

(b) Upon information and belief, Property Defendants have contracted TAG Towing to remove unattended vehicles from the Parking Lot.

(c) On May 5, 2015, WPXI-TV Pittsburgh aired a similar story about predatory towing in the City of Pittsburgh, where the Property is located. There too, another towing company had charged the vehicle owner a \$185 fee, or \$75 more than the City then allowed. Upon information and belief, Property Defendants are a member of WPXI-TV Pittsburgh's media market.<sup>8</sup>

## **VII. Plaintiffs' Experience**

### **(a) Christopher Zimmerman**

47. On or about May 17, 2018, Plaintiff parked his vehicle in the Parking Lot.

48. On the aforementioned date, Plaintiff returned to the Parking Lot and discovered that TAG Towing had affixed his vehicle to the tow truck, or was attempting to affix the vehicle to the tow truck.

49. A representative of TAG Towing demanded that Plaintiff pay a 'drop fee' of \$215.00, otherwise, the vehicle would be towed to TAG Towing's lot and Plaintiff would have been subject to additional charges. TAG Towing insisted that Plaintiff make the payment in cash, and that credit card, debit card or check would not be accepted as payment.

50. TAG Towing charged Plaintiff a \$215.00 fee at that time, which Plaintiff paid, in

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<sup>8</sup> See *Target 11 uncovers changes to protect drivers from predatory towing*, WPXI.com (May 5, 2015) (available at <https://www.wpxi.com/news/local/protect-drivers-predatory-towing-pittsburgh/46195053>) (last accessed May 15, 2018).

cash, in order to take back possession of his vehicle.

51. By taking custody of Plaintiff's vehicle, and charging Plaintiff amounts in excess of the reasonable and permissible fees established by § 525.05 for its return, TAG Towing charged, and Property Defendants endorsed, an illegal fee in excess of that which the City of Pittsburgh allows.

**(b) Corey Mizell**

52. On or about March 9, 2018, at approximately 10:30 p.m., Plaintiff parked his vehicle in the Parking Lot.

53. On the aforementioned date, Plaintiff returned to the Parking Lot and discovered that TAG Towing had affixed his vehicle to the tow truck, or was attempting to affix the vehicle to the tow truck.

54. A representative of TAG Towing demanded that Plaintiff pay a 'drop fee' of \$190.00, otherwise, the vehicle would be towed to TAG Towing's lot and Plaintiff would have been subject to additional charges. TAG Towing insisted that Plaintiff make the payment in cash, and that credit card, debit card or check would not be accepted as payment.

55. TAG Towing charged Plaintiff a \$190.00 fee at that time, which Plaintiff paid, in cash, in order to take back possession of his vehicle.

56. By taking custody of Plaintiff's vehicle, and charging Plaintiff amounts in excess of the reasonable and permissible fees established by § 525.05 for its return, TAG Towing charged, and Property Defendants endorsed, an illegal fee in excess of that which the City of Pittsburgh allows.

**(c) Stephanie Dawson**

57. On or about March 1, 2018, at approximately 10:00 p.m., Plaintiff's son parked Plaintiff's vehicle in the Parking Lot.

58. On the aforementioned date, Plaintiff's son returned to the Parking Lot and discovered that TAG Towing had affixed her vehicle to the tow truck, or was attempting to affix the vehicle to the tow truck.

59. Plaintiff's son called Plaintiff and she came to the Property.

60. A representative of TAG Towing demanded that Plaintiff pay a 'drop fee' of \$250.00, otherwise, the vehicle would be towed to TAG Towing's lot and Plaintiff would have been subject to additional charges. TAG Towing insisted that Plaintiff make the payment in cash, and that credit card, debit card or check would not be accepted as payment.

61. TAG Towing charged Plaintiff a \$250.00 fee at that time, which Plaintiff paid, in cash, in order to take back possession of his vehicle.

62. By taking custody of Plaintiff's vehicle, and charging Plaintiff amounts in excess of the reasonable and permissible fees established by § 525.05 for its return, TAG Towing charged, and Property Defendants endorsed, an illegal fee in excess of that which the City of Pittsburgh allows.

**(d) Michael Lewis**

63. In or around April of 2018, Plaintiff parked his vehicle in the Parking Lot.

64. On the aforementioned date, Plaintiff returned to the Parking Lot and discovered that TAG Towing had affixed his vehicle to the tow truck, or was attempting to affix the vehicle to the tow truck.



65. A representative of TAG Towing demanded that Plaintiff pay a 'drop fee' of \$190.00, otherwise, the vehicle would be towed to TAG Towing's lot and Plaintiff would have been subject to additional charges. TAG Towing insisted that Plaintiff make the payment in cash, and that credit card, debit card or check would not be accepted as payment.

66. TAG Towing charged Plaintiff a \$190.00 fee at that time, which Plaintiff paid, in cash, in order to take back possession of his vehicle.

67. By taking custody of Plaintiff's vehicle, and charging Plaintiff amounts in excess of the reasonable and permissible fees established by § 525.05 for its return, TAG Towing charged, and Property Defendants endorsed, an illegal fee in excess of that which the City of Pittsburgh allows.

#### **CLASS ACTION ALLEGATIONS**

68. Plaintiffs, pursuant to Rules 1702, 1708 and 1709 of the Pennsylvania Rules of Civil Procedure, asserts this action individually and on behalf of the following class of all Pennsylvania residents:

All owners or operators whose passenger cars, light trucks, motorcycles, and scooters were non-consensually towed from the Parking Lot by TAG Towing within the applicable statutes of limitation, and who, as a result, were charged and paid a fee in excess of the limits then set by 5 Pittsburgh Code §§ 525.05.

69. Excluded from the classes are Defendants, as well as their past and present officers, employees, agents or affiliates, any judge who presides over this action, and any attorneys who enter their appearance in this action.

70. Plaintiffs reserve the right to expand, limit, modify or amend the class definitions, including the addition of one or more subclasses, in connection with her motion for class certification, or at any other time, based on, among other things, changing circumstances and new

facts obtained during discovery.

71. **Numerosity – Pennsylvania Rule of Civil Procedure 1702(1).** The members of the classes are so numerous that individual joinder of all class members is impracticable. The precise number of class members and their identities may be obtained from Defendants' books and records.

72. **Commonality – Pennsylvania Rule of Civil Procedure 1702(2).** This action involves questions of law and fact that are common to the class members. Such common questions include, but are not limited to:

(a) Whether Defendants violated the Pennsylvania Unfair Trade Practices and Consumer Protection Law ("UTPCPL"), 73 Pa. Stat. § 201-1, *et seq.* and common law by charging fees and collecting sums of money from the Class members in excess of those provided by 5 Pittsburgh Code § 525.02;

(b) Whether Defendants converted or misappropriated Plaintiffs and the class members' money or property;

(c) Whether Defendants breached a duty of care owed to Plaintiffs and the class members;

(d) Whether Defendants were unjustly enriched to the detriment of Plaintiffs and the members of the classes;

(e) Whether Plaintiffs and the members of the classes have been damaged and, if so, what is the appropriate measure of such damage; and

(f) Whether treble damages should be imposed against Defendants.

73. **Typicality – Pennsylvania Rule of Civil Procedure 1702(3).** Plaintiffs' claims

are typical of the other class members' claims because, among other things, all class members were comparably injured, or can reasonably be expected to sustain damages, from the uniform prohibited conduct described above. For instance, Plaintiffs and each class member was charged and paid an illegal fee in excess of the limit then set by 5 Pittsburgh Code § 525.02. This uniform injury and the legal theories that underpin recovery make the claims of Plaintiffs and the members of the classes typical of one another.

74.     **Adequacy of Representation – Pennsylvania Rule of Civil Procedure 1702(4) and 1709.** Plaintiffs are an adequate representative of the classes because their interests do not conflict with the interests of the other class members Plaintiffs seek to represent; Plaintiffs have retained counsel competent and experienced in complex class action litigation; Plaintiffs intend to prosecute this action vigorously; and Plaintiffs' counsel have adequate financial means to vigorously pursue this action and ensure the interests of the classes will not be harmed. Furthermore, the interests of the class members will be fairly and adequately protected and represented by Plaintiffs and Plaintiffs' counsel

75.     **Predominance – Pennsylvania Rule of Civil Procedure 1708(a)(1).** Common questions of law and fact predominate over any questions affecting only individual class members. For example, Defendants' liability and the fact of damages is common to Plaintiffs and each member of the class. If TAG Towing uniformly charges and collects an illegal fee in excess of the limits set by 5 Pittsburgh Code § 525.02, then Plaintiffs and each class member suffered damages by the mere fact of their payment to TAG Towing. Similarly, if Defendants together fail to satisfy 7 Pittsburgh Code § 764.21(a)'s "written consent" requirement, then Plaintiffs and each class member suffered damages as a result of Defendants having removed their vehicle from the Parking

Lot illegally.

76. **Manageability – Pennsylvania Rule of Civil Procedure 1708(a)(2).** While the precise size of the class is unknown without the disclosure of Defendants’ records, the claims of Plaintiffs and the class members are substantially identical as explained above. Certifying the case as a class action will centralize these substantially identical claims in a single proceeding and adjudicating these substantially identical claims at one time is the most manageable litigation method available to Plaintiffs and the classes.

77. **Risk of Inconsistent, Varying or Prejudicial Adjudications – Pennsylvania Rule of Civil Procedure 1708(a)(3).** If the claims of Plaintiffs and the members of the classes were tried separately, Defendants may be confronted with incompatible standards of conduct and divergent court decisions. Furthermore, if the claims of Plaintiffs and the members of the classes were tried individually, adjudications with respect to individual class members and the propriety of their claims could be dispositive on the interests of other members of the class not party to those individual adjudications and substantially, if not fully, impair or impede their ability to protect their interests.

78. **Litigation Already Commenced – Pennsylvania Rule of Civil Procedure 1708(a)(4).** On April 13, 2018, Antoinette Osei filed a complaint against Brian Haenze and Auto Gallery & Accessories LLC in the Court of Common Pleas of Allegheny County, Pennsylvania. *See Class Action Complaint, Osei v. Auto Gallery & Accessories, LLC, et al*, Case No. GD-18-004974 (Doc. 1) (Apr. 13, 2018) (“*Osei*”). The *Osei* matter, which involved some of the same issues involved in this case, was voluntarily dismissed without prejudice on September 14, 2018. To Plaintiffs’ knowledge, other than the *Osei* matter, there are no other cases that have been

brought against Defendants, or that are currently pending against Defendants, where a Pennsylvania consumer seeks to represent a class of Pennsylvania residents based on the conduct alleged in this Class Action Complaint.

79. **The Appropriateness of the Forum – Pennsylvania Rule of Civil Procedure 1708(a)(5).** This is the most appropriate forum to concentrate the litigation because Defendants reside or are headquartered in this County, the Property is in this County, and a substantial number of class members were injured in this County.

80. **The Class Members' Claims Support Certification – Pennsylvania Rule of Civil Procedure 1708(a)(6) and (7).** Given the relatively low amount recoverable by each Class member, the expenses of individual litigation are insufficient to support or justify individual suits. Furthermore, the damages that may be recovered by the classes will not be so small such that class certification is unjustified.

81. **The General Applicability of Defendants' Conduct – Pennsylvania Rule of Civil Procedure 1708(b)(2).** Defendants' uniform non-consensual towing practices are generally applicable to the classes as a whole, making equitable and declaratory relief appropriate with respect to each class member.

## **CAUSES OF ACTION**

### **COUNT I**

**Asserted on behalf of Plaintiffs and Class, against All Defendants**

***Violation of Pennsylvania's Unfair Trade Practices and Consumer Protection Law***

82. Plaintiffs incorporate by reference each and every prior and subsequent allegation of this Class Action Complaint as if fully restated herein.

83. Plaintiffs and Defendants are "persons" under the Pennsylvania Unfair Trade

Practices and Consumer Protection Law (“UTCPL”), 73 Pa. Stat. § 201-1, et seq.

84. The non-consensual towing services that TAG Towing provides as an agent for, at the behest of, and/or in conspiracy with Property Defendants qualifies as a “trade” and “commerce,” as the UTCPL defines those terms. 73 P.S. § 201-2(3).

85. The services Plaintiffs purchased (whether voluntarily or involuntarily) are “services primarily for personal, family, or household purposes.” 73 P.S. § 201-9.2.

86. The UTCPL declares as unlawful “[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce as defined by subclauses (i) through (xxi) of clause (4) of section 21 of this act.” 73 P.S. § 201-3.

87. Under clause (4), unfair methods of competition and unfair or deceptive acts or practices are defined as “[e]ngaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.” 73 P.S. § 201-2(4)(xxi).

88. Defendants violated the UTCPL by engaging in fraudulent and deceptive conduct which created the likelihood of confusion and misunderstanding.

89. Specifically, Defendants’ false and misleading acts and practices include, but are not limited to (1) asserting Property Defendants’ lien against Plaintiffs and class members for an amount in excess of that allowed by law; and (2) holding vehicles removed from the Parking Lot (and refusing to release Property Defendants’ lien) until the consumer paid the unlawful fee demanded.

90. Further, Defendants are “creditors” and/or “debt collectors” under the Pennsylvania Fair Credit Extension Uniformity Act (“PaFCEUA”). 73 P.S. § 2270.1, et. seq.

91. The liens asserted against Plaintiffs and class members, which are the subject of

this action, constitute a debt and Defendants refused to release Plaintiffs' and class members' vehicles (and that lien) unless Plaintiffs and class members paid the debt.

92. Defendants violated the PaFCEUA by making a false representation of the character, amount, or legal status of the debt by charging more than allowed by law. 73 P.S. § 2270.4(a) & (b)(5)(ii); 15 U.S.C. § 1692e(2).

93. Defendants further violated the PaFCEUA by collecting an amount in excess of that permitted by law. 73 P.S. § 2270.4(a) & (b)(6)(i) ; 15 U.S.C. § 1692f(1).

94. Such conduct constitutes a violation of the UTPCPL. See 73 P.S. § 7720.5(a).

95. Plaintiffs and all class members suffered ascertainable losses that necessarily flowed directly from Defendants' fraud, deceit and/or unfair practices, including their violation of the PaFCEUA.

96. Plaintiffs and all class members justifiably relied on Defendants' knowingly false representations that the removal of their vehicles was legal and the fees Defendants' charged were reasonable and allowed under applicable law; indeed, they were forced to pay the unlawful fees for the return of their property.

97. Defendants' conduct in this regard was intentional, wanton, wrongful, reckless, and outrageous, and Defendants knew or should have known they were committing unfair and deceptive acts and practices in violation of the UTPCPL, which constitutes a violation of the UTPCPL.

98. Accordingly, Plaintiffs and individual class members are entitled to recover actual damages, punitive damages, statutory damages, treble damages, costs and reasonable attorneys' fees, and/or other additional relief as the Court deems necessary or proper.

99. Defendants are all jointly and severally liable as a result of their agency relationship, direct participation, and/or their conspiracy to violate Pennsylvania law described herein, as well as under Pennsylvania's Fair Share Act because Defendants engaged in an intentional tort.

**COUNT II**  
**Asserted on behalf of Plaintiffs and Class, against All Defendants**  
***Misappropriation/Conversion***

100. Plaintiffs incorporate by reference each and every prior and subsequent allegation of this Class Action Complaint as if fully restated herein.

101. At all times relevant herein, Plaintiffs and class members had a property interest in their vehicles and money.

102. Defendants, by their wrongful acts, interfered with Plaintiffs' and class members' property interests in their vehicles by holding or removing their vehicles from the Parking Lot without their consent and by refusing to release these vehicles (or Property Defendants' lien) unless Plaintiffs and class members paid an unlawful fee in excess of the lien amount permitted by law.

103. Defendants had no authority to charge Plaintiffs and class members fees in excess of the fees set by 5 Pittsburgh Code §§ 525.02 and 525.05.

104. As a result, Defendants' collection of fees converted the funds rightfully belonging to Plaintiffs and the class members without their consent. Further, Defendants caused the Plaintiffs and class members to suffer a loss of use of their property.

105. The conversion of these vehicles and/or money was illegal, unjustified, outrageous, and intentional, insofar as it is believed and therefore averred that at all times relevant herein



Defendants have or had actual knowledge that the process it employed to remove vehicles from the Parking Lot violated Pennsylvania law.

106. Alternatively, if the conversion was not deliberate, it was the result of Defendants' recklessness and gross neglect.

107. The conversion of Plaintiff's and class members' vehicles and funds benefitted and continues to benefit Defendants, while acting to the severe pecuniary disadvantage of Plaintiffs and the class members.

108. As a result of the conversion, Plaintiffs and class members suffered actual injury and loss in amounts that are capable of identification through Defendants' records.

109. Defendants are all jointly and severally liable as a result of their agency relationship and/or their conspiracy to violate Pennsylvania law described herein, as well as under Pennsylvania's Fair Share Act because Defendants engaged in an intentional tort.

### **COUNT III**

#### **Asserted on behalf of Plaintiffs and Class, against Property Defendants**

##### ***Negligence***

110. Plaintiffs incorporate by reference each and every prior and subsequent allegation of this Class Action Complaint as if fully restated herein.

111. Property Defendants owed and continues to owe a common law duty to Plaintiffs and the class members because, by undertaking the affirmative act of removing (or having TAG Towing remove) Plaintiffs' and class members' vehicles from their property, they were under a duty to exercise the care of a reasonable person to protect the Plaintiffs and class members from an unreasonable risk of harm, including against the foreseeable criminal conduct of TAG Towing. *See Schmoyer v. Mexico Forge, Inc.*, 649 A.2d 705, 708 (Pa. Super. Ct. 1994); *see* Restatement

(Second) of Torts § 302B.

112. Property Defendants also owed and continue to owe a common law duty to Plaintiffs and the class members to, at minimum, “refrain from willful or wanton misconduct....”

*Graham v. Sky Haven Coal, Inc.*, 563 A.2d 891, 896 and 899 (Pa. Super. Ct. 1989).

Willful misconduct means that the actor desired to bring about the resultant harm, or was at least aware that it was substantially certain to ensue; this means that willful conduct requires actual prior knowledge of the trespasser's peril.... Wanton misconduct, by contrast, means that an actor has intentionally done an act of an unreasonable character, in disregard of a risk known to him or so obvious that he must be taken to have been aware of it, and so great as to make it highly probable that harm would follow. It usually is accompanied by a conscious indifference to the consequences, and not a desire to bring them about; as such, actual prior knowledge of the *particular* injured person's peril is not required. It is enough that the actor realizes, or at least has knowledge of sufficient facts that would cause a reasonable man to realize, that a peril exists, for a sufficient time beforehand to give the actor a reasonable opportunity to take means to avoid the injured person's accident; the actor is wanton for recklessly disregarding the danger presented....

*Id.*; 563 A.2d at 895 and 891 (Brosky, J., concurring and dissenting opinion) (emphasis in original) (internal citations omitted).

113. Property Defendants breached their common law duty and thus was negligent by engaging and continuing to engage TAG Towing to remove unattended vehicles from the Parking Lot despite TAG Towing's policies and practices that violate Pennsylvania law. Upon information and belief, the specific negligent acts and omissions committed by Property Defendants include some, or all, of the following:

(a) Negligently employing TAG Towing to remove unattended vehicles from the Parking Lot despite that TAG Towing is well known for its predatory towing practices;

(b) Negligently engaging TAG Towing to enforce Property Defendant's lien rights against the vehicles' owners whose vehicles are towed by TAG Towing and permitting TAG

Towing to charge amounts for that lien in excess of the charges provided for by law; and

(c) Negligently failing to ensure that Plaintiffs and class members were charged an amount for Property Defendant's lien that was at or under the amount permitted by law.

114. In connection with the conduct described above, Property Defendants acted willfully, wantonly, and with complete disregard for the harm Plaintiffs and the class members would suffer at the hands of TAG Towing through their illegal and criminal towing and billing practices.

115. As a direct and proximate result of Property Defendants' negligent conduct, Plaintiffs and the class members have suffered substantial losses as detailed herein, including the loss of use of their property and money.

#### **COUNT IV**

**Asserted on behalf of Plaintiffs and Class, against Property Defendants**  
***Negligence Per Se - Violation of 75 Pa. C.S.A. § 3353(c) and Pennsylvania's Vehicle Code***  
***and Ordinance Section 525.05***

116. Plaintiffs incorporate by reference each and every prior and subsequent allegation of this Class Action Complaint as if fully restated herein.

117. Under 75 Pa. C.S.A. § 3353(c), Property Defendants are permitted to remove (or have removed) Plaintiffs' and class members' vehicles from the Parking Lot, in which case Property Defendants receive by law a lien against each vehicle's owner for the "reasonable value of the costs of removing the vehicle plus the costs of storage."

118. Under 75 Pa. C.S.A. § 3353(c), the City of Pittsburgh is authorized to enact ordinances that regulate the provision of non-consensual towing services within the municipality:

...Any city, borough, incorporated town or township may, by ordinance, provide for rates to be charged for removal of vehicles and for municipal regulation of authorized towing services. ...

119. Pursuant to the authority given it under 75 Pa. C.S.A. § 3353(c), the City of Pittsburgh enacted 5 Pittsburgh Code §§ 525.02 and 525.05, which limits the fees that may be charged to a vehicle owner for a non-consensual tow. At all times relevant herein, this fee was set at either \$110 or \$135.

120. Section 3353(c) and Section 525.05 were enacted to protect Plaintiffs and class members (i.e., vehicle owners) from being charged predatory towing fees such as those charged to Plaintiffs and class members here.

121. The law clearly applies to Property Defendants.

122. Nevertheless, Property Defendants contracted and retained TAG Towing to remove unattended vehicles from the Parking Lot and Property Defendants asserted a lien against the owners of the vehicles in excess of the amount allowed by law.

123. Plaintiffs and the class members suffered actual loss and other damages, including the loss of use of their money and property (vehicles), as a result of the failure of Property Defendants to comply with 75 Pa. C.S.A. § 3353(c) and 5 Pittsburgh Code § 525.05 by paying fees in excess of those authorized by law for the release of their vehicles.

124. These damages were the exact type of damages that the aforementioned statute and ordinances were intended to protect against.

#### **COUNT V**

#### **Asserted on behalf of Plaintiffs and Class, against Defendant Haenze d/b/a TAG Towing *Negligence***

121. Plaintiffs incorporate by reference each and every prior and subsequent allegation of this Class Action Complaint as if fully restated herein.

122. TAG Towing owed and continues to owe a common law duty to Plaintiffs and the

class members because, by undertaking the affirmative act of removing Plaintiffs' and class members' vehicles from the Property, TAG Towing was under a duty to exercise the care of a reasonable person to protect the Plaintiffs and class members from an unreasonable risk of harm.

123. TAG Towing also owed and continue to owe a common law duty to Plaintiffs and the class members to, at minimum, "refrain from willful or wanton misconduct...." *Graham v. Sky Haven Coal, Inc.*, 563 A.2d 891, 896 and 899 (Pa. Super. Ct. 1989).

Willful misconduct means that the actor desired to bring about the resultant harm, or was at least aware that it was substantially certain to ensue; this means that willful conduct requires actual prior knowledge of the trespasser's peril.... Wanton misconduct, by contrast, means that an actor has intentionally done an act of an unreasonable character, in disregard of a risk known to him or so obvious that he must be taken to have been aware of it, and so great as to make it highly probable that harm would follow. It usually is accompanied by a conscious indifference to the consequences, and not a desire to bring them about; as such, actual prior knowledge of the *particular* injured person's peril is not required. It is enough that the actor realizes, or at least has knowledge of sufficient facts that would cause a reasonable man to realize, that a peril exists, for a sufficient time beforehand to give the actor a reasonable opportunity to take means to avoid the injured person's accident; the actor is wanton for recklessly disregarding the danger presented....

*Id.*; 563 A.2d at 895 and 891 (Brosky, J., concurring and dissenting opinion) (emphasis in original) (internal citations omitted).

124. TAG Towing breached their common law duty by charging amounts in excess of those allowed by law.

125. In connection with the conduct described above, TAG Towing acted willfully, wantonly, and with complete disregard for the harm Plaintiffs and the class members suffered.

126. As a direct and proximate result of TAG Towing's negligent conduct, Plaintiffs and the class members have suffered substantial losses as detailed herein, including the loss of use of their property and money.

## COUNT VI

### **Asserted on behalf of Plaintiffs and Class, against Defendant Haenze d/b/a TAG Towing *Negligence Per Se - Violation of Pennsylvania's Vehicle Code and Ordinance Section 525***

125. Plaintiffs incorporate by reference each and every prior and subsequent allegation of this Class Action Complaint as if fully restated herein.

126. Under 75 Pa. C.S.A. § 3353(c), the City of Pittsburgh is authorized to enact ordinances that regulate the provision of non-consensual towing services within the municipality:

...Any city, borough, incorporated town or township may, by ordinance, provide for rates to be charged for removal of vehicles and for municipal regulation of authorized towing services. ...

127. Pursuant to the authority given it under 75 Pa. C.S.A. § 3353(c), the City of Pittsburgh enacted 5 Pittsburgh Code §§ 525.02 and 525.05, which limits the fees that may be charged for a non-consensual tow. At all times relevant herein, this fee was set at either \$110 or \$135.

128. Nevertheless, TAG Towing uniformly and consistently violated the duties it owed vehicle owners under 5 Pittsburgh Code §§ 525.02 and 525.05 by charging illegal fees far in excess of those allowed.

129. Sections 525.02 and .05 were enacted to protect Plaintiffs and class members (*i.e.*, vehicle owners) from being charged predatory towing fees such as those charged to Plaintiffs and class members.

130. The law clearly applies to TAG Towing.

131. Plaintiffs and class members suffered actual loss and other damages as a result of the failure of TAG Towing to comply with 75 Pa. C.S.A. § 3353(c) and 5 Pittsburgh Code §§ 525.02 and 525.05 by paying fees in excess of those allowed by law for the return of their vehicles

and resulting in the loss of use of their money and property.

132. These damages were the exact type of damages that the aforementioned statute and ordinances were intended to protect against.

**COUNT VII**  
**Asserted on behalf of Plaintiffs and Class, against All Defendants**  
***Constructive Fraud***

133. Plaintiffs incorporate by reference each and every prior and subsequent allegation of this Class Action Complaint as if fully restated herein.

134. Property Defendants delegated its sole authority to remove Plaintiffs' and class members' vehicles and enforce Property Defendants' lien against the vehicles owners for the cost of their removal from the Parking Lot to its agent, TAG Towing.

135. Acting on its own behalf and on behalf of the Property Defendants, TAG Towing assumed a duty to Plaintiffs and class members upon connecting, loading, and/or removing their vehicles from the Parking Lot.

136. As such, TAG Towing acts as a fiduciary while in possession of Plaintiffs' and class members' vehicles, and must act in good faith and in their interests.

137. Further, the relative positions of Defendants and Plaintiffs and class members are such that Defendants have the power and means to take advantage of or exercise undue influence over Plaintiffs and class members.

138. Neither Plaintiffs nor any class member can retake possession or control of their vehicles once Defendants have connected, loaded, and/or removed the vehicles from the Parking Lot, without TAG Towing's consent (and without paying the extortionist fees addressed herein).

139. To increase their own profits and in favor of their own interests, Defendants

exploited that relationship with Plaintiffs and the class members by removing their vehicles and charging them fees in violation of Pennsylvania law. As such, Defendants are operating in a way most beneficial to themselves and in a manner directly opposite to the interests of Plaintiffs and class members.

140. Defendants' breach of its confidential relationship was the direct and proximate cause of the injuries that Plaintiffs and the class members suffered.

141. Defendants are jointly and severally liable as a result of their agency relationship and/or conspiracy to violate Pennsylvania law described herein, as well as under Pennsylvania's Fair Share Act because Defendants engaged in an intentional tort.

#### **COUNT VIII**

##### **Asserted on behalf of Plaintiffs and Class, against All Defendants**

##### ***Breach of Contract/Implied Contract (In the Alternative)***

142. Plaintiffs incorporate by reference each and every prior and subsequent allegation of this Class Action Complaint as if fully restated herein.

143. When vehicles are non-consensually towed from the Parking Lot by TAG Towing, Property Defendants have a lien against the vehicles' owners for the reasonable towing fees, as capped by the City of Pittsburgh ordinances.

144. TAG Towing, on behalf of itself and Property Defendants, will not release the vehicles (or Property Defendants' lien) unless the vehicles' owner/operator pays an unlawful fee.

145. A contract or implied contract arises between the vehicle owners and Defendants when the vehicle owners park in the Parking Lot, are towed, and pay TAG Towing the unlawful fees for the Property Defendants' lien to be released.

146. Implicit in each such contract is Defendants' agreement to provide and charge for



non-consensual tow services in a manner consistent with Pennsylvania law.

147. Also implicit in each such contract and/or Pennsylvania law is Defendants' duty of good faith and fair dealing.

148. By TAG Towing charging Plaintiffs a fee in excess of the limits set by 5 Pittsburgh Code §§ 525.02 and 525.05 for release of Property Defendants' lien against the vehicle, Defendants failed to comply with applicable Pennsylvania law, and therefore breached their contractual obligations to Plaintiffs.

149. In charging such fees, TAG Towing was acting on its own behalf and on behalf of the Property Defendants who had the sole legal right to have the vehicle removed from the Parking Lot.

150. Defendants' conduct, as described at length above, constitutes a breach or breaches of contract and/or implied contract between Defendants and Plaintiffs, and the contracts and/or implied contracts between Defendants and each and every class member, as well as the covenant of good faith and fair dealing implied in and/or applicable to each such contract.

151. As a result of Defendants' breaches of contract and/or implied contract and their breaches of the covenant of good faith and fair dealing, Plaintiffs and all other similarly situated individuals were caused to suffer damages and losses as set forth in this Class Action Complaint.

152. Plaintiffs and class members were compelled to pay the unlawful fees to recover their vehicles.

153. Defendants' conduct was intentional, willful, wanton, reckless, and outrageous because Defendants had actual knowledge of Pennsylvania law governing charges for the provision of non-consensual tow services in the City of Pittsburgh, but nevertheless persisted in

refusing to follow these laws out of a desire to maximize their own economic gains.

**COUNT IX**  
**Asserted on behalf of Plaintiffs and All Classes, against All Defendants**  
***Unjust Enrichment***

154. Plaintiffs incorporate by reference each and every prior and subsequent allegation of this Complaint as if fully restated herein.

155. As a result of Defendants' unlawful and deceptive actions described above, TAG Towing was enriched at the expense of Plaintiffs and the class members through the payment of fees that never should have been charged, and in either event, which exceed the amounts allowed under governing authority.

156. As a result of Defendants' unlawful and deceptive actions described above, Property Defendants were enriched at the expense of Plaintiffs and the class members through the payment of fees that never should have been charged for Property Defendants' lien, and in either event, which exceed the amounts allowed under governing authority.

157. Property Defendants received the benefit of maximizing rents and/or profits by towing Plaintiff and the class members' vehicles from the Parking Lot to make room for other patrons; however, in doing so, Property Defendants charged Plaintiffs and the class members an amount for Property Defendants' lien that exceeded that permitted by law.

158. Under the circumstances, it would be against equity and good conscience to permit Defendants to retain ill-gotten benefits they received from Plaintiffs and the class members, in light of the fact that Defendants used illegal, deceptive, and/or unfair practices to induce or force owners to pay illegal fees for the return of their vehicles.

159. Thus, it would be unjust and inequitable for Defendants to retain the benefit without

restitution to Plaintiffs and the class members for the benefits received as a result of Defendants' unfair, deceptive, and/or illegal towing and billing practices described herein.

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs, on their own behalf and on behalf of the class members, respectfully requests the Court enter judgment in Plaintiffs' favor and against Defendants as follows:

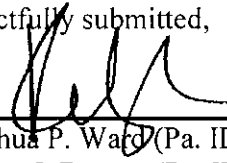
- A. Declaring this action a proper class action, certifying the classes as requested herein, designating Plaintiffs as Class Representative and appointing the undersigned counsel as Class Counsel;
- B. Ordering Defendants to pay actual, consequential, statutory, and/or punitive damages to Plaintiffs and the class members, including restitution and disgorgement of all profits and unjust enrichment that Defendants obtained from Plaintiffs and the class members as a result of Defendants' unlawful conduct;
- C. Ordering declaratory and injunctive relief as permitted by law or equity, including enjoining Defendants from continuing the unlawful conduct as set forth herein;
- D. Ordering Defendants to pay attorneys' fees and litigation costs to Plaintiffs and the other members of the classes;
- E. Ordering Defendants to pay both pre- and post-judgment interest on any amounts awarded; and
- F. Ordering such other and further relief as may be just and proper.

### **JURY DEMAND**

Plaintiffs respectfully demand a jury trial on all matters so triable.

Dated: February 5, 2019

Respectfully submitted,



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Joshua P. Ward (Pa. ID 320347)

Brian J. Fenters (Pa. ID 320202)

**THE LAW FIRM OF FENTERS WARD**

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kiverson@carlsonlynch.com

ktucker@carlsonlynch.com

**VERIFICATION**

I, Christopher Zimmerman, hereby certify that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, or information and belief, and that this statement is made subject to the penalties of 18 Pa. C.S.A. 4904 relating to unsworn falsification to authorities.

Date: 7-23-18

  
\_\_\_\_\_  
[Plaintiff]

VERIFICATION

I, Corey Mizell, hereby certify that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, or information and belief, and that this statement is made subject to the penalties of 18 Pa. C.S.A. 4904 relating to unsworn falsification to authorities.

Date: 8/1/2018

Corey Mizell  
[Plaintiff]

**VERIFICATION**

The undersigned does hereby verify that the facts contained in Complaint in Civil Action are true and correct to the best of my knowledge, information and belief. I make this verification subject to the penalties provided for under 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

Date: 8-27-18

By:

Stephanie Dawson  
Stephanie Dawson

VERIFICATION

I, Mike Lewis, hereby certify that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, or information and belief, and that this statement is made subject to the penalties of 18 Pa. C.S.A. 4904 relating to unsworn falsification to authorities.

Date: 8/31/18

Mike Lewis  
[Plaintiff]

~~WAG~~  
TAG TEAM charged me  
\$ 250.00

TWO HUNDRED AND FIFTY  
to DROP MY CAR ON THE SPOT!



**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that a true and correct copy of the within Amended Complaint via first class mail and/or email upon the following on this 5<sup>th</sup> day of February, 2019.

Vincent M. Roskovensky  
Clark Hill PC  
One Oxford Centre  
301 Grant Street, 14th Floor  
Pittsburgh, PA 15219  
vroskovensky@clarkhill.com  
412-394-7716

Sylvia Duda and Cogo's Co.

Sonya Lazzarevic  
48 South 10<sup>th</sup> Street  
Pittsburgh, PA 15206

Zoran Lazarevic  
911 East Carson Street  
Pittsburgh, PA 15203

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2600 Brownsville Road  
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412-882-2600  
gacastellilaw@aol.com

Brian Haenze d/b/a Auto Gallery & Accessories and as Tag Towing and Collision



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Kelly K. Iverson