

IN THE THURSTON COUNTY SUPERIOR COURT

Potter v. Washington State Patrol

) No. 04-2-01086-9

**TO: REGISTERED OWNERS OF MOTOR VEHICLES THAT WERE IMPOUNDED
BY THE WASHINGTON STATE PATROL SOLELY FOR DWLS VIOLATIONS
BETWEEN JUNE 1, 2001 AND DECEMBER 19, 2002**

**YOU MAY BE ENTITLED TO A RECOVERY
UNDER THE TERMS OF THIS SETTLEMENT
PLEASE READ THIS NOTICE CAREFULLY**

1. WHY SHOULD I READ THIS NOTICE?

Your rights may be affected by a proposed settlement in this lawsuit, *Potter v. Washington State Patrol*, No. 04-2-01086-9 (the "Action"), which is now pending before the Honorable Richard D. Hicks in the Thurston County Superior Court (the "Court"). This Notice is given pursuant to CR 23 and by order of the Court.

The purpose of this Notice is to inform you that there has been a proposed settlement of this Action ("Settlement") pursuant to a written agreement between the parties (the "Settlement Agreement"), which has been preliminarily approved by the Court. This Notice summarizes the essential information concerning the Settlement and your potential rights under the Settlement.

2. WHAT IS THIS LAWSUIT ABOUT?

This case involves impoundment of vehicles by the Washington State Patrol for driving while license suspended ("DWLS") violations between June 1, 2001 and December 19, 2002 (the "Class Period"). Plaintiff alleges that these impounds were conducted under an unlawful mandatory impound policy.

The Action seeks reimbursement for registered owners of fees paid to redeem impounded vehicles, damages for loss of use of the vehicles during the period of impound, and damages for loss of vehicles sold at auction following impound.

On February 28, 2005, the Court ruled that the lawsuit could proceed as a class action. The Court named Adam J. Berger of Schroeter, Goldmark & Bender, 810 Third Avenue, Suite 500, Seattle, Washington 98104, as Class Counsel, and Mark Potter as Class Representative.

The Court defined the class to include all "[r]egistered owners of motor vehicles that were impounded by the Washington State Patrol solely for Driving While License Suspended violations during the period of June 1, 2001 through December 19, 2002, who have not resorted to any other judicial or administrative method to challenge the legitimacy of the impound of their vehicle."

3. WHAT ARE THE ESSENTIAL TERMS OF THE SETTLEMENT?

The Settlement Amount. The State Patrol will pay up to \$900,000 to resolve all claims in this case, including class member claims, any Court-approved Attorneys' Fee Amount, and any Court-approved Class Representative Payment as described below. Class counsel anticipates that this sum may well be sufficient to fully reimburse all class member claims as described below. However, if the total of the class member claims, Fee Amount, and Class Representative Payment exceeds this sum, reimbursement of class member claims will be reduced on a *pro rata* basis so that the total payments will not exceed \$900,000.

(over)

Payments to Individual Class Members: Subject to the aggregate cap described above, the State Patrol has agreed to pay the following amounts to Class members who submit verifiable claims

a. Tier 1 Claims: Class members who *were not* driving their vehicles at the time the vehicle was impounded by the State Patrol and who redeemed their vehicles from impound shall be eligible for payments in the following amounts, depending on whether the vehicle was impounded with a 0, 30, 60, or 90 day hold:

Impound – No Hold	\$ 297.80
Impound – 30 Day Hold	\$2,015.00
Impound – 60 Day Hold	\$3,923.00
Impound – 90 Day Hold	\$5,831.00

b. Tier 2 Claims: Class members who *were* driving their vehicles at the time the vehicle was impounded by the State Patrol and who redeemed their vehicles from impound shall be eligible for payments in the following amounts, depending on whether the vehicle was impounded with a 0, 30, 60, or 90 day hold

Impound – No Hold	\$ 237.80
Impound – 30 Day Hold	\$1,415.00
Impound – 60 Day Hold	\$2,273.00
Impound – 90 Day Hold	\$3,131.00

c. Tier 3 Claims: Class members whose vehicles were auctioned as a result of the impound shall be eligible for payments of \$2,500 for each auctioned vehicle regardless of whether they were driving the vehicle at the time of impound or not.

Class members may, but are not required to, submit documentation regarding the length of hold placed on the impounds for which they are making claims. In the absence of such documentation, the length of hold will be determined from the State Patrol's impound database. Amounts paid for Tier 1 and Tier 2 claims may be reduced if the registered owner obtained early release of the vehicle.

Claims will be verified by reference to the State Patrol's impound database and may be subject to further verification by Class Counsel and the State Patrol. Class members making claims for auctioned vehicles may be required to submit documentation or cooperate in obtaining documentation demonstrating that the vehicle was auctioned following impound.

Fees and Costs. Class Counsel will request an award of fees and expenses from the Settlement Fund in an amount not to exceed \$200,000, subject to approval by the Court (the "Fee Amount").

Class Representative Payment. The Class Representative will receive \$25,000 in recognition of his services to the class and in settlement of his individual claims, subject to approval by the Court.

4. HOW DO I FILE A CLAIM?

**IN ORDER TO OBTAIN REIMBURSEMENT UNDER THIS SETTLEMENT
YOU MUST FILE A CLAIM ON THE ATTACHED FORM.**

You must fill out the attached Claim Form as completely as possible, sign it, and return it to the address specified on the Form. **You must return your Claim Form no later than September 4, 2009.** The parties will use the information on this Form to verify your claims.

5. WHAT ARE THE REASONS FOR THIS SETTLEMENT?

Class Counsel reached this settlement after considering the risks and benefits to the Class of settlement or continued litigation. Among the factors considered were the likelihood that the settlement will provide fair reimbursement for responding class members, the risks and difficulties in proving liability and damages at trial, the risks of adverse rulings on class certification or liability on appeal, and the delay inherent in continued litigation and appeals. Class Counsel balanced these risks in determining that this settlement is fair, reasonable, and adequate, and in the best interests of the Class.

6. WHAT IS THE SETTLEMENT APPROVAL PROCEDURE?

The Court will hold a Final Approval Hearing on October 2, 2009 at 1:30 p.m., in the Courtroom of the Honorable Richard D. Hicks, Thurston County Courthouse, Olympia, Washington. At the hearing, the Court will consider whether to (i) approve the Settlement as fair, adequate, reasonable and in the best interests of the Class; and (ii) approve the Fee Amount and Class Representative Payment as fair and reasonable. The Court reserves the right, without further notice to the Class, to adjourn or continue the hearing from time to time, and to approve changes to the Settlement Agreement, as long as such changes are not detrimental to the Class and are agreeable to the settling parties.

If you wish to comment in support of or in opposition to the Settlement you may do so, provided that you submit your comments in writing to: Clerk of the Court, Thurston County Superior Court, 2000 Lakeridge Drive SW, Building 2, Olympia, Washington 98502; *and* Adam Berger, Schroeter Goldmark & Bender, 810 Third Avenue, Suite 500, Seattle, Washington 98104 (Class Counsel); *and* Jennifer Smith Meyer, Assistant Attorney General, 7141 Cleanwater Drive SW, P.O. Box 40126, Olympia, WA 98504-0126 (counsel for the State Patrol), postmarked not later than September 18, 2009. Your written comments or objections must reference the case, *Potter v. Washington State Patrol*, No. 04-2-01086-9.

If you do not comply with the procedure and deadlines set forth above, you will not be entitled to be heard at the Final Approval Hearing or otherwise to contest the approval of the Settlement or Fee Amount or to appeal from any orders or judgments of the Court.

If the Court grants approval of the Settlement, the approval will bind all members of the Class, except those who have previously excluded themselves from the Class, and the judgment will release and dismiss all Class Members' settled claims. If the Settlement is not approved by the Court, the parties will resume litigation in the Action.

7. WHERE DO I GET ADDITIONAL INFORMATION?

If you want to communicate with Class Counsel you may write to: WSP Impound Class Action, Schroeter Goldmark & Bender, 810 Third Avenue, Suite 500, Seattle, Washington 98104 or telephone 1-800-809-2234. **PLEASE DO NOT CONTACT THE COURT.**

The foregoing is only a summary of the Action and the proposed Settlement. For more detailed information, you may review a copy of the Settlement Agreement on-line at www.sgb-law.com/wspimpoundclassaction/. You also may review the pleadings, records, and other papers on file in the Action during regular business hours at the Clerk's Office, Thurston County Superior Court. Copies of the Settlement Agreement, the papers filed in support of the proposed Settlement, and other pleadings in the case also are available upon written request to Class Counsel.

CLAIM FORM

**FOR VEHICLES IMPOUNDED BY THE WASHINGTON STATE PATROL
FOR DRIVING WHILE LICENSE SUSPENDED VIOLATIONS**

YOU MUST SUBMIT THIS FORM IN ORDER TO OBTAIN REIMBURSEMENT,

Potter v. Washington State Patrol, No. 04-2-01086-9 (Thurston Co. Superior Court)

COMPLETE THE FOLLOWING FORM AS FULLY AS POSSIBLE.

SUBMIT A SEPARATE FORM FOR EACH IMPOUND

[Forms with incomplete information will be processed, but more complete information will help in verifying and processing claims.]

Name of Claimant/Registered Owner: _____

Current Address: _____

Current Phone Number(s): _____

Name of Driver at Time of Impound (if different from owner): _____

Date of Impound: _____

Impound City Or Tow Company: _____

Make, Model, and Year of Vehicle: _____

Vehicle Identification Number: _____ Lic. Plate No.: _____

Was a hold placed on the impounded vehicle? ____ For how long (30/60/90 days)? ____

If a hold was placed, did you obtain early release of the hold? _____

Did you redeem the vehicle from impound? _____

Was the vehicle auctioned as a result of the impound? _____

Please attach any documentation you have regarding the impound, payment of impound fees, or auction of the vehicle following impound.

RETURN THIS FORM BY SEPTEMBER 4, 2009 TO:

WSP Impound Class Action Claims
c/o Schroeter Goldmark & Bender
810 Third Avenue, Suite 500
Seattle, WA 98104