

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

\* \* \* \* \*

**PLAINTIFFS' RESPONSE TO MOTION TO INTERVENE  
FILED BY WESTMORE COMMERCIAL CONDOMINIUM  
ASSOCIATION, INC. a/k/a WESTMORE AUTO PARK I**

Plaintiffs and the certified Plaintiff Class in this case, by and through their undersigned counsel, and in response to the Motion to Intervene filed by Westmore Commercial Condominium Association, Inc. a/k/a Westmore Auto Park I (“Westmore” or “Intervening Defendant”) (Dkt. No. 375), state at follows:

1. Plaintiffs consent to Westmore’s Motion to Intervene.
2. Plaintiffs are mindful that prior to filing the Motion to Intervene, Westmore had opted out of the Defendant Settlement Class (Dkt. No. 278) and also filed a Motion to Dismiss or, in Alternative for Summary Judgment (Dkt. No. 279) (“Motion to Dismiss”). It is the Plaintiff Class’ position that the filing of the Motion to Dismiss was premature and in violation of Md. Rule 2-214(c) which provides the required procedure in connection with intervention:

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Clerk of the Circuit Court  
Montgomery County, MD

(c) **Procedure.** A person desiring to intervene shall file and serve a motion to intervene. The motion shall state the grounds therefor and shall be accompanied by a copy of the proposed pleading, motion, or response setting forth the claim or defense for which intervention is sought. An order granting intervention shall designate the intervenor as a plaintiff or a defendant. ***Thereupon, the intervenor shall promptly file the pleading, motion, or response and serve it upon all parties.***

Md. Rule 2-214(c) (emphasis added). Accordingly, prior to filing the Motion to Dismiss, an intervening defendant such as Westmore must first obtain a ruling on the Motion to Intervene. Absent a ruling on the Motion to Intervene, the Motion to Dismiss is impermissible. *See also* P.V. Niemeyer, *Maryland Rules Commentary* 197 (4<sup>th</sup> ed. 2014 and sup. 2017) (“Once the person has intervened, he or she is designated as a plaintiff or defendant and thereafter may file pleadings and participate in framing the issues for trial”).

3. Thus, while Plaintiffs and the certified Plaintiff Class consent to Westmore’s Motion to Intervene, we do **not** consent to Westmore’s proposed Order because it is incomplete and does not conform to the requirements and procedures of Md. Rule 2-214(c). Rather, Plaintiffs have attached an alternative proposed Order consistent with the procedures required by the Maryland Rules.

Respectfully submitted,

Dated: February 1, 2018

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Attorneys for Named Plaintiffs and  
the Certified Class

By:   
Richard S. Gordon

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 1<sup>st</sup> day of February, 2018, a copy of the foregoing Response to Motion to Intervene and proposed Order was served, via electronic and first-class mail, postage prepaid upon:


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\_\_\_\_\_  
Richard S. Gordon

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and	*	
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PATNER PROPERTIES,	*	
On His Own Behalf and on Behalf	*	
of All Others Similarly Situated,	*	
Defendants.	*	
* * * * *		

**ORDER**

UPON CONSIDERATION OF Westmore Commercial Condominium Association, Inc. a/k/a Westmore Auto Park I (Dkt. No. 375), and the Responses of the Certified Plaintiff Class and the Certified Defendant Class, it is this \_\_\_\_ day of \_\_\_\_\_, 2018,

ORDERED that Westmore Commercial Condominium Association, Inc. a/k/a Westmore Auto Park I's Motion to Intervene is GRANTED; and

IT IS FURTHER ORDERED that Westmore Commercial Condominium Association, Inc. a/k/a Westmore Auto Park I shall be designated as an intervening Defendant in this case; and

IT IS FURTHER ORDERED that consistent with Md. Rule 2-214(c), the Intervening Defendant may file and serve motion and papers in this case, following the Court's entry of this Order.

\_\_\_\_\_  
Judge  
Montgomery County Circuit Court