

**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.

CHRISTOPHER GRABOVSKI, individually
and on behalf of all others similarly situated,

Plaintiff,

v.

REALTY INCOME CORPORATION;
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

No. GD-18-012294

**PLAINTIFFS' UNOPPOSED MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT**

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**PLAINTIFFS' UNOPPOSED MOTION
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Plaintiffs Christopher Zimmerman, Corey Mizell, Stephanie Dawson, Mike Lewis, and Christopher Grabovski (collectively, "Plaintiffs" or "Settlement Class Representatives") respectfully move this Court for an order: (1) granting final approval of the proposed Class Action Settlement and Release ("Settlement" or "SA") between themselves and Defendant CoGo's Co.

(“CoGo’s”); (2) finally certifying a class action for purposes of settlement; and (3) entering final judgment as to the claims raised in this action. In support of their motion, Plaintiffs state as follows:

1. Plaintiffs incorporate by reference, as if fully set forth herein, their allegations and arguments in their Unopposed Motion for Preliminary Approval of Class Action Settlement and for Authorization of Class Notice, and supporting exhibits, filed on April 26, 2024. (*Dawson* Docket Doc. 51–52; *Grabovski* Docket Doc. 52–53).¹

2. Plaintiffs incorporate by reference, as if fully set forth herein, their allegations and arguments in their Application for Attorneys’ Fees, Costs, and Service Awards to Representative Plaintiffs, and supporting exhibits, filed on August 5, 2024. (D. Doc. 51–52; G. Doc. 52–53).

3. Plaintiffs submit and explain further in their accompanying brief in support of this motion, that the facts and circumstances regarding the proposed Settlement have not materially changed in the time since the Court entered its preliminary approval order on May 6, 2024.

4. After the entry of that order, the Parties and the approved Settlement Administrator (Analytics Consulting LLC) proceeded to disseminate Settlement Notice to Class Members in accordance with the Parties’ approved notice plan.

5. Plaintiffs submit a detailed description of the results of the notice plain in their accompanying brief, and in the Declaration of the Settlement Administrator and Declaration of Vincient Roskovensky, filed concurrently herewith.

6. The deadline for Settlement Class Members to request exclusion from the Settlement, or to file an objection to the Settlement, was August 19, 2024. Zero (0) Settlement Class Members have objected to the Settlement.

¹ Hereinafter, documents from the *Dawson* docket are referred to as “D. Doc.” and documents from the *Grabovski* docket are referred to as “G. Doc.”

7. There have been zero (0) requests for exclusion submitted.
8. If these numbers change as a result of any belated submissions by Settlement Class Members, Settlement Class Counsel will provide an update to the Court at the fairness hearing.
9. Settlement Class Counsel will appear at the fairness hearing and be prepared to address any questions or concerns from the Court.
10. In further support of their motion, Plaintiffs refer the Court to their attached accompanying brief in support.

WHEREFORE, Plaintiffs respectfully request that the Court, upon completion of the fairness hearing, enter the Parties' proposed Final Order and Judgment, in the form attached hereto.

Dated: September 16, 2024

Respectfully submitted,



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Attorneys for Plaintiffs and the Settlement Class

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CIVIL DIVISION – CLASS ACTION

No. GD-18-012068

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[PROPOSED] FINAL APPROVAL ORDER AND JUDGMENT

On May 6, 2024, this Court entered an order granting preliminary approval (the “Preliminary Approval Order”) of the Class Settlement Agreement and Release (“Agreement” or “Settlement”) between the Plaintiffs Christopher Zimmerman, Corey Mizell, Stephanie Dawson, Mike Lewis, and Christopher Grabovski (collectively, “Plaintiffs”), on behalf of themselves and the

Settlement Class, and CoGo's Co., ("CoGo's" or "Defendant") as memorialized in the attachment to Plaintiffs' Motion for Preliminary Approval of Class Action Settlement;¹

On June 20, 2024, pursuant to the notice requirements set forth in the Settlement and in the Preliminary Approval Order, the Settlement Class was apprised of the nature and pendency of the Litigation, the terms of the Settlement, and their rights to request exclusion, file claims, object, and/or appear at the final approval hearing;

On September 16, 2024, Plaintiffs filed their Motion for Final Approval of the Class Action Settlement ("Final Approval Motion") and accompanying Memorandum of Law and supporting exhibits, and on August 5, 2024, Settlement Class Counsel filed their Application for Attorneys' Fees, Expenses and Service Awards and accompanying Memorandum of Law and supporting exhibits ("Fee Application"); and

On October 7, 2024, the Court held a final approval hearing to determine, *inter alia*: (1) whether the Settlement is fair, reasonable, and adequate; and (2) whether judgment should be entered dismissing the Settlement Class Members' claims in Litigation along with related claims relating to the Parking Lots with prejudice. Prior to the final approval hearing, Settlement Class Counsel filed a declaration from the Settlement Administrator confirming that the Notice was completed in accordance with the Parties' instructions and the Preliminary Approval Order. Therefore, the Court is satisfied that Settlement Class Members were properly notified of their right to appear at the final approval hearing in support of or in opposition to the proposed Settlement, the award of attorneys' fees, costs, and expenses, and the payment of Service Awards.

¹ The capitalized terms used in this Final Approval Order and Judgment shall be construed according to their meaning as defined in the Settlement except as may otherwise be indicated.

Having given an opportunity to be heard to all requesting persons in accordance with the Preliminary Approval Order, having heard the presentation of Settlement Class Counsel and other interested counsel, persons or entities, including counsel for CoGo's, having reviewed all of the submissions presented with respect to the proposed Settlement, having determined that the Settlement is fair, adequate, and reasonable, having considered the application made by Settlement Class Counsel for attorneys' fees, costs, and expenses, and the application for Service Awards, and having reviewed the materials in support thereof, and good cause appearing in the record and Plaintiffs' Final Approval Motion is **GRANTED**, and Class Counsel's Fee Application is **GRANTED**, and:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Court has jurisdiction over the subject matter of this action and over all claims raised therein and all Parties thereto, including the Settlement Class Members. The Court also has personal jurisdiction over the Parties and the Settlement Class Members.
2. The Settlement was entered into in good faith following arm's length negotiations and is non-collusive.
3. The Settlement is, in all respects, fair, reasonable, and adequate, is in the best interests of the Class, and is therefore approved. The Court finds that the Parties faced significant risks, expenses, delays and uncertainties, including as to the outcome, of continued litigation of this complex matter, which further supports the Court's finding that the Settlement is fair, reasonable, adequate and in the best interests of the Settlement Class Members. The Court finds that the uncertainties of continued litigation in both the trial and appellate courts, as well as the expense associated with it, weigh in favor of approval of the Settlement.

4. This Court grants final approval of the Settlement, including but not limited to the releases, provisions and terms in the Settlement and the plans for distribution of the settlement relief. The Court finds that the Settlement is in all respects fair, reasonable, and in the best interest of the Settlement Class Members. Therefore, all Settlement Class Members who have not opted out are bound by the Settlement and this Final Approval Order and Judgment.

5. The Settlement and every term and provision thereof shall be deemed incorporated herein as if explicitly set forth herein and shall have the full force of an Order of this Court.

6. The Parties shall effectuate the Settlement in accordance with its terms.

Objections and Opt Outs

7. Zero (0) objections were filed by Settlement Class Members. The Court has considered all objections and finds the objections do not counsel against Settlement approval, and the objections are hereby denied and/or overruled in all respects.

8. All persons who have not objected to the Settlement in the manner provided in the Settlement are deemed to have waived any objections to the Settlement, including but not limited to by appeal, collateral attack, or otherwise.

9. A list of those Settlement Class Members who have timely and validly elected to opt out of the Settlement and the Class in accordance with the requirements in the Settlement (the “Opt-Out Members”) has been submitted to the Court in the Declaration of Analytics, LLC, filed in advance of the Final Approval Hearing. That list is attached as Exhibit A to this Order. The persons and/or entities listed in Exhibit A are not bound by the Settlement, this Final Approval Order and Judgment, and are not entitled to any of the benefits under the Settlement. Opt-Out Members listed in Exhibit A shall be deemed not to be Releasing Parties. Releasees expressly retain, and have not waived, any and all defenses of any type to any claims, causes of action, demands, complaints, grievances,

damages, debts, suits, proceedings, judgments, liens, liabilities, obligations, dues, sums of money, actions and causes of action, known or unknown, accrued or unaccrued, of any nature whatsoever, whether in law, statutory or in equity, liquidated or unliquidated, whether filed or prosecuted, whether now or existing or which may ever hereinafter arise or be ascertained that any Opt-Out Members may pursue. Consistent with the Settlement, and pursuant to the provisions of this Order, nothing contained herein may be construed as, used as, or deemed to be evidence of, an admission by or against any of the Releasees, including the Defendant or any person, or entity, of any claim, any fact alleged in the Litigation, any fault, any wrongdoing, any violation of law, or any liability of any kind on the part of Defendant, any of the Releasees, or any person or entity, or of the validity or certifiability for litigation of any claims that have been, or could have been, asserted in the Litigation or otherwise. Such liability has been, is and remains denied.

Notice to the Class

10. The Court finds that the notice process, set forth in the Settlement and effectuated pursuant to the Preliminary Approval Order, satisfied Pa. R. Civ. P. 1712 and 1714, the constitutional requirement of due process, and any other legal requirements, was the best notice practicable under the circumstances, was reasonably calculated to provide and did provide due and sufficient notice to the Settlement Class Members of the pendency of the Litigation, the existence and terms of the Settlement, their right to exclude themselves, their right to object to the Settlement and to appear at the Final Approval Hearing, and satisfied the other requirements of the Pennsylvania Rules of Civil Procedure and all other applicable laws.

Class Certification

11. For purposes of the Settlement and its Final Approval Order and Judgment, the Court hereby finally certifies for settlement purposes only the following Settlement Class:

All owners or operators whose vehicles of any type (including passenger cars, light trucks, or motorcycles, and scooters) – were non-consensually towed from the Parking Lots by Tag Towing within the Relevant Period, and who, as a result were charged and paid a fee in excess of the limits then set by 5 Pittsburgh Code § 525.05 and otherwise pursuant to Pittsburgh Code.

12. The Court determines that for settlement purposes the Settlement Class meets all the requirements of Pa. R. Civ. P. 1702, 1708, and 1709, namely that the class is so numerous that joinder of all members is impracticable; that there are common issues of law and fact; that the claims of the class representatives are typical of absent class members; that the class representatives will fairly and adequately protect the interests of the class, as they have no interests antagonistic to or in conflict with the class and have retained experienced and competent counsel to prosecute this matter; and that a class action is a fair and efficient method for adjudicating this controversy.

13. The Court grants final approval to the appointment of Christopher Zimmerman, Corey Mizell, Stephanie Dawson, Mike Lewis, and Christopher Grabovski as Settlement Class Representatives. The Court concludes that the Settlement Class Representatives have fairly and adequately represented the Settlement Class and will continue to do so.

14. The Court grants final approval to the appointment of Elizabeth Pollock-Avery of Lynch Carpenter, LLP, and Joshua P. Ward of J.P. Ward and Associates, LLC, as Settlement Class Counsel. The Court concludes that Settlement Class Counsel have adequately represented the Settlement Class and will continue to do so.

Award of Attorneys' Fees, Costs, and Expenses and Service Awards

15. The Court has considered Settlement Class Counsel's Fee Application.

16. For the purpose of Settlement only, and without admission of any liability in any manner whatsoever (which has been, is and remains denied), Plaintiffs are considered the prevailing party under Pa. Stat. § 201-9.2 of the Pennsylvania Unfair Trade Practices and Consumer Protection Law ("UTPCPL").

17. Pursuant to Rule 1717 and applicable caselaw, the Court awards Settlement Class Counsel \$69,000 as an award of reasonable attorneys' fees and reimbursement of reasonable expenses in accordance with the Settlement. The Court finds this amount of fees, costs, and expenses to be fair and reasonable in light of: (1) the time and effort reasonably expended by Settlement Class Counsel in the litigation; (2) the quality of the services rendered; (3) the results achieved and benefits conferred upon the Settlement Class Members; (4) the magnitude, complexity, and uniqueness of the litigation, and (5) the fact that Settlement Class Counsel provided their services on a contingency fee basis. This award of attorneys' fees, costs, and expenses shall be paid in accordance with the Settlement. This award of attorneys' fees, costs, and expenses is independent of the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement.

18. The Court grants Settlement Class Counsel's request for Service Awards and awards of \$1,000 to each named Plaintiff: Christopher Zimmerman, Corey Mizell, Stephanie Dawson, Mike Lewis, and Christopher Grabovski.

19. The Court finds that these payments are justified by their service to the Settlement Class Members. This Service Award shall be paid in accordance with the Settlement.

Other Provisions

20. The Parties to the Settlement shall carry out their respective obligations thereunder.

21. Within the time period set forth in the Settlement, the relief provided for in the Settlement shall be made available to Participating Settlement Class Members, pursuant to the terms and conditions of the Settlement.

22. As of the Effective Date, the named Plaintiffs in their individual, as opposed to representative capacities, and on behalf of their respective past, present, and future parents, subsidiaries, divisions, affiliates, predecessors, successors, directors, officers, shareholders, members, employees acting within the scope of their employment, representatives, insurers, executors, administrators, conservators, agents, attorneys, heirs, assigns, beneficiaries, trustees, family members, and all persons or entities claiming any right or rights through them shall be deemed to forever release, covenant not to sue, acquit, discharge, and waive in favor of the Releasees, any and all claims, causes of action, demands, complaints, grievances, damages, debts, suits, proceedings, judgments, liens, liabilities, obligations, dues, sums of money, actions and causes of action, known or unknown, accrued or unaccrued, of any nature whatsoever, whether in law, statutory or in equity, liquidated or unliquidated, whether filed or prosecuted, whether now existing or which may have ever hereinafter arise or be ascertained, which either may have or claim to have against CoGo's and/or any of the Releasees which occurred on or before the date of the Final Approval Order and Judgment. The Release contained in this paragraph expressly, without limitation, applies to all Releasees and includes, without limitation, all claims relating to compensation, fees/costs, liquidated damages, penalties, interest, and all other relief under the UTPCPL, 73 P.S. §§ 201-1 *et seq.*, PaFCEUA, 73 Pa. Stat. § 2270.1, *et seq.*, and all other state and local consumer protection or fair credit laws and common law theories in contract or tort arising or accruing during the Relevant Period, that they have or may have, whether known or unknown, against the Releasees.

23. As of the Effective Date, Settlement Class Members on behalf of themselves and their respective past, present, and future parents, subsidiaries, divisions, affiliates, predecessors, successors, directors, officers, shareholders, members, employees acting in the scope of their

employment, representatives, insurers, administrators, executors, conservators, agents, attorneys, heirs, assigns, beneficiaries, trustees, family members, and all persons or entities claiming any right or rights through them shall be deemed to forever release, covenant not to sue, acquit, discharge and waive in favor of the Releasees, any and all claims, causes of action, demands, complaints, grievances, damages, debts, suits, proceedings, judgments, liens, liabilities, obligations, dues, sums of money, actions and causes of action, known or unknown, accrued or unaccrued, of any nature whatsoever, whether in law, statutory or in equity, liquidated or unliquidated, whether filed or prosecuted, whether now or existing or which may ever hereinafter arise or be ascertained, which the Settlement Class Members may have or claim to have against CoGo's and/or any of the Releasees which occurred on or before the date of the Final Approval Order and Judgment relating to alleged violations of Pittsburgh Code and/or permitting, signage/insignias and/or money charged, for tows made by Tag Towing from the Parking Lots and/or the type of facts or claims alleged in the Litigation. The Release contained in this paragraph applies expressly, without limitation, to all Releasees and includes. all claims relating to compensation, fees/costs, liquidated damages, penalties, interest, and all other relief under the UTPCPL, 73 P.S. §§ 201-1 *et seq.*, , PaFCEUA, 73 Pa. Stat. § 2270.1 *et seq.* and all other state and local consumer protection or fair credit laws and common law theories in contract or tort arising or accruing during the Relevant Period, that they have or may have, whether known or unknown, against the Releasees that arose out of, or in connection with the Pittsburgh Code, permitting, signage/insignias and/or money charged for tows made by Tag Towing from the Parking Lots and/or the type of facts or claims alleged in the Litigation.

24. The Court acknowledges that there are no pending claims against Tag Towing before the Court in this litigation, having dismissed any such claims - without prejudice - in a prior Order of this Court.

25. The Settlement Class Representatives and Settlement Class Members are enjoined from: (i) prosecuting Settlement Class Representatives' Released Claims, Settlement Class Members' Released Claims, or any other matters in any proceeding against any of the Releasees, (ii) prosecuting any claim based on any actions taken by or related to any of the Releasees that are precluded by the Settlement, and/or this Order, or (iii) any actions taken by the Defendant or Releasees that are authorized or required by this Settlement or by the Final Approval Order and Judgment. It is further agreed that the Settlement and/or this Final Approval Order and Judgment may be pleaded as a complete defense to any proceeding contrary to the terms of the Settlement and/or this Order.

26. This Final Approval Order and Judgment and the Settlement, and all acts, statements, documents, and proceedings relating to the Settlement are not, and shall not be construed as, used as, or deemed to be evidence of, an admission by or against Defendant or any of the Releasees or any of the Releasees of any claim, any fact alleged in the Litigation, any fault, any wrongdoing, any violation of law, or any liability of any kind on the part of Defendant or any of the Releasees or of the validity or certifiability for litigation of any claims that have been, or could have been, asserted in the Litigation or otherwise. Such liability has been, is and remains denied.

27. This Final Approval Order and Judgment, the Settlement, and all acts, statements, documents, and proceedings relating to the Settlement shall not be offered, received, or admissible in evidence in any action or proceeding, or be used in any way as an admission, concession or

evidence of any liability or wrongdoing of any nature or that Plaintiffs, any Settlement Class Member, or any other person has suffered any damage; provided, however, that nothing in the foregoing, the Settlement, or this Final Approval Order and Judgment shall be interpreted to prohibit the use of the Settlement or this Final Approval Order and Judgment in a proceeding to consummate or enforce the Settlement or this Final Approval Order and Judgment (including all releases in the Settlement and Final Approval Order and Judgment), or to defend against the assertion of any the Settlement Class Representatives' Released Claims or Settlement Class Members' Released Claims in any other proceeding, or as otherwise required by law.

28. The Settlement's terms shall be forever binding on, and shall have res judicata and preclusive effect in, all pending and future lawsuits or other proceedings as to the Settlement Class Representatives' Released Claims and Settlement Class Members' Released Claims (and other prohibitions set forth in the Settlement and this Final Approval Order and Judgment) that are brought, initiated, or maintained by, or on behalf of, any Settlement Class Member or any other person subject to the Settlement and/or provisions of this Final Approval Order and Judgment.

29. The Court hereby dismisses the Litigation and all claims therein or related thereto as described in the Settlement and herein (including without limitation any and all claims that have been, or could have been raised, against CoGo's or the other Releasees relating to non-consensual towing from the Parking Lots during the Relevant Period). All claims in this Litigation are hereby dismissed, on the merits and with prejudice, without fees or costs to any Party except as provided in this Final Approval Order and Judgment. As such, this Final Approval Order constitutes a final order pursuant to applicable Pennsylvania law, including Pennsylvania Rule of Appellate Procedure 341.

30. Consistent with the Settlement, if the Effective Date, as defined in the Settlement Agreement, does not occur for any reason, this Final Approval Order and Judgment and the Preliminary Approval Order shall be deemed vacated and shall have no force and effect whatsoever; the Settlement shall be considered null and void; all of the Parties' obligations under the Settlement, the Preliminary Approval Order, and this Final Approval Order and Judgment shall cease to be of any force and effect, and the Parties shall return to the status quo ante in the Litigation as if the Parties had not entered into the Settlement. In such an event, the Parties shall be restored to their respective positions in the Litigation as if the Settlement Agreement had never been entered into.

31. Releasees, including CoGo's, are not responsible for paying any amounts due to any governmental taxing authority as a result of any payments set forth herein or through the Settlement. Any person or entity receiving payment pursuant to the Settlement, including without limitation the Plaintiffs, Settlement Class Members, Settlement Class Counsel and the Settlement Administrator, will be responsible for paying any amounts due to any governmental taxing authority as a result of any payments set forth herein. It is agreed that any determination of whether any of the payments made pursuant to this Settlement are subject to any taxes will be made by the appropriate governmental entities or agencies. Should any governmental entity or agency determine that any of the payments made herein are subject to taxes, said taxes will be paid by the person or entity receiving the payment and shall not increase the amount of any payments owed by CoGo's pursuant to this Agreement. Neither the Releasees nor any person (including attorney) on their behalf have provided any tax advice and are not herein providing any tax advice either expressly or implicitly based on the provisions or terms of this Settlement.

32. Without affecting the finality of this Final Approval Order and Judgment, the Court will retain jurisdiction over the subject matter and the Parties with respect to the interpretation and implementation of the Settlement for all purposes, including enforcement of its terms at the request of any party and resolution of any disputes that may arise relating in any way to, arising from, the implementation of the Settlement or the implementation of this Final Order and Judgment.

ENTERED:

Dated: _____, 2024

BY THE COURT:

_____, J.
The Honorable Philip A. Ignelzi

CERTIFICATE OF SERVICE

I hereby certify that on September 16, 2024, the foregoing was served by email mail on the following:

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Patrick D. Donathen