

**IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA**

Ashely Sewak, individually and on behalf of)
a class of similarly situated persons,)
)
Plaintiff,)
)
v.)
)
Citywide Parking Services, LLC,)
)
Defendant.)

CIVIL ACTION FILE NO.
20C04120-3

ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT

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WHEREAS Plaintiff, Ashley Sewak ("Plaintiff"), individually and as Class Representative on behalf of a proposed Settlement Class, and Defendant Citywide Parking Services, LLC ("Citywide"), all acting by and through their respective counsel, have agreed, subject to Court approval, to settle *Ashley Sewak v. Citywide Parking Services, LLC*, Case No. 20-C-04120-S3 and *Crystal Backmon v. Citywide Parking Services, LLC*, Case No. 22-C-01459-S6, which have been consolidated into Case No. 22-C-04120-S3 (the "Consolidated Class Action Lawsuit"), pending in front of this Court, upon the terms and conditions stated in the Stipulation of Settlement filed with the Court on June 7, 2023 the "Stipulation");

NOW, THEREFORE, based upon the Stipulation, upon all of the files, records, and proceedings herein, statements of counsel, and it appearing to the Court that a hearing should be held to determine whether the Proposed Settlement described in the Stipulation is fair, reasonable, and adequate;

IT IS HEREBY ORDERED THAT:

1. The Stipulation is hereby incorporated by reference in this Order and all terms defined in the Stipulation will have the same meanings in this Order.
2. For purposes of determining whether the terms of the Proposed Settlement should be finally approved as fair, reasonable and adequate, the following Settlement Class is preliminarily certified for settlement purposes only:

All persons who have had a vehicle in his or her possession that was booted by or at the request of Defendant and paid fines for removal of said device at a lot within

the City of Sandy Springs from September 30, 2017 to December 18, 2020, and all persons who have had a vehicle in his or her possession that was booted by or at the request of Defendant and paid fines for removal of said device at a lot within the City of Marietta from July 1, 2014 to December 18, 2020. Excluded from the Class are: (1) Defendant, and any employee, officer, or director of Defendant; (2) Any employees, officers, or directors of Defendant's Insurers; (3) members of the judiciary and their staff to whom these actions are assigned; and (4) Plaintiffs' counsel (the "Settlement Class").

3. Plaintiff is preliminarily appointed as representative of the Settlement Class ("Class Representative"), and the following attorney for Plaintiff is preliminarily appointed as counsel for the Settlement Class ("Class Counsel"):

Matt Wetherington
Wetherington Law Firm, P.C.
1800 Peachtree St., NW, Suite 370
Atlanta, Georgia 30309
matt@wfirm.com
(404) 888-4444

If final approval of the Proposed Settlement is not granted, this Order, including the above description of the Settlement Class and the preliminary appointment of the Class Representative and Class Counsel, shall be automatically vacated. If the Stipulation is terminated or is disapproved in whole or in part by this Court, any appellate court and/or any other court of review, or if any of the parties invoke their right to revoke their agreement to settle as provided in paragraphs 69-71 of the Stipulation, the Stipulation and the fact that it was entered into shall not be offered, received or construed as an admission or as evidence for any purpose, including the "certifiability" of any litigation class, as discussed in paragraphs 74-74 of the Stipulation.

4. Pending a final determination of whether the Proposed Settlement should be approved as fair, reasonable, and adequate, neither Plaintiff nor any potential Class Member, whether directly, indirectly, representatively or in any other capacity, shall start, join, continue, litigate or participate in or accept any benefit or relief from any other lawsuit, arbitration, or

administrative or regulatory proceeding against Citywide that is based on, relates to, or involves any of the claims, facts, circumstances, or subject matters of the Consolidated Class Action Lawsuit or the Stipulation. Accordingly, the Court hereby preliminarily enjoins any and all Georgia residents (and any other person within the jurisdiction of the Court) from bringing a new class action or attempting to amend an existing action to assert any class claims that would be released pursuant to the Stipulation.

5. The parties have prepared the Individual Notice, Claim Form and Detailed Notice, which have been submitted to the Court as Exhibits “2”, “3”, and “4” to the Stipulation. As set forth herein, the Court has reviewed and approved the Individual Notice, Claim Form and Detailed Notice.

6. Atticus Administration, LLC is preliminarily appointed as the third-party administrator (the “Administrator.”).

7. As soon as practicable after the preliminary approval of the Proposed Settlement, Citywide shall provide to Class Counsel and the Administrator those spreadsheets in its possession and readily obtainable that include the license plate data of each potential Class Member that it has been able to identify, after conducting a reasonable search and making a reasonable inquiry of its records of bootings of Class Members during the Class Period. Such spreadsheets will be provided in their original or similar machine-parsable format.

8. Within 30 days after receipt of this information, the Administrator shall provide to Class Counsel and Defendant, a list of the names and last known address of the potential Class Members the class administrator was able to identify through use of the license plate data. Thereafter, the Administrator shall send a copy of the Individual Notice and a Claim Form by text message and/or first-class mail to each potential Class Member for whom were identified through

license plate data. Prior to mailing the Individual Notice and Claim Form, the Administrator will run these addresses once through the National Change of Address Database (“NCOA”) for a more current name and/or address for each potential Class Member. Upon completion of the updating efforts, the Administrator shall use its best efforts to complete the mailing of the Individual Notice and Claim Form to potential Class Members at least sixty (60) days before the scheduled Final Approval Hearing. The Individual Notice and Claim Form are hereby approved as to form and content by the Court and shall be substantially in the form attached to the Stipulation as Exhibits “2” and “3”, unless otherwise modified by agreement of the parties and approved by the Court. The mailing to the Class Members that contains the Individual Notice will also include a copy of the Claim Form, in a format substantially similar to Exhibit “3” to the Stipulation.

9. If any Individual Notice and/or Claim Form mailed to any potential Class Member in accordance with paragraph 8 above is returned to the Administrator as undeliverable, the Administrator will promptly log each Individual Notice and/or Claim Form that is returned as undeliverable and provide copies of the log to Citywide and Class Counsel, as requested. If such a mailing is returned with a forwarding address, the Administrator will forward the Individual Notice and Claim Form to that address. For the remaining returned mailings, if a search of a commercial database resources entity (e.g., Accurint, TransUnion, IDI, etc.) was not previously conducted for those mailings, such a search shall be conducted and those mailings shall be forwarded to any new address or phone number obtained through such a search; *provided however*, if a determination is made in good faith by the Settlement Administrator that it is not possible to further update any particular Class Member’s address(es) in sufficient time to re-post the Class Notice(s) at least thirty (30) days before the scheduled Final Approval Hearing, then the Settlement Administrator need not make any further efforts to provide further Individual Notice to such

Person(s). The Court finds the procedures set forth in this paragraph and the preceding paragraph constitute reasonable and the best practicable notice under the circumstances and an appropriate and sufficient effort to locate current addresses of Class Members such that no additional efforts to do so shall be required. Upon request, the Administrator shall provide Class Counsel and/or Citywide such reasonable access to the notice process as they may need to monitor compliance with the notice campaign.

10. In addition to the Individual Notices mailed in accordance with paragraph 8, above, the Administrator shall establish a website and post on that website the Stipulation and a Detailed Notice. Claims may also be asserted through the website established by the Administrator. The Detailed Notice is hereby approved by the Court as to form and content and shall be posted on the website in a form substantially similar to that attached to the Stipulation as Exhibit "4".

11. In addition to the Individual Notices mailed in accordance with paragraph 8, above, the Administrator shall, commencing no later than the date of posting for the Individual Notices, cause to be published a notice ("Publication Notice") of the Settlement on Meta social media platforms. The Publication Notice shall be published once a week for four consecutive weeks, in a form substantially similar to that attached hereto as Exhibit "2".

12. Prior to the Final Approval Hearing provided for in paragraph 15, below, Class Counsel shall file with the Court a declaration confirming dissemination of the Individual Notice, publication of the Publication Notice, and posting of the website Detailed Notice in accordance with the terms of this Order.

13. The costs of providing the dissemination of Class Notice as set forth above, shall be borne by Citywide as agreed in the Stipulation. The costs to administer the settlement shall not exceed \$40,000.

14. The Court preliminarily finds that the dissemination of the Individual Notice under the terms and in the format provided for in this Order, the Publication Notice, together with the posting of the Stipulation, Claim Form, and the Detailed Notice on a website as set forth above, constitutes the best notice practicable under the circumstances, is due and sufficient notice for all purposes to all persons entitled to such notice, and fully satisfies the requirements of the Georgia Rules of Civil Procedure, the requirements of due process under the Georgia and United States Constitutions, and the requirements of any other applicable rules or law.

15. The Court will hold a Final Approval Hearing to consider the fairness, reasonableness, and adequacy of the Proposed Settlement at 1:30 p.m. March 18, 2023⁴ in the Gwinnett County Courthouse, as set forth in the Individual Notice and Detailed Notice. During the Final Approval Hearing, the Court will consider whether the Proposed Settlement described in the Stipulation, including the proposed award of attorneys' fees, costs and expenses to Class Counsel and any incentive fee to the Class Representatives, should be approved as fair, reasonable, and adequate, and whether the Court should enter the proposed Final Judgment approving the Proposed Settlement and dismissing the Consolidated Class Action Lawsuit on the merits, with prejudice, and without leave to amend. Upon a showing of good cause, the Final Approval Hearing may be postponed, adjourned or rescheduled by order of the Court without further notice to the members of the Settlement Class.

16. Class Members who wish to exclude themselves from the Settlement Class must submit written requests for exclusion. To be effective, such a request must include the Class Member's name and address, a clear and unequivocal statement that the Class Member wishes to be excluded from the Settlement Class, and the signature of the Class Member or, in the case of a Class Member who is deceased or incapacitated only, the signature of the Legally Authorized

Representative of the Class Member. The request must be mailed to the Administrator at the address provided in the Class Notice and must be postmarked no later than thirty (30) days prior to the Final Approval Hearing.

17. Prior to the Final Approval Hearing, Class Counsel shall file with the Court and serve upon Citywide's Counsel a declaration reporting the number and status of any requests for exclusion.

18. Potential Class Members who submit timely and valid requests for exclusion in the manner set forth in the Individual Notice, Detailed Notice, and the Stipulation shall be excluded from the Settlement Class. Such persons shall have no rights under the Proposed Settlement, shall not share in any distribution of funds under the Proposed Settlement, and shall not be bound by the Proposed Settlement or by any Final Judgment approving the Proposed Settlement.

19. All members of the Settlement Class who do not request exclusion in the manner set forth in the Individual Notice, Detailed Notice, and the Stipulation shall be bound by any Final Judgment entered pursuant to the Stipulation, and shall be barred and enjoined, now and in the future, from asserting any of the Released Claims, as defined in the Stipulation, against any Released Persons, as defined in the Stipulation. Upon entry of a Final Judgment approving the Proposed Settlement, all members of the Settlement Class shall be conclusively deemed to have fully and finally released all of the Released Persons from any and all Released Claims.

20. Class Members who do not request exclusion from the Settlement Class may object to the Proposed Settlement. Class Members who choose to object to the Proposed Settlement may file a written objection, as described below. Any Class Member may appear at the Settlement Final Approval Hearing, in person or by counsel, and be heard to the extent allowed by the Court, applying applicable law, in opposition to the fairness, reasonableness and adequacy of the

Proposed Settlement, and on the application for an award of attorneys' fees and costs. The right to object to the Proposed Settlement must be exercised individually by an individual Class Member, not as a member of a group or subclass and, except in the case of a deceased, minor, or incapacitated Class Member, not by the act of another person acting or purporting to act in a representative capacity. To be effective, an objection to the Proposed Settlement must:

- (a) Contain a heading which includes the name of the case and case number;
- (b) Provide the name, address, telephone number and signature of the Class Member filing the objection;
- (c) Indicate the specific reasons why the Class Member objects to the Proposed Settlement;
- (d) Be filed with the Clerk of the Court not later than thirty (30) days prior to the Settlement Approval Hearing;
- (e) Be sent to the Administrator by first-class mail, and postmarked no later than thirty (30) days prior to the Settlement Approval Hearing;
- (f) Contain the name, address, bar number and telephone number of the objecting Class Member's counsel, if represented by an attorney. If the Class Member is represented by an attorney, he/she or it must comply with all applicable Georgia laws and rules for filing pleadings and documents in Georgia Courts; and
- (g) State whether the objecting Class Members ("Objector") intends to appear at the Settlement Approval Hearing, either in person or through counsel.

In addition, an objection must contain the following additional information, if the Class Members or his/her or its attorney requests permission to speak at the Settlement Hearing:

- (i) A detailed statement of the specific legal and factual basis for each and every objection;
- (ii) A list of any and all witnesses whom the Objector may call at the Settlement Approval Hearing, with the address of each witness and a summary of his or her proposed testimony;
- (iii) A detailed description of any and all evidence the Objector may offer at the Settlement Approval Hearing, including photocopies of any and all exhibits which the Objector may introduce at the Settlement Approval Hearing; and

(iv) Documentary proof of membership in the Settlement Class.

21. The Class Representative and Class Counsel agree, and the Court finds, that any representation, encouragement, solicitation or other assistance, including but not limited to referral to other counsel, to any person seeking exclusion from the Settlement Class, or any other person seeking to litigate with Citywide over any of the Released Claims in this matter, prior to the Settlement Final Approval Hearing, could place Class Counsel and/or Class Representative in a conflict of interest with the Settlement Class. Accordingly, Class Counsel and their respective firms and the Class Representatives and their attorneys shall not represent, encourage, solicit or otherwise assist, in any way whatsoever, including but not limited to referrals to other counsel, any person requesting exclusion from the Settlement Class.

22. The Proposed Settlement is hereby preliminarily approved as fair, reasonable, adequate, and in the best interests of the Class Members. However, it is not to be deemed an admission of liability or fault by Citywide or by any other person, or a finding of the validity of any claims asserted in the Consolidated Class Action Lawsuit, of any wrongdoing or of any violation of law by Citywide, or an admission by Citywide that the Consolidated Class Action Lawsuit is or should be certified as a litigation class. The Proposed Settlement and any documents, attachments or other materials submitted to the Court in furtherance of said Proposed Settlement, shall not be offered or received in evidence in any action or proceeding in any court, administrative panel or proceeding, or other tribunal, as an admission or concession of liability or wrongdoing of any nature on the part of Citywide. In the event the Proposed Settlement is not finally approved for any reason, Citywide shall retain the right to object to the maintenance of the Consolidated Class Action Lawsuit and/or any other case as a class action and to contest the Consolidated Class Action Lawsuit and/or any other case on any grounds.

23. Upon a showing of good cause, the Court may extend any of the deadlines set forth in this Order without further notice to the Settlement Class.

IT IS SO ORDERED.

Dated: September 15, 2023

Melodie H. Clayton, Senior Judge
Judge Carla Brown
State Court of Gwinnett County, Georgia
Sitting by Designation
Melodie H. Clayton