

QUAN-EN YANG, *et al.*
On Their Own Behalf and on Behalf
of All Others Similarly Situated,

Plaintiffs,

vs.

G & C GULF, INC. d/b/a
G&G TOWING, *et al.*

and

BRUCE PATNER t/a
PATNER PROPERTIES,
On His Own Behalf and on Behalf
of All Others Similarly Situated

Defendants.

* IN THE
* CIRCUIT COURT
* FOR
* MONTGOMERY COUNTY, MD.
* Case No. 403885V
* TRACK VI
*
* Hon. Ronald B. Rubin,
* Specially Assigned
*

* * * * *

**PLAINTIFFS' MOTION TO APPROVE
ADMINISTRATIVE ORDER NO. 2**

Named Plaintiffs Quan-en Yang, Mary Lois Pelz and Darcy Pelz-Butler on behalf of the certified Plaintiff Class in this case, in accordance with the Court's November 14, 2016 Memorandum and Order granting certification for the Defendant Class (Dkt. No. 219), move the Court to approve the proposed Administrative Order No. 2, and state as follows:

1. On November 14, 2016, this Court granted Class Certification pursuant to Rule 2-231(b)(1)(A) and 2-231(b)(1)(B) of the Maryland Rules of Civil Procedure, of a non-opt out Defendant Class consisting of:

All Parking Lot owners, managers and agents who entered into a written contract with G&G for the provision of trespass towing services which resulted in one or more vehicles being towed from the Parking Lot between April 16, 2012 and January 7, 2016.

Dkt. No. 219.

2. As part of the Court's Memorandum and Order, the Court ordered that "Counsel shall submit an implementing order within ten (10) days hereof." *Id.* at 23.

3. Although counsel for the Plaintiff and Defendant Classes attempted to reach agreement on the terms on such an implementing Order, the Parties ultimately were unable to reach a final agreement. Rather, the Parties have agreed to each submit our respective versions of the implementing Order by Motion. The Parties have also agreed to file simultaneous responses on December 16, 2016.

4. Attached as **Exhibit 1** to this Motion is Plaintiffs' proposed Administrative Order No. 2 which: (a) approves a notice protocol for the Defendant Class; (b) approves a Postcard Notice to the Class; (c) permits Defendant Class Members to object to their inclusion in the Class if they have a good faith belief in accordance with Md. Rule 1-311, that they do not fall within the Class Definition approved by the Court on November 14, 2016;¹ (d) identifies a protocol for Plaintiffs to respond to any objections; and (e) requires modifications and updates to the website *www.TowingClassAction.com*.

5. Plaintiffs' proposed Administrative Order No. 2 satisfies the requirements of Md. Rules 2-231(e) and 2-231(f)(2), the latter of which provides that the Court may enter Orders "requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given in the manner the court directs to some or all of the members of any

¹ This is the most fundamental difference between Plaintiffs' proposed implementing order and the version that we expect to be submitted by Defendants. Because the Defendant Class was certified as a non-opt class under Md. Rule 2-231(b)(1)(A) and 2-231(b)(1)(B), Plaintiffs proposed implementing order permits any Defendant Class Members to challenge their inclusion in the Class if they can demonstrate that they do not fall within the class definition. Defendants insist that each Defendant Class Member be permitted to object to and contest the Court's basis for certifying the Defendant Class in the first place. Because Plaintiffs believe that Defendants' approach is unfounded and overreaching, Plaintiffs intend to oppose this protocol when we file Plaintiffs' response to Defendants' Motion.

step in the action, or of the proposed extent of the judgment, or of the opportunity of members to signify whether they consider the representation fair and adequate, to intervene and present claims or defenses, or otherwise to come into the action.”

WHEREFORE, Plaintiffs request that the Court approve Plaintiffs’ proposed Administrative Order No. 2.


Respectfully submitted,

Dated: November 28, 2016

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Attorneys for Named Plaintiffs and
the Certified Plaintiff Class

By:


Richard S. Gordon

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of November, 2016, I served the foregoing Plaintiffs' Motion to Approve proposed Administrative Order No. 2 by electronic mail and first-class mail, postage prepaid on:

James Ulwick
Jean E. Lewis
Steven A. Book
Kramon & Graham, PA
One South Street
Suite 2600
Baltimore, Maryland 21202

Ronald S. Canter
The Law Offices of Ronald S. Canter, LLC
200A Monroe Street, Suite 104
Rockville, Maryland 20850

Matthew Patner
Patner Law
110 N. Washington Street
Suite 340
Rockville, Maryland 20850


Richard S. Gordon

Exhibit 1

QUAN-EN YANG, *et al.*
On Their Own Behalf and on Behalf
of All Others Similarly Situated,

Plaintiffs,

vs.

G & C GULF, INC. d/b/a
G&G TOWING, *et al.*

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* * * * *

ADMINISTRATIVE ORDER NUMBER 2

1. On November 14, 2016, this Court granted Class Certification pursuant to Rule 2-231(b)(1)(A) and 2-231(b)(1)(B) of the Maryland Rules of Civil Procedure, of a non-opt out

Defendant Class consisting of:

All Parking Lot owners, managers and agents who entered into a written contract with G&G for the provision of trespass towing services which resulted in one or more vehicles being towed from the Parking Lot between April 16, 2012 and January 7, 2016.

Dkt. No. 219.

2. In accordance with the Court's Order certifying the Class and Md. Rule 2-231(e), Defendant Class Members must be given notice concerning the nature and pendency of this action and of their rights, including notice of their right to object to their inclusion in the Defendant Class by a date certain. These objectives will be satisfied by mailing of postcards

(“Postcard Notice”) directing members of the certified Defendant Class to a website – *www.TowingClassAction.com* – which includes, *inter alia*, further information and documents about this lawsuit, including but not limited to a copy of the Court’s docket, as well as links to pdf copies of selected pleadings, documents, papers and orders from the docket. The website shall also provide members of the Defendant Class with the names and contact information for all Counsel appointed by the Court to represent the Defendant Class.

3. This is the second time in this case that notice, pursuant to Md. Rule 2-231, is being given to the members of the Defendant Class. On May 12, 2016, the Court approved Administrative Order Number 1 (“Admin. Order No. 1”) which required that notice of the pendency of this class action be sent to the then-putative Defendant Class. Dkt. No. 148. In Admin. Order No. 1, the Court approved the notice under Md. Rules 2-231(e) and 2-231(f)(2), the latter of which provides that the Court may enter Orders “requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given in the manner the court directs to some or all of the members of any step in the action, or of the proposed extent of the judgment, or of the opportunity of members to signify whether they consider the representation fair and adequate, to intervene and present claims or defenses, or otherwise to come into the action.” The Court found that the notice approved by Admin. Order No. 1, together with the publishing of the website *www.TowingClassAction.com*, satisfied these objectives. Dkt. No. 148 at ¶2.

4. Subject to the procedures set forth below, Plaintiffs shall send the Postcard Notice, approved by this Order by regular mail to all Defendant Class Members (i.e., Parking Lot owners, managers and agents) who were identified by G&G Towing as having entered into a

written contract with G&G Towing for the provision of trespass towing services during the Class Period. The notice, *inter alia*, shall advise the members of the Defendant Class of the right to file an objection to their inclusion in the Defendant Class – if they have evidence that they do not fall within the Class Definition approved by the Court (*see* ¶1, above) – and include a deadline for such objections which shall be Thirty (30) days from the date that the notice is mailed to the members of the Defendant Class.

5. Within ten (10) days of entry of this Administrative Order No. 2, Plaintiffs shall provide Counsel for Named Class Defendant Bruce Patner t/a Patner Properties (“Patner”) with a list of all Parking Lot owners, managers and agents who are Members of the Defendant Class. For each such person or entity, Plaintiffs shall provide Patner the following information, in an electronic readable format: (1) their name(s), and (2) last known address(es) and/or the address of the resident agent (the “Electronic Class List”).

6. The Court hereby approves the Postcard Notice, attached hereto as **Exhibit A**, and finds that said form complies with the requirements of Rule 2-231 of the Maryland Rules of Civil Procedure and due process. Unless the schedule is modified by further Order of this Court, the schedule respecting Notice shall proceed as follows:

A. The Postcard Notice attached hereto as **Exhibit A** shall be sent under the direction of Plaintiffs’ counsel to all Defendant Class Members within Thirty (30) days of the entry of this Administrative Order No. 1, with a copy of the service list provided to Defendants’ counsel.

B. The Postcard Notice shall be sent by U.S. mail, postage prepaid (the “Mailing”).

C. Contemporaneous with the Mailing, the Postcard Notice shall also be uploaded to *www.TowingClassAction.com*.

D. Within Ten (10) days of the Mailing, Plaintiffs' counsel shall cause to be filed with the Clerk of this Court, and served upon opposing counsel, affidavits or declarations of the person or persons under whose general direction the mailing of the Notice shall have been made, showing that such Mailing was made in accordance with this Order.

E. Within Thirty (30) days of the Mailing, any member of the Defendant Class may file with the Court (and served on Class Counsel for the Plaintiffs and Defendants) an objection to their inclusion in the Defendant Class if they have a good faith belief consistent with Md. Rule 1-311, that they do not fall within the Class Definition approved by the Court on November 14, 2016 (*see* ¶1, above) (hereinafter "Objection"). Any such Objection to membership in the Class shall state and include: (1) their name and address; (2) the name and address of any attorney representing them; (3) whether, prior to April 16, 2012 they entered into a written contract with G&G Towing; and (4) whether, between April 16, 2012 and January 7, 2016, G&G Towing towed one or more vehicles from a Parking Lot owned, managed or operated by them. Objections shall be supported by an Affidavit of the Objecting party in accordance with Md. Rule 1-304.

F. Unless otherwise ordered by the Court, Plaintiffs shall file a response to any Objection(s) to Class membership within Twenty (20) days of service.

G. Following the filing of a response by Plaintiffs, the Court will rule on each Objection. Any Defendant Class member who does not file an Objection as set forth in this Paragraph, or whose Objection is overruled, shall conclusively be determined to be a member of the Defendant Class for purposes of the proceedings in this case.

7. Pursuant to Rule 2-231 of the Maryland Rules of Civil Procedure, the Court hereby finds and concludes that the mailing pursuant to ¶6 above constitutes individual notice to those members of the Class who have been or who can be identified through reasonable effort; that such notice provides due and sufficient notice of the matters set forth in the Notice to all persons entitled to such notice; and that said program of notice fully satisfies requirements of Md. Rule 2-231 and the requirements of due process.

8. No Defendant Class Member shall be permitted to opt-out from the Defendant Class.

9. Plaintiffs will file with the Court a final list of all persons who are members of the Defendant Class no later than Twenty (20) days following the Court's ruling on the Objection(s). The Defendant Class List shall include for each Defendant Class Member: (1) their name, and (2) last known address(es) and/or the address of the resident agent to whom notice was sent.

Date: _____

Honorable Ronald B. Rubin
Circuit Court for Montgomery County, Maryland

Exhibit A

**THIS IS NOT JUNK
MAIL.
THIS POSTCARD
PROVIDES IMPORTANT
INFORMATION ABOUT
YOUR LEGAL RIGHTS
AS A CLASS MEMBER
IN A DEFENDANT
CLASS ACTION.**

G&G Towing Class Action
c/o Gordon, Wolf & Carney, Chtd.
102 West Pennsylvania Ave.
Suite 402
Towson, Maryland 21204

PRE-SORTED
First Class Mail
US Postage Paid
Towson, MD
Permit No. XXX

Class Member
Street Address
City, MD Zipcode

The Circuit Court for Montgomery County, Maryland authorized this notice

Why am I receiving this notice? You are receiving this notice as a result of a class action complaint in *Yang v. G&C Gulf, Inc., t/a G&G Towing, et al.*, Case No. 403885V, filed in the Circuit Court for Montgomery County, Maryland, commenced by Plaintiff Quan-en Yang on his own behalf and on behalf of all others similarly situated against: (1) G&C Gulf, Inc., t/a G&G Towing, and (2) a Defendant Class represented by Bruce Patner t/a Patner Properties as the Defendant Class Representative (on his own behalf and on behalf of all others similarly situated). On November 14, 2016, the Court granted Class Certification pursuant to Rule 2-231(b)(1)(A) and 2-231(b)(1)(B) of the Maryland Rules of Civil Procedure, for a non-opt out Defendant Class. You have been identified as a member of the certified Defendant Class. **YOUR LEGAL RIGHTS MAY BE AFFECTED BY THIS LAWSUIT.**

What Is The Lawsuit About? The certified Plaintiff Class claims that Defendant G&G Towing – acting under the authority of contracts with parking lot owners, managers and/or agents throughout Montgomery County (i.e., the Defendant Class) – engaged in predatory towing of vehicles that violated duties set forth in Maryland’s Towing or Removal of Vehicles from Parking Lots Law, (Md. Code Ann., Transp. §21-10A-01 *et seq.*), Montgomery County’s Tow Ordinances (Montgomery County Code, § 30C-1, *et seq.*) and the common law of Maryland. The Plaintiff Class claims that the members of the Defendant Class are derivatively liable, including jointly and severally liable, for G&G Towing’s violations of the law. On May 3, 2016, the Circuit Court for Montgomery County entered Judgment for \$22 million on all Counts in the Complaint in favor of the certified Plaintiff Class against Defendant G&G Towing. The Named Defendant Class Representative is Bruce Patner t/a Patner Properties, 4720 Montgomery Lane, Bethesda, Maryland 20814.

Why Was This Notice Sent To You? Defendant G&G Towing’s records show that you are a member of the certified Defendant Class because you had a written contract with G&G Towing for the provision of trespass towing services which resulted in one or more vehicles being towed from your parking lot(s) between April 16, 2012 and January 7, 2016.

What Action Should I Take If I Do Not Believe that I Am Properly Included in the Certified Defendant Class? No later than January ____, 2017, you may file an objection to your inclusion in the Defendant Class if you have a good faith belief that you do not fall within the Class Definition approved by the Court on November 14, 2016. Instructions on and requirements for filing an objection are on the website **www.TowingClassAction.com**.

Who Represents the Defendant Class in this Lawsuit? The certified Defendant Class in this case is represented by James P. Ulwick and Jean E. Lewis of Kramon & Graham, PA, One South Street, Suite 2600, Baltimore, Maryland 21202. (410) 752-6030. Please call or email julwick@kg-law.com or jlewis@kg-law.com for additional information.

Where can I get more information? The website **www.TowingClassAction.com** includes additional information about this lawsuit including documents from the Court docket.