

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

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

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

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

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

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

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

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

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

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

1. Plaintiffs’ counsel request a combined award of common benefit attorneys’ fees and expenses of \$732,968.36. This amount will be paid directly from the Settlement Amount. The total represents a combined award of common benefit attorneys’ fees and common benefit expenses and costs incurred by plaintiffs’ counsel of less than 30% (approximately 29.3%).

2. Pursuant to the terms of the MSA, the Provider Defendants agreed not to oppose an attorneys' fee award up to 30% of the gross settlement (totaling \$750,000.00), plus an additional amount to reimburse Plaintiffs' counsel for common benefit costs and expenses. *See* MSA, a copy of which is attached to Plaintiffs' Brief in Support of this Motion, made a part hereof and marked Exhibit "A" at Section II.B.

3. As stated above, the combined amount of the attorneys' fees and costs will not exceed 30% of the total Settlement Amount and is fair and reasonable considering the thousands of people who benefitted from the Settlement, the skill and proficiency of counsel, the complexity and duration of the litigation, and the amount of time expended by Class Counsel in achieving the result for the Class. *See Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190, 195 (3d Cir. 2000) (identifying seven factors to be considered in the Third Circuit when deciding whether to approve a fee petition); *see also Varacallo v. Mass. Mutual Life Ins. Co.*, 226 F.R.D. 207, 248 (N.J. 2005) (finding requested attorneys' fees of \$58.1 million reasonable using common-fund method of fee calculation on settlement valued at \$771.9 million).

4. The percentage that Class Counsel requests as an award of attorneys' fees is also within the range of attorneys' fees approved in similar cases. *See Boone v. City of Philadelphia*, 668 F. Supp.2d 693, 713 – 15 (finding range of awards for

attorneys' fees only in similar actions to be on average 37.1% in class action settlements ranging from \$1 Million to \$50 Million and finding an award of attorneys' fees only totaling 30% in civil rights actions regarding strip searches to be reasonable).

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

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

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

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

Dated: May 30, 2014

Respectfully submitted,

By: /s/ David Senoff

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

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

RESPECTFULLY SUBMITTED,

CAROSELLI BEACHLER  
MCTIERNAN & CONBOY

BY: /s/ DAVID S. SENOFF

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Date: May 30, 2014



**CERTIFICATE OF SERVICE**

I, David S. Senoff, Esquire, hereby certify that, a true and correct copy of the Plaintiffs' Unopposed Motion for Award of Attorneys' Fees and Costs, was filed electronically on May 30, 2014 and is available for viewing electronically. Additionally, the foregoing Motion was served by First Class Mail upon the following *pro se* parties:

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