

**COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA**

WILLIAM J. SCHNIEDER, CASEY BRUCE,
DIANE DOCCHIO, and MARGARET
CUSICK, individually and on behalf of all
others similarly situated,

CIVIL DIVISION

GD-18-012296

Plaintiffs,

v.

COUNTYWIDE PETROLEUM COMPANY,
SPC REALTY COMPANY f/k/a SUPERIOR
PETROLEUM COMPANY, OM ANSH
ENTERPRISE, INC; and BRIAN HAENZE
d/b/a AUTO GALLERY & ACCESSORIES
and as TAG TOWING AND COLLISION,

Defendants.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW ON PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION**

On February 21, 2023, the Court held a class certification hearing in the above-captioned action. All parties were provided the opportunity to discuss evidence submitted in the record and argue their positions. The Court carefully reviewed and considered the requirements for class certification under the Pennsylvania Rules of Civil Procedure. This Court concludes class certification is proper in this matter.

1. Introduction and Class Allegations

This civil action arises out of alleged towing overcharges. Plaintiffs have sued

the Defendants¹ which include the property owners (“Om Ansh”, “Property Defendant”) as well as the towing company (TAG Towing and Collision (“TAG”, “Towing Defendant”)) and its owner Brian Haenze who have been alleged to have performed the tows from the properties on behalf of the property owners. Plaintiffs have alleged each class member has been unlawfully overcharged for a non-consensual tow, and their property (their vehicle) was withheld until they paid the unlawful amount. *Plaintiff’s Motion for Class Certification / Plaintiff’s Brief in Support of Motion for Class Certification*, Electronic Court Record (“ECR”) 49, Brief p.1.

Named Plaintiffs seek to be appointed as Class Representatives for the Class defined as:

All owners or operators whose passenger cars, light trucks, motorcycles, and scooters were non-consensually towed from the Parking Lot by TAG Towing within the applicable statutes of limitation, and who, as a result, were charged and paid a fee in excess of the limits then set by 5 Pittsburgh Code §§ 525.05

Id. at Motion p.1.

Plaintiffs also allege violations of the Pennsylvania Unfair Trade Practices and Consumer Protection Law (“UTCPL”), 73 Pa. Stat. § 2011 *et seq.*; violations of the Pennsylvania Fair Credit Extension Uniformity Act (“FCEUA”); unjust enrichment; misappropriation/conversion, negligence; negligence *per se*; constructive fraud; and (in the alternative) breach of contract/implied contract.

¹ This action was voluntarily discontinued against Defendants SPC Realty Company f/k/a Superior Petroleum Company and Countywide Petroleum on June 1, 2020. *Stipulation for Voluntary Discontinuance as to Less Than All Defendants*, ECR 33.

2. Standards for Class Certification

The prerequisites to certifying a class action are set forth in Pennsylvania Rules of Civil Procedure 1702. Pa. R. Civ. P. 1702; *see also Kelly v. Cty. of Allegheny*, 546 A.2d 608, 610 (Pa. 1988). Additionally, Rules 1708 and 1709 specify the factors considered in determining the last two requirements of Rule 1702 (adequacy of representation and fairness and efficiency). *Id.*

Plaintiffs bear the burden to present evidence sufficient to make a prima facie case that the five elements of Rule 1702 are satisfied. *Debbs v. Chrysler Corp.*, 810 A.2d 137, 152 (Pa. Super. Ct. 2002). This burden is “not a heavy one.” *Baldassari v. Suburban Cable TV Co.*, 808 A.2d 184, 189–90 (Pa. Super. Ct. 2002) (citing *Cambanis v. Nationwide Ins. Co.*, 501 A.2d 635 (Pa. Super. Ct. 1985)). At the class certification hearing, the court may consider the parties’ allegations in the operative Complaint and Answer, depositions or admissions supporting the allegations, and any testimony or evidence offered at the class certification hearing. *See* Pa. R. Civ. P. 1707, cmt. The class proponent does not need to prove separate facts for each of the class certification requirements; rather the burden on the class proponent is to “establish those underlying facts sufficiently from which the court can make the necessary conclusions and discretionary determinations.” *Kelly*, 546 A.2d at 612. At the class certification hearing, the “court may review the substantive elements of the case only to envision the form that a trial on those issues would take.” *Samuel-Bassett v. Kia Motors Am., Inc.*, 34 A.3d 1, 15–16 (Pa. 2011). In deciding class certification, the courts routinely “employ reasonable inferences, presumptions, and judicial notice.” *Janicik v. Prudential Ins. Co. of Am.*, 451 A.2d 451, 455 (Pa. Super. Ct. 1982)

In deciding whether to certify a class action, this Court is “confined to a consideration of the class action allegations and is not concerned with the merits of the controversy. . . it is designed to decide who shall be the parties to the action and nothing more.” *Baldassari*, 808 A.2d at 189–90 (citing Pa. R. Civ. P. 1707, Explanatory Note); *see also Piltzer v. Indep. Fed. Sav. And Loan Ass’n of Philadelphia*, 319 A.2d 677, 678 (Pa. 1974) (“Whether a suit should proceed as a class action is independent of the question whether plaintiffs have stated a cause of action or whether they can prevail on the merits.”). At this stage, the Court refrains from making any ruling on any ultimate right to recover, the credibility of any witnesses, and any substantive merits of any defenses raised. *Crepeau v. Rite Aid, Inc.*, 71 Pa. D. & C.4th 449 (Pa. Com. Pl. 2005).

The Court is counseled by Pennsylvania law, which provides that “decisions in favor of maintaining a class action should be liberally made.” *Baldassari*, 808 A.2d at 189–90 (citing *D’Amelio v. Blue Cross of Lehigh Valley*, 500 A.2d 1137 (Pa. Super. Ct. 1985); *Bell v. Beneficial Consumer Disc. Co.*, 360 A.2d 681 (Pa. Super. Ct. 1976)).

3. The Laws at Issue

The Pennsylvania legislature regulates the removal of unattended vehicles in private parking lots (*i.e.*, nonconsensual tows). The Pennsylvania Vehicle Code provides that a person is prohibited from parking in a private lot if that lot has posted proper notice of the parking restrictions. 75 Pa. C.S.A. § 3353(a) and (b). The statute grants the Property Defendant the authority to direct Towing Defendants to tow the vehicles at the vehicle owners’ expense and provides for statutory lien for collection of the same. *Id.* Specifically, the legislature provides:

(c) Property owner may remove vehicle.—The owner or other person in charge or possession of any property on which a vehicle is parked or left

unattended in violation of subsection (b) may remove or have removed the vehicle at the reasonable expense of the owner of the vehicle. Such person who removes or has removed a vehicle left parked or unattended in violation of the provisions of subsection (b) shall have a lien against the owner of the vehicle, in the amount of the reasonable value of the costs of removing the vehicle plus the costs of storage. Any city, borough, incorporated town or township may, by ordinance, provide for rates to be charged for removal of vehicles and for municipal regulation of authorized towing services. If storage charges are not set by the municipality, a maximum of \$25 per day may be charged for storage.

Id. at 3353(c) (emphasis added).

According to the legislature, Om Ansh has the right to remove, or have removed, any unattended vehicles on their property, subject to proper notice being posted. *Id.* Further, Om Ansh may then assert a lien against the owner of the vehicle for the “reasonable value of the costs of removing the vehicle,” subject to any rate caps that may be set by city ordinance. *Id.* Under Pennsylvania law, TAG is permitted to retain possession of the vehicles until the lien is paid. *See Apartment Owners and Managers Committee of State College Area Chamber of Commerce v. Brown*, 410 A.2d 747, 749 (Pa. 1980).

The City of Pittsburgh (“City”) has taken advantage of the legislature’s deference and has set the maximum towing fees that may be charged for a nonconsensual tow. This fee schedule is provided in Pittsburgh’s City Ordinances, at 5 Pittsburgh Code § 525.02 (“Schedule of Towing and Storage Fees”) and § 525.05 (“Nonconsensual Towing of Vehicles from Parking Area”). The Schedule of Towing and Storage Fees sets a \$135 maximum towing fee for passenger cars, light trucks, motorcycles, and scooters for towing to the City towing impound lot. 5 Pittsburgh Code § 525.02. That maximum fee also applies to nonconsensual tows from private parking areas (like the one at issue here) by function of Section 525.02, which provides, in relevant part:

(b) No fees for towing in excess of those set forth in Section 525.02 shall be charged for towing a motor vehicle from a parking area without the prior consent or authorization of the operator or driver of the vehicle.

5 Pittsburgh Code § 525.02.

(d) An operator or driver of a vehicle towed from a parking lot without her/his prior consent or authorization shall not be charged or billed for any fees, services, costs, expenses or other things than the towing and storage fees permitted by paragraphs (b) and (c) in this section.

5 Pittsburgh Code § 525.05.

As a result, other than storage fees, the most which could be charged according to the statute would be a flat fee of \$135. The City of Pittsburgh additionally established requirements for property owners and the towing companies which must be met for a proper non-consensual tow. This includes: (1) property owners, such as Om Ansh, must provide the towing company with a signed written consent for each vehicle to be towed; (2) the property at issue must be compliant with all City of Pittsburgh Code provisions and signage requirements; and (3) each time a non-consensual tow is performed the property operator must report the tow to police via electronic means. *7 Pittsburgh Code § 764.21.*

4. Evidence Submitted by the Parties²

TAG Towing is owned and operated as a sole proprietorship by Brian Haenze *Transcript of Brian Haenze ("BH")*, December 14, 2020, 15:2-9, 19:1-5. The parties have stipulated Om Ansh is solely responsible for the parking lot. ECR 33. Om Ansh retained TAG Towing for the purpose of removing unauthorized vehicles from its parking lot sometime

² The Court's recitation of or findings of fact set forth herein are solely made for the purpose of a determination of class certification and are not binding on the merits in light of the applicable class certification hearing standards.

in March 2018.³ *Transcript of Sagar Ukani, Corporate Designee ("SU")*, June 10, 2022, 45:20 – 46:5. Mr. Ukani found TAG Towing via an internet search and employed Mr. Haenze via a verbal agreement between the parties. *SU* at 26:1 – 30:4. Om Ansh did not even ask or discuss with TAG the fee structure for non-consensual tows. *SU* at 28:9 – 28:15. TAG Towing does not have a set policy or procedure on how non-consensual tows are performed and how a lot is patrolled is largely dictated by the wishes of the lot owner/operator. *BH* at 49:14 – 49:19. At no time did Om Ansh ever provide written authorization as required by the ordinance to conduct a non-consensual tow from its parking lot. *SU* at 81:16 – 84:3. In fact, at the time TAG Towing was retained Om Ansh had not yet obtained a towing license from the City of Pittsburgh, one was not issued until April 12, 2018⁴. *ECR 49 at Exhibit 6*. Om Ansh did not instruct TAG to stop towing until July 2018. *SU* at 31:14-25.

All named Plaintiffs allege they had their vehicle hooked up to and/or towed by TAG Towing resulting in the payment of a fee. *Plaintiff's Amended Complaint*, GD-18-12296, *ECR 11 at 52-71*. Plaintiff Schneider was charged \$270. *ECR 49 at Exhibit 7*. Plaintiff's Docchio, Bruce, and Cusick were charged \$250. *ECR 49 at Exhibits 8, 9*. Owner Brian Haenze himself acknowledges the typical cost of a tow from this lot was over \$200. *BH* at 108:20 – 109:9. The rates in place for the time period in question have not been produced as the schedule of the same has either been lost at best or, at worst, intentionally destroyed by TAG Towing. *BH* at 107:11 – 108:19. The frequency of the tows is a point of contention between the parties. Om Ansh never provided any signed towing authorizations to TAG Towing, nor

³ Plaintiffs disagree with this date as Plaintiff Bruce was towed on February 18, 2018. *See Exhibit 3 to Plaintiff's Motion for Class Certification, ECR 49*.

⁴ As such Plaintiffs allege the entire cost of the tow was improper.

did Om Ansh keep its own records of the tows. *SU* at 58:16 – 59:12. TAG Towing freely admits it did not keep records after more than a week subsequent to a tow and has continued this practice even in the face of this lawsuit. *BH* at 68:22 – 71:7. Om Ansh posits in it's Brief in Opposition that because Om Ansh did not provide proper written authorizations and TAG Towing destroyed or misplaced its records that this lack of documentation/willful destruction of documentation operates in Om Ansh's favor. *Brief in Opposition to Motion for Class Certification*, GD-18-12296, ECR 52. This Court accepting such a proposition would be akin to saying Enron did not commit securities fraud because Arthur Anderson fired up the paper shredder. This Court in all good conscience cannot credit such actions and instead must look to circumstantial evidence. Circumstantial evidence such as the testimony provided by Mr. Fiorentino Moscatiello, owner of Fiori's Pizza and neighbor to the Om Ansh parking lot. *Deposition of Fiorentino Moscatiello ("FM")*, July 25, 2022, at 6:12 – 8:8.

5. This Action Satisfies Pa. R. Civ. P. 1702

The five class certification requirements are found at Pennsylvania Rule of Civil Procedure 1702:

One or more members of a class may sue or be sued as representative parties on behalf of all members in a class action only if

1. The class is so numerous that joinder of all members is impracticable;
2. There are questions of law or fact common to the class;
3. The claims or defenses of the representative parties are typical of the claims or defenses of the class;
4. The representative parties will fairly adequately assert and protect the interests of the class under the criteria set forth in Rule 1709; and
5. A class action provides a fair and efficient method for adjudication of the controversy under the criteria set forth in Rule 1708.

Pa. R. Civ. P. 1702

I. Numerosity

Rule 1702(1)'s numerosity requirement is satisfied where "the number of potential individual plaintiffs would pose a grave imposition on the resources of the court and an unnecessary drain on the energies and resources of the litigants." *Janicik v. Prudential Ins. Co. of Am.*, 451 A.2d 451, 456 (Pa. Super. Ct. 1982) (citing *Temple University of the Commonwealth System of Higher Education v. Pennsylvania Department of Public Welfare*, 374 A.2d 991, 996 (Pa. Commw. Ct. 1977)). There is no need to prove the specific number of class members, only an ability to define the class with enough precision that the court is afforded sufficient indication that the class consists of more members than would be practicable to join. *Id.* While there is no specific minimum number needed for a class to be certified, there is a general presumption that if the number of potential plaintiffs exceeds forty then numerosity is satisfied. *See Marcus v. BMW of N. Am., LLC*, 687 F.3d 583, 595 (3d Cir. 2012).

Again, Om Ansh makes much of the fact only five (5) class members have been identified to date and more are not readily ascertainable due to the lack of records. *ECR 52*. Such concerns are noted; however, the remedy is not preclusion of certification but instead the possibility of decertification at a future date. TAG Towing testified Om Ansh was in contact "quite often" to have tows performed from its lot. *Transcript of Brian Haenze, Volume 2 ("BH2"), May 5, 2021* at 21:24 – 23:10. Om Ansh testified it was receiving complaints at least two times a day from individuals who had been towed. *SU* at 66:16 – 69:4. Mr. Moscatiello testified some days saw as many four (4) to (8) people towed a day. *FM* at 15:16 – 16:19. These individuals would come into his store to use the ATM to get \$250 to get their vehicle back. *Id.* at 15:8-15. Assuming, *arguendo*, Plaintiff's time frame

from March 5, 2018 to mid-July (July 15, 2018) is correct this would be a span of 133 days. *ECR 49*. Taking Mr. Moscatiello's testimony to its extreme of eight (8) tows a day, there could have been as many as 912 to 1,064 non-consensual tows during the time period in question.⁵ Such a number clearly renders joinder an impracticability. Therefore, this Court finds Plaintiff's have met numerosity requirement of Rule 1702(1).

II. Commonality

Rule 1702(2) requires common questions of law and fact to exist. Where the "class members' legal grievances arise out of the same practice or course of conduct" undertaken by the defendants, Rule 1702(2) is satisfied. *Janicik*, 451 A.2d at 456. This element is satisfied if proof as to one claimant would be proof as to all. *Baldassari*, 808 A.2d at 191. A claim alleging that a company charged more for records than permitted under the Medical Records Act satisfied Rule 1702(2) because if the conduct violated the MRA, then the company was liable to the entire class that was overcharged. *Liss & Marion, P.C. v. Recordex Acquisition Corp.*, 983 A.2d 652, 664 (Pa. 2009). Numerous other fee overcharge cases, similar to this one, have had classes certified by this Court. *See Patterson v. Fid. Nat. Title Ins. Co.*, No. GD-03-021176 (Pa. Com. Pl. Ct. Dec. 29, 2015) (Wettick, J.); *Farneth v. Wal-mart Stores, Inc.*, No. GD-13-011472 (Pa. Com. Pl. Ct. Mar. 21, 2017, Colville, J.); *Toth v. Nw. Sav. Bank*, No. GD-12-008014, 2013 WL 8538695, at *4 (Pa. Com. Pl. Ct. Mar. 1, 2013) (Wettick, J.).

⁵ The Court will take judicial notice there are nineteen (19) Sundays within this period. If the pizza shop was open seven days a week the number of tows would be 1,064. (133 x 8 = 1,064). If however the pizza shop only operated six (6) days per week the 133 days is reduced by nineteen (19) days. (114 x 8 = 912).

Here, common questions of law and fact exist with respect to Plaintiffs' claims. There is a common fact pattern of conduct, uniformly applied – of towing a vehicle and holding it until a fee amount in excess of \$135 is paid. While Om Ansh asserts that there may be differing damage amounts because the tow amounts charged above the \$135 varied, such variations in damages do not preclude class certification. *Janicik*, 451 A.2d at 461; *Samuel-Bassett*, 34 A.2d at 28 (citing *Weismer by Weismer v. Beech-Nut Nutrition Corp.*, 615 A.2d 428, 431 (Pa. Super. Ct. 1992)) (“Regarding damage amounts or scope of individual relief, it has been well established that if a ‘common source of liability has been clearly identified, varying amounts of damages among the plaintiffs will not preclude class certification.’”). *ECR 53*. Therefore, this Court finds Plaintiffs have met the commonality requirement of Rule 1702(2).

III. Typicality

This requirement is intended to ensure that “the class representative’s overall position on the common issues is sufficiently aligned with that of the absent class members to ensure that her pursuit of her own interests will advance those of the proposed class members.” *Samuel-Bassett*, 34 A.3d at 30–31 (quoting *D’Amelio*, 500 A.2d at 1146). The typicality requirements are satisfied where the Plaintiffs’ claims arise “out of the same course of conduct and involve the same legal theories.” *Samuel-Bassett*, 34 A.3d at 30–31 (citing *Dunn v. Allegheny County Prop. Assessment Appeals & Review*, 794 A.2d 416, 425 (Pa. Commw. Ct. 2002)). This does not mean that the Plaintiffs’ claims must be identical; only that the claims are similar enough to determine that the representative party will adequately represent the interests of the class. *Klusman v. Bucks Cty. Court of Common Pleas*, 564 A.2d 526, 531 (Pa. Commw. Ct. 1989), *aff’d*, 574 A.2d 604 (Pa. 1990). A finding

that a named Plaintiff is atypical must be supported by a clear conflict and be such that the conflict places the class members' interests in significant jeopardy. *Id.* A review of the record and arguments presented establishes no such evidence exists.

Plaintiffs' claims arise out of the same practice: Defendants' instigating invalid towing without the requisite license and/or Defendants' overcharging for the nonconsensual tow. Because this case is challenging the same unlawful conduct which affects the entire class, typicality is satisfied.

IV. Fair and Adequate Representation

This Court takes note of Plaintiff's counsel's candor and dedication to their ethical commitments in representing these respective class members. Throughout this litigation thus far, counsel on both sides have shown themselves to be incredibly competent.

The factors to consider in determining whether this requirement is satisfied are: "(1) whether the attorney for the representative parties will adequately represent the interests of the class; (2) whether the representative parties have a conflict of interest in the maintenance of the class action, and (3) whether the representative parties have or can acquire adequate financial resources to assure that the interests of the class will not be harmed." Pa. R. Civ. P. 1709.

Initially, the Court finds Plaintiffs' counsel, Kelly K. Iverson, Elizabeth Pollock-Avery, and Patrick Donathen of Lynch Carpenter, LLP, and Joshua Ward, of J.P. Ward & Associates, are competent and capable of adequately representing the interests of the class. The Court also finds adequate financial resources are available to assure there is no harm to the interests of the class. These two factors were not contested at the class certification hearing.

Considering all of the factors set forth in Rule 1709, Plaintiffs and their counsel will adequately represent the Class and, accordingly, satisfy Rule 1702(4).

V. Fairness and Efficiency

A class action must provide a fair and efficient method for adjudication in accordance with Pa. R. Civ. P. 1702(5) and 1708(a). Rule 1708 “does not tell a court how to decide the question before it, nor which criteria are to be considered the most or least important, nor how to exercise the obvious discretion which the Rule provides; rather, the Rule requires a court to keep all of the criteria in mind when it is ready to rule on a motion for certification and forces a court to decide, after considering all of the criteria or as many of them as may be applicable to a particular case, and after considering such ‘other matters’ as may be appropriate to its decision, whether a requested class action is ‘a fair and efficient method of adjudicating the controversy.’” 5A Goodrich Amram 2d § 1708:2; *see also Dickler v. Shearson Lehman Hutton, Inc.*, 596 A.2d 860, 866 (Pa. Super. Ct. 1991).

In order to certify the class, there must be common questions of law or fact that predominate over individual questions. “While the existence of individual questions essential to a class member’s recovery is not necessarily fatal to the class, there must be a predominance of common issues shared by all class members that can be justly resolved in a single proceeding.” *Weismer v. Beech-Nut*, 615 A.2d 428 (Pa. Super. Ct. 1992). Because the claims are based on a common pattern and practice of Defendants – specifically, allegedly instigating an unlicensed non-consensual tow and/or withholding a vehicle until an improper lien amount was paid - such predominance is satisfied. Here, if Om Ansh and/or

TAG Towing are liable for their lien collection methods, the only individual inquiry will be the amount of damages. As set forth above, that does not preclude certification.

Each of Plaintiffs' claims in this action involve common questions of law and fact that predominate over any individual questions and liability will be proven (or disproven) with class wide proof. Accordingly, the predominance element of Rule 1708 is satisfied.

Further, there exists a risk that, if each class member was to bring separate cases, courts would adopt varying interpretations of materially identical transactions. This would be unfair to the members of the proposed classes as well as Defendants. "Finding a risk of inconsistent adjudications is not essential to certifying a class, but if such a risk exists, that risk will be a forceful argument in support of the approval of the class action." 5A Goodrich Amram 2d § 1708(a):4. The amount of each claim at issue in this litigation also strongly supports class certification. Because each individual overcharge is relatively modest in size, it is unlikely that they would or could be prosecuted or adjudicated economically on an individual basis. Plaintiffs are seeking the return of the overcharges, along with statutory damages, punitive damages, and attorneys' fees – making the aggregate claim sufficient to justify class adjudication.

When consumer claims are relatively small, the combination of the aggregate of the claims and the deterrent effect the class action may have on future violations of the defendants may be sufficient to justify class treatment and the expense of discovery and notice. *Baldassari*, 808 at 195. Indeed, the Pennsylvania Class Action Rules manifest "a particular sensitivity to providing a procedure for persons with small claims to obtain judicial relief through use of a class action." *Kelly*, 546 A.2d at 612 (Also explaining that, with a class action, the trial court has broad discretion to control the costs associated with

class litigation (*see* Pa. R. Civ. P. 1713), including reducing the expense of notice (*see* Pa. R. Civ. P. 1712) and controlling the amount of attorneys' fees (*see* Pa. R. Civ. P. 1717)). Here, the factors set forth in 1708(a)(6) and (7) justify class certification.

The Court finds Plaintiffs have established each element of Pa. R. Civ. P. 1702, 1708, and 1709 favoring certification of the classes in this action.

Conclusion

This Court is very cognizant of the similarities between this Opinion and its earlier Opinion in *Howard's Towing*.⁶ The repetition is intentional. This Court does not reiterate its previous Opinion to cite itself, but instead to show just how many ways the cases are identical. Just as in *Howard's*, The Court hereby grants class certification in the above captioned matter.

By the Court,


_____, J.
Hon. Philip A. Ignelzi

5/12/2023
Date

⁶ *Jones v. Alder High Lands Associates, LLC et al*, GD-18-012298; *Cohen v. UPMC Presbyterian Shadyside, et al*, GD-18012332; *Waldron v. Eastside Limited Liability Company, II, et al*, GD-18-012034; *Arthur Knight Jr. v. Home Depot U.S.A., Inc.*, GD-18-012063; *Mahon v. Penn Management Realty, LLC, et al*, GD-18-012021; *Horsley v. Shakespeare Street Associates, et al*, GD-18-012027.