

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JACKIE BURKS; BRUNILDA PAGAN CRUZ;
VENUS CUADRADO; and RHONDA DRYE,
individually and on behalf of all persons similarly
situated,

Plaintiffs,

-against-

GOTHAM PROCESS, INC.; MULLOOLY,
JEFFERY, ROONEY & FLYNN, LLP; BASSEM
ELASHRAFI; and CARL BOUTON,

Defendants.

No. 20 Civ. 1001 (NRM) (PK)

**REVISED
ALLOCATION PLAN**

1. Pursuant to the Stipulations of Settlement entered in the above-captioned case (the “Settlement Agreements”), the Parties have agreed to seek certification of a settlement class under both Fed. R. Civ. P. 23(b)(2) and 23(b)(3) consisting of:

All natural persons who have been sued by MJRF, on behalf of a Civil Action Plaintiff, in New York City Civil Court in Actions commenced on or after January 1, 2016, in which an affidavit of service has been filed, stating that Bassem Elashrafi or Carl Bouton, on behalf of Gotham Process, Inc., effectuated service by delivering the papers to a person identified as a Relative of the person to be served.

2. For the purposes of this Allocation Plan, the definitions set forth in the Settlement Agreements are adopted by reference.

3. The Settlement Agreements provide for a Gross Settlement Amount of Seven Hundred Fifty Thousand No/100 Dollars (\$750,000.00) to paid by MJRF and Six Hundred Thousand No/100 Dollars (\$600,000) to be paid by the Process Server Defendants. The total Gross Settlement Amount to be paid by Defendants is thus One Million, Three Hundred Fifty

Thousands No/100 Dollars (\$1,350,000). This Allocation Plan, as approved by the Court, shall govern the distribution of the Gross Settlement Amounts as defined in the Settlement Agreements. This Allocation Plan does not set out the additional substantial benefits that the class will receive through injunctive relief, as described in Section III of each Settlement Agreement.

4. The Class. Defendants' records show that the Class consists of 3,253 unique individuals.
 - a. Refund Class Members. Of the Class Members, 1,303 are "Refund Class Members," as they are individuals who paid money to MJRF in connection with the Action filed against them.
 - b. Remaining Class Members. The remaining 1,950 Class Members are individuals who did not pay money to MJRF in connection with the Action filed against them.

5. Distributions of the Settlement Amount.
 - a. Settlement Class Member Awards: At least \$850,000 shall be available to distribute to Class Members who submit valid Claim Forms ("Eligible Claimants"), with each Eligible Claimant's payment calculated using the following method:
 - i. Initial Base Payment. Each Eligible Claimant shall be allocated an Initial Base Payment of \$200 each.
 - ii. Pro Rata Refund Payments to Refund Class Members. Once the Initial Base Payments have been made, remaining funds shall be used to allocate a pro rata Refund Payment to each

Eligible Claimant who is a Refund Class Member. This Refund Payment shall be calculated by applying an equal percentage to the money the Claimant paid to Defendants, up to 100%. The Refund Payment shall be based on the payment amount reflected in Defendants' records as of March 9, 2023, unless the Claimant can establish to the satisfaction of Class Counsel and the Class Administrator that a different amount was collected.

- iii. Additional Base Payment. If funds remain after all Eligible Claimants have been allocated an Initial Base Payment and all Eligible Claimants who are Refund Class Members have been allocated a Refund Payment equal to 100% of their payments to MJRF, then all remaining funds shall be divided equally among all Eligible Claimants, such that an equal Additional Base Payment is allocated to each Eligible Claimant.
- iv. Distribution. A distribution shall be made to each Eligible Claimant that equals the sum of the Base Payment, any Refund Payment, and any Additional Base Payment allocated to that Eligible Claimant.

- b. Service Awards. The Named Plaintiffs may file an application for, and the Court may award, Service Awards of up to Four Thousand Dollars (\$4,000.00) to each Named Plaintiff. Pursuant to an order of the Court, up to \$16,000 shall be allocated to pay such Service Awards (including, as to

Rhonda Drye, a Service Award to be paid to her family upon Court approval). These Service Awards will be in lieu of the Base Payment to which Named Plaintiffs would otherwise be entitled under this Allocation Plan, but each Named Plaintiff shall be entitled to a Refund Payment calculated in the same manner as to the remainder of the Class, if applicable.

- c. Administration Expenses. Pursuant to an order by the Court, up to \$34,000 shall be allocated to the expenses of administering this settlement.
- d. Approved Attorneys' Fees. Pursuant to an order by the Court, an amount to be specified, but which will not exceed \$450,000, which is one-third of the Gross Settlement Amount, shall be allocated to Approved Attorneys' Fees.

6. Additional Distributions. Pursuant to the Settlement Agreements, if funds remain in the Class Settlement Account after the initial distribution of Settlement Class Member Awards, the Class Administrator and Class Counsel may provide further distributions at their discretion ("Additional Distributions"). To the extent Class Counsel propose to make further distributions to individuals in amounts determined by a method other than calculating additional Base Payments or Refund Payments in the manner described above, they shall seek Court approval before authorizing any such distributions.

7. Late Claimants. Class Counsel may, in consultation with the Class Administrator and in Class Counsel's sole discretion, deem Class Members with late claims to be Eligible Claimants so long as doing so does not unduly delay the distribution of the Settlement Amount to Eligible Claimants who timely submitted claims.

8. Cy Pres. Pursuant to the Settlement Agreements, if funds remain in the Class Settlement Account after the initial distribution of Settlement Class Member Awards, or after an Additional Distribution of Settlement Class Member Awards, and Class Counsel, in consultation with the Class Administrator and in Class Counsel's sole discretion, determines that an Additional Distribution is not economically feasible, the remainder may, subject to Court approval, be given as a *cy pres* award to a not-for-profit organization approved by the Court that benefits individuals adversely affected by unlawful consumer debt collection practices. Under no circumstances will any of the Settlement Amount revert to Defendants or the Civil Action Plaintiffs.