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IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION – CIVIL

GREENBLATT PIERCE FUNT & FLORES, LLC,	:	
	:	SEPTEMBER TERM 2020
	:	
v.	:	No. 01437
	:	
THOMAS MORE MARRONE, AND MOREMARRONE LLC.	:	COMMERCE PROGRAM

ORDER

AND NOW, this 11th day of April 2025, as set forth in the accompanying Findings of Fact and Conclusions of Law entered today, it is **ORDERED** judgment is entered in favor of plaintiff Greenblatt Pierce and against the defendants Thomas More Marrone and MoreMarrone LLC on Greenblatt Pierce's quantum meruit and unjust enrichment in the amount of \$837,602.78: 1) \$451,038.84 (Greenblatt Pierce's lodestar and costs paid); 2) \$209,427 (29 percent of the attorneys' fees awarded in excess of the Marrone defendants' lodestar); plus interest at the statutory annual rate of six percent accruing daily since October 20, 2020 (\$177,136.94 through 4/11/25). The Court also grants declaratory judgment enforcing plaintiff Greenblatt Pierce's charging lien in connection with the fee award in *Bobbi-Jo Smiley, Amber Blow, and Kelsey Turner v. E.I. De Pont De Nemours and Company and Adecco U.S.A., Inc.*, (M.D. Pa., Case No. 3:12-cv-02380).

BY THE COURT:



ABBE F. FLETMAN, J.

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
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GREENBLATT PIERCE FUNT & FLORES, LLC,	:	
	:	SEPTEMBER TERM 2020
	:	
v.	:	No. 01437
	:	
THOMAS MORE MARRONE, AND MOREMARRONE LLC.	:	COMMERCE PROGRAM

FINDINGS OF FACT AND CONCLUSION OF LAW

Plaintiff Greenblatt Pierce Funt & Flores LLC (“Greenblatt Pierce”) brought this action against defendants Thomas More Marrone and MoreMarrone LLC (collectively, the “Marrone defendants”), to recover compensation for work Greenblatt Pierce performed in a wage and hour class action it co-counseled with Mr. Marrone. For the reasons discussed below, the Court finds for Greenblatt Pierce and against the Marrone defendants on its quantum meruit and unjust enrichment claims in the amount of \$837,602.78: 1) \$451,038.84 (Greenblatt Pierce’s lodestar and costs paid); 2) \$209,427 (29 percent of the attorneys’ fees awarded in excess of the Marrone defendants’ lodestar); plus interest at the statutory annual rate of six percent accruing daily since October 20, 2020 (\$177,136.94 through 4/11/25). The Court also declares that Greenblatt Pierce is entitled to a charging lien imposed on any recovery from the underlying action.

FINDINGS OF FACT

A. The Parties

1. Plaintiff Greenblatt Pierce is a Pennsylvania law firm. Trial Transcript (“Tr.”) 6/17/2025, Thomas More Marrone testimony (“Marrone”) at 30:12-14.
2. Defendant Thomas More Marrone is a lawyer who has been practicing law since 1987. *Id.* at 120:22-121:1.

3. He developed a specialty in wage and hour class actions in the mid-2000s. *Id.* at 123:19-24.

4. Defendant MoreMarrone LLC (“MoreMarrone”) is a Pennsylvania law firm owned and operated by Mr. Marrone. Complaint, ¶ 4, Trial Court Docket (“Dkt.”) at 9/24/20; Answer, ¶ 4, Dkt. at 10/15/20.

5. Patricia Pierce is a lawyer who is a member at Greenblatt Pierce. Tr. 6/17/24, Patricia Pierce testimony (“Pierce”) at 30:23-25.

6. She specializes in employment law and has been practicing in the field since 1984. *Id.* at 32:15-17, 33:2-18.

B. The Smiley Class Action

7. In early 2012, Ms. Pierce was contacted by a prospective client, Bobby-Jo Smiley, who claimed she was experiencing sexual harassment in her job at E.I. De Pont De Nemours and Company. (“Dupont”). *Id.* at 36:11-24, 39:7-11; Tr. 6/18/2025, Bobbi Jo Smiley testimony (“Smiley”) at 97:11-13.

8. During client intake, Ms. Pierce learned that Ms. Smiley also had a separate claim for unpaid wages. Tr. 6/17/24, Pierce at 37:6-10.

9. Because Ms. Pierce did not specialize in wage and hour cases, she told Ms. Smiley that she would seek co-counsel experienced in that field. Tr. 6/17/24, Pierce at 37:25-38:4, 39:17-40:7.

10. Ms. Pierce contacted Mr. Marrone, who was then a partner at Caroselli Beachler McTiernan & Conboy LLC (“Caroselli Beachler”), because she understood that he had experience in that area. *Id.* at 38:23-39:6, 16; Tr. 6/17/24, Marrone at 125:15-19.

11. Mr. Marrone agreed to participate in the case and to split any award of attorneys' fees 60 percent to Mr. Marrone's firm and 40 percent to Greenblatt Pierce. Tr. 6/17/24, Pierce at 40:11-41:4.

12. Ms. Smiley hired Caroselli Beachler and Greenblatt Pierce on a contingent fee basis. Tr. 6/17/24, Pierce at 216:1-7; Tr. 6/18/24, Marrone at 128:18-129:1; P-30 (Supplemental Fee Memo in the *Smiley Action*) at 14.

C. Initial Pleadings

13. On November 28, 2012, Ms. Pierce and Mr. Marrone filed a wage and hour action complaint in the United States District Court for the Middle District of Pennsylvania, captioned *Bobbi-Jo Smiley, Amber Blow, and Kelsey Turner v. E.I. De Pont De Nemours and Company and Adecco U.S.A., Inc.*, M.D. Pa., Case No. 3:12-cv-02380 (the "*Smiley Action*"). P-3 (*Smiley Action* Complaint) at 13; Tr. 6/17/24, Pierce at 46:21-22.

14. On March 15, 2013, Greenblatt Pierce and Caroselli Beachler filed an amended complaint, which Mr. Marrone drafted and Ms. Pierce reviewed. Tr. 6/17/24, Pierce at 48:25-49:6; P-4 (*Smiley Action* Amended Complaint).

15. After the amended complaint was filed, Greenblatt Pierce "became more and more involved in prosecuting the action." Tr. 6/17/24, Pierce at 49:16-17.

16. As a result, Mr. Marrone and Ms. Pierce agreed to adjust the fee split for the *Smiley Action* evenly: 50 percent to MoreMarrone and 50 percent to Greenblatt Pierce. P-6 (Email chain 4/13/2015 between Patricia Pierce and Thomas Marrone); Tr. 6/17/24, Pierce at 49:16-24.

D. Contacting Prospective Plaintiffs

17. The *Smiley Action* was filed as both a class action, under which class members would have the opportunity to opt out, and a collective action, in which participants were required to opt in. Tr. 6/18/24, Marrone at 213:17-19; Tr. 6/17/24, Pierce at 44:19-45:15; Tr. 6/18/24, Noah Cohen testimony (“N. Cohen”) at 7:11-13.

18. The partners at Greenblatt Pierce played a significant role recruiting prospective class members. Tr. 6/18/24, N. Cohen at 9:1-8.

19. Their efforts started before the complaint was filed, when Ms. Pierce and another Greenblatt Pierce partner visited Ms. Smiley and were introduced to other potential plaintiffs. The efforts continued during a 60-day window granted by the *Smiley Action* court after conditional certification of the class. Tr. 6/17/24, Pierce at 44:6-12, 51:19-52:4; 53:22-54:1.

20. Ms. Pierce and Mr. Marrone hosted a meeting with prospective plaintiffs to explain the claims and the opt-in process. Tr. 6/17/24, Pierce at 54:2-19.

21. Mr. Marrone and Greenblatt Pierce then drafted a script for calling potential plaintiffs. Tr. 6/17/24, Pierce at 52:17-23.

22. Using this script, firm members Pierce, Ronald Greenblatt and Jamie Funt, Senior Associate Noah Cohen, and some firm paralegals called potential opt-in plaintiffs at night after work hours and on weekends. Tr. 6/17/24, Pierce at 52:5-12; Tr. 6/18/24, N. Cohen at 9:23-10:6.

23. This was an “enormous effort” that required “all hands on deck.” Tr. 6/17/24, Pierce at 51:15-52:4.

24. Only licensed lawyers and trusted paralegals made the client recruiting calls because the *Smiley Action* involved sensitive issues. Tr. 6/17/24, Pierce at 52:5-12.

25. Mr. Marrone did not participate in calling potential opt-in plaintiffs. Tr. 6/17/24, Pierce at 52:17-18; Tr. 6/18/24, N. Cohen at 10:25-11:2.

E. Discovery

26. Discovery responsibilities were equally divided: Greenblatt Pierce and Ms. Pierce were primarily responsible for responding to discovery requests and Mr. Marrone was the principal drafter of the discovery sought from the *Smiley Action* defendants. Tr. 6/17/24, Pierce at 55:7-13.

27. Defendants Dupont and Adecco U.S.A., Inc. (“Adecco”), sought discovery of all plaintiffs’ social media posts on numerous platforms including Facebook, LinkedIn, and Twitter. Tr. 6/17/24, Pierce at 55:22-56:7.

28. While Greenblatt Pierce and Mr. Marrone objected to the request as oppressive, the *Smiley Action* court ordered plaintiffs to produce “any social media posts that were relevant to the claims or defenses in the case from 2009 forward.” Tr. 6/17/24, Pierce at 55:22-56:2, 59:7-17; Tr. 6/18/24, Marrone at 187:7-12.

29. In response to the court order, Greenblatt Pierce hired an information technology firm to download four years of social media posts. Tr. 6/17/24, Pierce at 56:2-7.

30. Because of privilege issues, only some employees at Greenblatt Pierce, including Ms. Pierce, one senior associate, and one paralegal, reviewed the social media posts. Tr. 6/17/24, Pierce at 56:8-11; Tr. 6/18/24, N. Cohen at 15:23-16:6; Tr. 6/18/24, Pierce at 155:17-24; P-34 (Greenblatt Pierce Time Records in the *Smiley Action*).

31. Greenblatt Pierce responded to interrogatories and took and defended 15 depositions, including those of the named plaintiffs, corporate representatives, and opt-in

plaintiffs. Tr. 6/17/24, Pierce at 56:12-57:19, 59:1-4; Tr. 6/18/24, *Smiley Action* at 116:4-15; Trial Stipulation, Dkt. at 6/18/24.

32. Senior Associate Noah Cohen also was present to ensure important damages information was being obtained during the depositions. Tr. 6/18/24, N. Cohen at 20:13-21:2.

33. Mr. Marrone played a minor role in depositions and suggested only a few questions. Tr. 6/18/24, Marrone at 4:16, 191:6-10.

34. Greenblatt Pierce and Mr. Marrone also conducted a site inspection during discovery. Tr. 6/17/24, Marrone at 195:13-18, 217:20-23; Tr. 6/17/24, Pierce at 60:13-23; Tr. 6/18/24, Smiley at 103:22-104:1.

35. Greenblatt Pierce hired an inspector and videographer to document the inspection. Tr. 6/17/24, Pierce at 62:9-11.

F. Damages Calculations

36. Calculating damages was an important aspect of the *Smiley Action*. Tr. 6/18/24, Marrone at 199:3-6.

37. Greenblatt Pierce led the effort to calculate damages because Mr. Marrone was “not going to and . . . [it was] not clear whether [Mr. Marrone] could prepare a damages model for the case.” Tr. 6/17/24, Pierce at 62:25-63:7.

38. Greenblatt Pierce sent Senior Associate Noah Cohen to Chicago to train with an experienced wage and hour lawyer on the creation of a damages model and hired interns for data entry. *Id.* at 63:17-25; Tr. 6/18/24, N. Cohen at 11:6-16.

39. Further, Greenblatt Pierce engaged an expert, Leonard Freifelder, to calculate damages and write a report for the *Smiley Action*. Tr. 6/17/24, Pierce at 63:4-7, 179:17-23.

G. Mr. Marrone joins Greenblatt Pierce

40. In September 2013, Mr. Marrone left Caroselli Beachler and joined Greenblatt Pierce as a member. P-1 (Greenblatt Pierce Memorandum of Understanding); Tr. 6/17/24, Pierce at 67:20-68:12; Tr. 6/18/24, Marrone at 147:12-19.

41. According to Greenblatt Pierce's Operating Services Agreement, Mr. Marrone would be paid a base draw of \$175,000. P-1 (Greenblatt Pierce Memorandum of Understanding) at 5.

42. On contingent fee cases he co-counseled with Ms. Pierce, however, Mr. Marrone would have been paid additional fees from earned attorneys' fees. *Id.*

H. Summary Judgment and Subsequent Appeal

43. The Smiley *Action* defendants filed a motion for summary judgment. D-13 (Dupont and Adecco's Motion for Summary Judgment filed in the *Smiley Action*); Tr. 6/17/24, Pierce at 70:16-22.

44. Mr. Marrone drafted opposition briefs and argued the motion, while Ms. Pierce edited the briefs. Tr. 6/17/24, Pierce at 71:3-23; D-15 (Plaintiffs' Brief in Opposition to Defendants' Motion for Summary Judgment filed in the *Smiley Action*); D-17 (Plaintiffs' Supplemental Brief in Opposition to Defendants' Motion for Summary Judgment filed in the *Smiley Action*; P-34 (Greenblatt Pierce Time Records in the *Smiley Action*).

45. The court ruled for the defendants in the *Smiley Action* and dismissed the case. Tr. 6/17/24, Pierce at 72:4-11; Tr. 6/18/24, Marrone at 155:13-14.

46. When the case was dismissed, Ms. Pierce and Mr. Marrone told Ms. Smiley they were "devastated" and "surprised" by the outcome and suggested an appeal. Tr. 6/18/24, Pierce at 254:17-8.

47. After consulting Ms. Smiley, Greenblatt Pierce appealed the determination to the United States Court of Appeals for the Third Circuit. Tr. 6/17/24, Pierce at 73:2-11, 74:14-17.

48. Greenblatt Pierce attorneys worked on the appeal: Mr. Marrone wrote briefs, the partners at Greenblatt Pierce reviewed and helped prepare the briefs, and Greenblatt Pierce paid the related costs. D-93 (Brief for Appellants and Appendix Filed for the Third Circuit Appeal) at 75-85; Tr. 6/17/24, Pierce at 74:18-24, 95:5-8; 97:19-21; P-6 (Email chain 4/13/2015 between Patricia Pierce and Thomas Marrone); P-37 (DuPont Cost Sheet for Greenblatt Pierce).

49. Both Mr. Marrone's and Ms. Pierce's names appear as lead attorneys on the briefs. D-93 (Brief for Appellants and Appendix Filed for the Third Circuit Appeal) at 75; D-95 (Reply Brief for Appellants Filed for the Third Circuit Appeal); Tr. 6/17/24, Pierce at 97:16-18.

50. Mr. Marrone led, and Ms. Pierce helped prepare for oral arguments. Tr. 6/17/24, Pierce at 77:1-9.

51. The Department of Labor also submitted an amicus brief and participated in oral arguments after the Third Circuit requested its input. Tr. 6/17/24, Pierce at 76:11-77:14.

52. In December 2015, while the appeal decision was pending, Mr. Marrone left Greenblatt Pierce and started his own firm, MoreMarrone. Tr. 6/17/24, Pierce at 80:11-22; Tr. 6/18/24, Marrone at 157:17-18.

53. Greenblatt Pierce continued to represent the plaintiffs in the *Smiley Action* with Mr. Marrone even after his departure. Tr. 6/17/24, Pierce at 80:23-81:6.

54. On October 7, 2016, the Third Circuit reversed the District Court's order, enabling the *Smiley Action* to move forward. Tr. 6/17/24, Stipulation at 79:19-80:9; Tr. 6/18/24, Marrone at 157:8-13; Tr. 6/17/24, Pierce at 78:6-10.

55. Ms. Pierce and Mr. Marrone resumed working on the *Smiley Action*, including preparing a new damages model. P-8 (Email chain 10/7/2016 between Thomas Marrone and Patricia Pierce); P-9 (Email chain 10/17/2016 between Patricia Pierce and Thomas Marrone); Tr. 6/17/24, Pierce at 81:20-82:6; Tr. 6/18/24, Pierce at 257:11-259:1; Tr. 6/18/24, Marrone at 157:24-158:5; P-17 (Email chain 7/23/2018 between Patricia Pierce and Thomas Marrone).

56. The *Smiley Action* defendants filed a petition for writ of certiorari, which the United States Supreme Court denied on June 28, 2018. Tr. 6/17/24, Stipulation at 82:16-23.

57. Mr. Marrone wrote, and Ms. Pierce reviewed, the opposition briefs. Tr. 6/17/24, Pierce at 139:2-9; P-13 (Email 4/12/2017, 4/18/2017, 4/19/2017, 4/21/2017 Thomas Marrone/Patricia Pierce).

I. Greenblatt Pierce Withdraws and *Smiley Action* Plaintiffs Choose MoreMarrone

58. After June 2018, Ms. Pierce and Mr. Marrone's professional relationship deteriorated. Tr. 6/17/24, Pierce at 84:13-17.

59. Ms. Pierce notified Ms. Smiley that she "was unable to continue working with Mr. Marrone" and that she and the other two named plaintiffs had the right to determine whether they wanted to continue with her or with Mr. Marrone as their counsel. *Id.* at 84:18-24.

60. Mr. Marrone notified Ms. Pierce by email that the named plaintiffs chose him as counsel. P-22 (Email 8/7/2018 Thomas Marrone to Patricia Pierce); Tr. 6/17/24, Pierce at 86:2-7, 87:1-5.

61. Ms. Pierce notified Mr. Marrone and the *Smiley Action* defendants that Greenblatt Pierce would withdraw from the action and assert a lien reflecting its contributions to the case. P-24 (Letter 8/7/2018 from Greenblatt Pierce to Thomas Marrone); P-25 (Letter 8/8/2018 from

Greenblatt Pierce to *Smiley Action* defense counsel); Tr. 6/17/24, Pierce at 88:13-89:5; Tr. 6/18/24, Marrone at 163:22-24.

J. New Damages Expert hired

62. After Greenblatt Pierce withdrew, Mr. Marrone hired David Cohen, a lawyer who specializes in employment issues at the law firm Stephan Zouras, LLC (“Stephan Zouras”), as co-counsel in the *Smiley Action*. Tr. 6/17/24, David Cohen testimony (“D. Cohen”) at 184:2-25, 186:2-21; Tr. 6/18/24, Marrone at 163:25-164:24.

63. Mr. Cohen entered his appearance in the *Smiley Action* in November 2018. Tr. 6/17/24, D. Cohen, 186:6-8.

64. Mr. Cohen’s primary responsibility was to calculate damages for an impending settlement conference. Tr. 6/17/24, D. Cohen, 188:16-24.

65. He received Greenblatt Pierce’s case files from Mr. Marrone. Tr. 6/17/24, D. Cohen at 195:6-23; Tr. 6/18/24, Marrone at 167:24-168:2.

66. While Mr. Cohen claimed that some files were “disorganized” and not in “a useful format,” Mr. Cohen testified that a damages report written by Greenblatt Pierce’s expert was “very important” to the case. Tr. 6/17/24, D. Cohen at 195:24-196:25; Tr. 6/18/24, D. Cohen at 53:9-10, 55:6-10.

67. Mr. Marrone did not contribute to Mr. Cohen’s damages analysis. Tr. 6/17/24, D. Cohen at 202:1-6.

K. The *Smiley Action* Settles

68. The *Smiley Action* settled for \$5 million after a mediation held on December 11, 2019. P-29 (Class/Collective Action Settlement Agreement in the *Smiley Action*); D-32 (Joint Case Status Report filed in the *Smiley Action*); Tr. 6/17/24, D. Cohen at 202:7-13.

69. Mr. Marrone and Mr. Cohen requested \$2 million, 40 percent of the total recovery, in attorney's fees and claimed that MoreMarrone and Stephan Zouras "were solely responsible for" the settlement. P-30 (Supplemental Fee Memo in the *Smiley Action*) ; Tr. 6/17/24, D. Cohen at 218:19-25.

70. They further argued that the complexity and length of the case, and the risk of nonpayment due to the contingency fee agreement warranted the attorneys' fees. P-30 (Supplemental Fee Memo in the *Smiley Action*); P-32 (Corrected Supplemental Fee Memo in the *Smiley Action*); Tr. 6/17/24, D. Cohen at 213:12-19, 222:21-25; Tr. 6/18/24, Marrone at 177:25-178:4.

71. Mr. Marrone claimed a rate of \$850 an hour for a total lodestar of \$691,560. P-30 (Supplemental Fee Memo in the *Smiley Action*) at 20; Tr. 6/17/24, D. Cohen at 226:16-23.

72. David Cohen claimed a rate of \$200 an hour for a total lodestar of \$336,227. P-30 (Supplemental Fee Memo in the *Smiley Action*) at 20.

73. Mr. Marrone also requested \$43,422.91 in costs, which included \$18,501.89 Greenblatt Pierce paid before withdrawing. P-30 (Supplemental Fee Memo in the *Smiley Action*); P-32 (Corrected Supplemental Fee Memo in the *Smiley Action*).

74. Mr. Cohen filed a supplemental corrective brief when he found out about the Department of Labor's "significant role in briefing and arguing" the Third Circuit appeal. P-32 (Corrected Supplemental Fee Memo in the *Smiley Action*); Tr. 6/18/24, D. Cohen at 216:19-217:21.

75. MoreMarrone did not seek fees for the work Greenblatt Pierce had performed in the *Smiley Action* because Mr. Marrone "felt that [Greenblatt Pierce's work was] worth nothing." Tr. 6/17/24, D. Cohen at 214:6-9, 221:5-12.

76. The District Court approved the final settlement on October 2, 2020, and awarded attorneys' fees of \$1,750,000 and costs of \$43,423.00. P-33 (Final Settlement Approval Order dated October 2, 2020, in the *Smiley Action*); Tr. 6/18/24, Marrone at 222:10-15.

77. The funds were directly deposited to a MoreMarrone escrow account. Tr. 6/18/24, Marrone at 223:11-22.

78. Greenblatt Pierce became aware of the settlement only after they reviewed the docket. Tr. 6/18/24, Pierce at 90:8-12.

79. Greenblatt Pierce filed a motion to intervene to enforce its charging lien for fees and costs expended in the *Smiley Action*. Tr. 6/17/24, Pierce at 91:10-18; P-41 (Pierce Affidavit July 29, 2020); P-42 (Pierce Affidavit August 26, 2020).

80. The District Court denied Greenblatt Pierce's motion to intervene, holding that Greenblatt Pierce's fee dispute was collateral to the *Smiley Action*. D-49 (Memorandum Opinion Denying Greenblatt Pierce's Motion to Intervene filed in the *Smiley Action*); D-50 (Order Denying Greenblatt Pierce's Motion to Intervene filed in the *Smiley Action*).

L. Expert Testimony

81. At trial, the Marrone defendants' expert, Michael D. Donovan, was qualified as an expert in class action practice. Tr. 6/18/24, Donovan at 233:23-234:17, 238:11-13.

82. He testified that Mr. Marrone's work in the *Smiley Action* was "the substantial factor . . . if not the exclusive factor" in obtaining the favorable settlement in the case. *Id.* at 245:6-11.

83. Mr. Donovan based his opinion on all the materials on the *Smiley Action* docket, the briefs on appeal, the Third Circuit's opinion, the settlement agreement, status reports, and Greenblatt Pierce's time records. *Id.* at 240:4-16, 247:2-10.

M. Greenblatt Pierce's Time Records

84. Greenblatt Pierce's time entries reflect that the firm worked 638.8 hours on the *Smiley Action*. P-34 (Greenblatt Pierce Time Records in the *Smiley Action*); Tr. 6/17/24, Pierce at 100:18-21.

85. These records, however, are incomplete because Greenblatt Pierce lost time entries for all its cases as a result of switching information technology professionals at their firm. Tr. 6/17/24, Pierce at 102:19-23, 109:3-110.

86. Ms. Pierce estimated that the firm lost approximately 32 hours that she spent recruiting potential opt-in plaintiffs before 2013, working on the Third Circuit Appeal during 2015-2016, and drafting, reviewing, and communicating with the *Smiley Action* plaintiffs between 2014-18. P-41 (Pierce Affidavit July 29, 2020); Tr. 6/17/24, Pierce at 109:7-21, 112:30-113:4; 114:10-23. The Court found this testimony credible.

87. The records reflect the following hourly rates for the Greenblatt Pierce professionals who worked on the *Smiley Action*:

\$700 for Ms. Pierce
\$700 for Mr. Marrone
\$275 for senior associate Noah Cohen
\$100 for a paralegal

P-34 (Greenblatt Pierce Time Records in the *Smiley Action*).

88. The Court finds, based on the credible testimony presented, that the rates for Greenblatt Pierce's professionals are reasonable and competitive to rates charged by other law firms in the relevant geographic area. Tr. 6/17/24, Pierce at 108:8-22; Tr. 6/17/24, D. Cohen at 227:6-18.

N. Damages

89. Greenblatt Pierce seeks to recover \$660,465.84 jointly and severally from the Marrone defendants. Pl. Proposed Findings of Fact, Dkt. at 8/30/24 at 1, 41, 53.

90. Of that amount, \$37,698.84 are costs that Greenblatt Pierce incurred in the *Smiley Action*. Trial Stip., Dkt. at 6/18/24; P-37 (DuPont Cost Sheet for Greenblatt Pierce); P-38 (Greenblatt Pierce Custom Transaction Detail Report Costs).

91. Greenblatt Pierce claims their lodestar for attorneys' fees is \$413,340. Pl. Proposed Findings of Fact, Dkt. at 8/30/24 at 41.

92. The remaining amount of \$209,427 reflects 29 percent of the attorney's fees award that Stephen Zouras and More Marrone earned in excess of their lodestar. Pl. Proposed Findings of Fact, Dkt. at 8/30/24 at 42.

O. Procedural History

93. The matter now before this Court was initiated by a complaint filed by Greenblatt Pierce on September 24, 2020. Complaint, Dkt. at 9/24/20.

94. Mr. Marrone and MoreMarrone filed an answer, denying all material allegations. Answer, Dkt. at 10/15/2020.

95. The parties filed cross-motions for summary judgment. Mtn. for Summary Judgment, Dkt. at 10/17/2022 (Control Number 22102785); Mtn. for Summ. J., Dkt. at 10/17/2022 (Control Number 22102832).

96. Only the quantum meruit and unjust enrichment claims survived summary judgment. Order and Op. for Summ. J., Dkt. at 9/26/23.

97. The Court held a bench trial on those claims on June 17 and 18, 2024.

CONCLUSIONS OF LAW

I. GREENBLATT PIERCE IS ENTITLED TO RECOVER ATTORNEYS' FEES AND COSTS IN QUANTUM MERUIT

A. Quantum Meruit

98. Greenblatt Pierce argues that it is entitled to recover attorney's fees and costs in quantum meruit. Pl. Proposed Findings of Fact, Dkt. at 8/30/24 at 32-45.

99. An attorney who is discharged by their client can recover in quantum meruit for the reasonable value of their work if they did not voluntarily withdraw or forfeit the case. *Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C. v. Law Firm of Malone Middleman, P.C.*, 179 A.3d 1093, 1099 (Pa. 2018); *Kenis v. Perini Corp.*, 682 A.2d 845, 849 (Pa. Super. 1996).

100. The principle applies to attorneys hired on a contingency fee basis. *Meyer*, 179 A.2d at 1099; *Angino & Rovner v. Jeffrey R. Lessin & Associates*, 131 A.3d 502, 509 (Pa. Super. 2016); *Commonwealth v. Scheps*, 523 A.2d 363, 351 (1987).

101. A terminated attorney may recover fees from their client or successor counsel in quantum meruit if they demonstrate that “(1) benefits [were] conferred . . . , (2) [there was] appreciation of such benefits by [the client or third party]; and (3) [there was] acceptance and retention of such benefits under such circumstances that it would be inequitable for [a client or third party] to retain the benefit without payment of value.” *Meyer*, 179 A.3d at 1102; *see also Angino & Rovner v. Jeffrey R. Lessin & Associates*, 131 A.3d at 509; *Scheps*, 523 A.2d at 351.¹

¹ For example, in *Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C. v. Law Firm of Malone Middleman, P.C.*, 179 A.3d 1093 (Pa. 2018), a plaintiff law firm was entitled to recover attorneys' fees in quantum meruit from settlement fund established by successor counsel after they were discharged from a case. Meyer Darragh became involved in the litigation after an attorney, William Weiler, joined the firm and brought the case with him. *Meyer*, 179 A.3d at 1095. Meyer Darragh lawyers expended 71.21 hours on the litigation over a 19-month period. *Id.* When Mr. Weiler left Meyer Darragh for the defendant law firm, he entered into a new contingency fee agreement with the litigant, and Meyer Darragh was discharged as counsel. *Id.*

B. Greenblatt Pierce Did Not Voluntarily Withdraw from the *Smiley Action*

102. Greenblatt Pierce did not voluntarily withdraw from the *Smiley Action* because the named plaintiffs chose Mr. Marrone as counsel and ceased communication with Ms. Pierce. P-22 (Email 8/7/2018 Thomas Marrone to Patricia Pierce); Tr. 6/17/24, Pierce at 86:2-7, 87:1-5, 88:13-89:2; P-24 (Letter 8/7/2018 from Greenblatt Pierce to Thomas Marrone); P-25 (Letter 8/8/2018 from Greenblatt Pierce to *Smiley Action* defense counsel); Tr. 6/18/24, Marrone at 163:22-24.

103. Indeed, Judge Nina Wright Padilla, who presided over the case at the summary judgment stage, held that Ms. Pierce's withdrawal was not voluntary:

While GPFF filed a motion seeking leave to withdraw as counsel for the Smiley Plaintiff, the withdrawal was not "voluntary." Smiley terminated Pierce by deciding and selecting Marrone to represent her and the other plaintiffs in the Smiley Action. Given the Smiley Plaintiff's decision, Pierce was terminated and had no choice but to seek leave to withdrawal as counsel.

Order and Op. for Summ. J., Dkt. at 9/26/23 at 11.²

C. Greenblatt Pierce conferred a benefit to plaintiffs and MoreMarrone

104. Greenblatt Pierce professionals performed hundreds of hours of legal services for the *Smiley Action* and paid litigation costs before its termination.

at 1096. The litigation settled and Meyer Darragh was denied recovery. *Id.* The Pennsylvania Supreme Court held that Meyer Darragh had conferred benefits to the plaintiff by "conducting depositions, selecting expert witnesses, reviewing medical records and preparing motions." *Id.* at 1101. There was "no question" that Meyer Darragh's work "contributed to the settlement." *Id.* at 1103. The litigant and the successor law firm appreciated the benefits of Meyer Darragh's work. *Id.* Further, while the litigant and successor counsel retained the benefits of the settlement, Meyer Darragh was not paid. *Id.* at 1103-4.

² Judge Padilla's summary judgment opinion constitutes the law of the case. *See Ario v. Reliance Ins. Co.*, 980 A.2d 588, 597 (Pa. 2009) ("... a court involved in the later phases of a litigated matter should not reopen questions decided by another judge of that same court or by a higher court in the earlier phases of the matter").

105. This work includes identifying opt-in plaintiffs, responding to opposing party and court-ordered discovery requests, reviewing briefs, planning litigation strategy, identifying expert witnesses, conducting site inspections, and contributing to oral arguments. P-34 (Greenblatt Pierce Time Records in the Smiley Action); Tr. 6/18/24, Marrone at 157:24-158:5, 195:13-18, 217:20-23; Tr. 6/18/24, N. Cohen at 9:1-8, 9:23-10:6; Tr. 6/17/24, Pierce at 44:6-12, 52:5-12, 53, 22-54:1, 55:7-13, 56:2-7, 56: 12-57:19, 59:1-4, 62:25-63:7, 74:18-24, 81:20-82:6, 95:5-8; 97:19-21, 257:11-259:1; Tr. 6/18/24, Smiley at 116:4-15, 103:22-104:1; Trial Stipulation, Dkt. at 6/18/24; D-93 (Brief for Appellants and Appendix Filed for the Third Circuit Appeal) at 75-85; P-6 (Email chain 4/13/2015 between Pierce and Marrone); P-37 (DuPont Cost Sheet for Greenblatt Pierce); P-8 (Email chain 10/7/2016 between Marrone and Pierce); P-9 (Email chain 10/17/2016 between Pierce and Marrone); P-17 (Email chain 7/23/2018 between Patricia Pierce and Thomas Marrone); *see also Meyer*, 179 A.3d at 1101 (finding that a predecessor law firm's preparation for trial, including "conducting depositions, selecting expert witnesses, reviewing medical records[,] and preparing motions" conferred a benefit on the plaintiff).

106. The Marrone defendants benefitted because, without Greenblatt Pierce's work, the *Smiley Action* would not have reached the settlement stage of litigation. *See Meyer*, 179 A.3d at 1103 ("It is axiomatic that without predecessor counsel's effective litigation of a civil action, successor counsel [does] not have the opportunity to reach a favorable verdict or settlement.")

107. In fact, David Cohen, the replacement co-counsel for the *Smiley Action*, admitted that "the work of Greenblatt Pierce definitely benefitted the work [he] did." Tr. 6/18/24, D. Cohen at 52:17-23; *see also* Tr. 6/18/24, D. Cohen at 53:9-10, 55:6-10 ("... the information in

the Freifelder [expert damages] report, which [Greenblatt Pierce] collaborated with [Mr. Freifelder] on and retained him to produce, was very important in the case”).

108. The Marrone defendants accepted and retained the benefits inequitably when they refused to pay Greenblatt Pierce for their work after receiving attorneys’ fees and cost reimbursements from the District Court. P-33 (Final Settlement Approval Order dated October 2, 2020, in the *Smiley Action*); Tr. 6/18/24, Marrone at 222:10-223:22.

II. GREENBLATT PIERCE IS ENTITLED TO ITS CHARGING LIEN

A. Charging Lien

109. Greenblatt Pierce seeks a declaratory judgment to enforce their charging lien against the Marrone defendants. Pl. Proposed Findings of Fact, Dkt. at 8/30/24 at 48-53; Tr. 6/17/24, 18:1-5.

110. The parties agree that *Recht v. Urban Redevelopment Auth.*, 168 A.2d 134 (Pa. 1961), is the seminal case in determining whether a charging lien can be asserted and enforced. Tr. 6/17/24, 26:4-27:4.

111. Under *Recht*, a charging lien is enforceable if “(1) [. . .] there is a fund in court or otherwise applicable for distribution on equitable principles, (2) [. . .] the services of the attorney operated substantially or primarily to secure the fund out of which he seeks to be paid, [. . .] (3) it was agreed that counsel look to the fund rather than the client for his compensation, (4) that the lien claimed is limited to costs, fees or other disbursements incurred in the litigation by which the fund was raised and [. . .] (5) there are equitable considerations which necessitate the recognition and application of the charging lien.” 168 A.2d at 138–39.

B. There is a fund because the *Smiley Action* settlement award has not been distributed

112. A settlement fund that has not been distributed is a fund for the purposes of a *Recht* analysis. *Austin v. Thyssenkrupp Elevator Corp.*, 254 A.3d 760, 766 (Pa. Super. 2021).

113. The *Smiley Action* settled for \$5 million and the funds, which were deposited into a MoreMarrone escrow account, have not yet been distributed. P-29 (Class/Collective Action Settlement Agreement in the *Smiley Action*); D-32 (Joint Case Status Report filed in the *Smiley Action*; Tr. 6/17/24, D. Cohen at 202:7-13.

C. Greenblatt Pierce Operated Substantially or Primarily to Secure the Fund

114. Pennsylvania courts have not yet defined when a lawyer operates substantially or primarily to secure the fund.

115. Generally, courts have held that a lawyer who represents a client during most of the litigation operated substantially or primarily to secure the fund. *See Austin*, 254 A.3d at 766 (holding that a lawyer who represented a client from the commencement to the settlement of a lawsuit operated substantially or primarily to secure the fund); *Smith v. Hemphill*, 180 A.3d 773, 777 (Pa. Super. 2018) (ruling that a lawyer who represented a client in arbitration, motions hearings, and trial operated substantially or primarily to secure the fund); *Molitoris v. Woods*, 618 A.2d 985, 991 (Pa. Super. 1992) (holding that a firm operated substantially or primarily to secure a settlement fund because the lawyers on the case “pursued ongoing negotiations until their termination” by the client before the settlement); *Recht*, 168 A.2d at 601 (holding that a lawyer did not substantially or primarily operate to secure a judgment because he “took no part in preparation or trial of the appeal proceeding” but rather worked on an unrelated action); *see also Sawyer v. Taylor*, 2023 WL 5275089, at *5 (Pa. Super. 2023) (affirming trial court order that found a lawyer substantially or primarily operated to secure a divorce fund despite

withdrawing as counsel because the lawyer represented the client during a portion of the divorce proceedings, including a hearing for special relief).³

116. In this case, Greenblatt Pierce represented the *Smiley Action* plaintiffs for nearly six of the eight years the case was litigated. P-3 (*Smiley Action* Complaint) at 13; Tr. 6/17/24, Pierce at 46:21-22.

117. During their representation of the *Smiley Action* plaintiffs, Greenblatt Pierce's lawyers worked as co-counsel to Mr. Marrone and provided essential legal services identifying plaintiffs, participating in discovery, representing the plaintiffs at hearings, devising litigation strategy, and calculating damages. Tr. 6/18/24, N. Cohen at 9:1-8; Tr. 6/17/24, Marrone at 157:24-158:5, 195:13-18, 217:20-23; Tr. 6/17/24, Pierce at 55:7-13, 60:13-23, 62:25-63:7, 74:18-24, 81:20-82:6, 95:5-8; 97:19-21, 81:20-82:6; Tr. 6/18/24, Pierce at 257:11-259:1; Tr. 6/18/24, Smiley at 103:22-104:1; D-93 (Appellants' Third Circuit Brief at 75-85; P-6 (Email chain 4/13/2015 between Pierce and Marrone); P-37 (DuPont Cost Sheet for Greenblatt Pierce); P-8 (Email chain 10/7/2016 between Marrone and Pierce); P-9 (Email chain 10/17/2016 between Pierce and Marrone); P-17 (Email chain 7/23/2018 between Pierce and Marrone).

118. Greenblatt Pierce also worked to successfully appeal the unfavorable summary judgment in the *Smiley Action* to resolve a key legal issue in the case that posed a risk to the *Smiley Action* plaintiffs' recovery. Tr. 6/18/24, Donovan at 245:22-246:4; D-93 (Appellants' Third Circuit Brief) at 75-85; Tr. 6/17/24, Pierce at 74:18-24, 95:5-8; 97:19-21; P-6 (Email chain 4/13/2015 between Pierce and Marrone); P-37 (DuPont Cost Sheet for Greenblatt Pierce).

119. The only work that was performed in the *Smiley Action* after Greenblatt Pierce's withdrawal was new damages calculations and participation at the settlement conference. Tr.

³ This nonprecedential case is cited only for persuasive value.

6/17/24, D. Cohen, 188:16-24, 202:7-13; P-29 (Class/Collective Action Settlement Agreement in the *Smiley Action*); D-32 (Joint Case Status Report filed in the *Smiley Action*).

120. While the Marrone defendants claim that Greenblatt Pierce could not have substantially or primarily operate to secure the fund because they were absent in the final settlement conference for the *Smiley Action*, this argument is bereft of legal support because they fail to cite any binding precedent that states that an attorney substantially or primarily operates to secure a fund if their work directly results in the fund. *See* Defs. Proposed Findings of Fact, Dkt. at 8/30/24 at 26-37; Defs. Bench Mem., Dkt. at 9/3/24.

121. This Court also finds Mr. Marrone's testimony that David Cohen and his work solely "achieved [the] result" of the *Smiley Action* incredible. Tr. 6/18/24, Marrone at 176:16-177-6, 179:18-24. This is because, while Greenblatt Pierce's lawyers were not involved in the mediation that led to the settlement of the *Smiley Action*, Greenblatt Pierce performed essential litigation services and trial preparation that contributed to the settlement.

122. Thus, Greenblatt Pierce operated substantially or primarily to secure the settlement fund.

D. Greenblatt Pierce and the Marrone Defendants Agreed to Look to the Fund Rather Than the Client for Compensation

123. Attorneys agree to look to the fund rather than the client for compensation when there is a contingent fee agreement. *Austin*, 254 A.3d at 766.

124. In this case, the third *Recht* factor is satisfied because Greenblatt Pierce and Mr. Marrone took the *Smiley Action* on a 40 percent contingency basis. Tr. 6/17/24, Pierce at 216:1-7; Tr. 6/18/24, Marrone at 128:18-129:1; P-30 (Supplemental Fee Memo in the *Smiley Action*) at 14.

E. Greenblatt Pierce's Lien is Limited to Costs, Fees, or Other Disbursements Incurred in the *Smiley Action*

125. A charging lien is limited to fees, costs, or other disbursements from the settlement and does not extend to “fees or costs for any unrelated matters.” *Austin*, 254 A.3d at 767.

126. Greenblatt Pierce's charging lien meets the requirements of the fourth *Recht* factor because Greenblatt Pierce claims recovery only for work performed and costs incurred in the *Smiley Action*. Tr. 6/17/24, Pierce at 88:17-89:5.

F. Equitable Considerations Necessitate Recognizing Greenblatt Pierce's Charging Lien

127. The fifth *Recht* factor is met if there are risks that a lawyer will not be paid for their work. *Austin*, 254 A.3d at 768 (holding that a lawyer was at risk of nonpayment for their work because the client did not sign a settlement agreement for two years after discharging the lawyer); *Appeal of Harris*, 186 A. 92, 95 (Pa. 1936) (“[t]he imposition of a charging lien is based upon the interest of the courts ‘in protecting attorneys, as its own officers,’ and in assuring that a party ‘not run away with the fruits [of a lawsuit] without satisfying the legal demands of the attorney by whose industry those fruits were obtained’”).

128. In this case, Greenblatt Pierce was at risk of nonpayment not only because of the contingent fee arrangement but also because it was neither notified of the settlement nor considered when the Marrone defendants requested attorneys' fees from the *Smiley Action* court. Tr. 6/18/24, Pierce at 90:8-12; P-30 (Supplemental Fee Memo in the *Smiley Action*); Tr. 6/17/24, D. Cohen at 214:6-9, 218:19-25, 221:5-12.

129. This court rejects the Marrone defendants' contention that it is inequitable to allow Greenblatt Pierce to seek recovery of attorneys' fees in multiple forums under multiple

theories. Greenblatt Pierce's suit is not an unfair "do over" that overly burdens the Marrone defendants because it was entitled to seek recovery under any theory after the District Court denied its petition for attorney's fees.⁴ D-49 (Memorandum Opinion Denying Greenblatt Pierce's Motion to Intervene filed in the *Smiley Action*); D- 50 (Order Denying Greenblatt Pierce's Motion to Intervene filed in the *Smiley Action*); Defs. Proposed Findings of Fact, Dkt. at 8/30/24 at 33.

130. Thus, because all the *Recht* factors are met, this Court declares that Greenblatt Pierce holds an enforceable charging lien against the *Smiley Action*'s settlement funds.

⁴ Greenblatt Pierce did not improperly seek attorneys' fees after its termination. After Ms. Pierce filed her motion to withdraw, Greenblatt Pierce promptly asserted a lien on any recovery in the *Smiley Action*, thus notifying the District Court of its intent to recover attorneys' fees. P-24 (Letter 8/7/2018 from Greenblatt Pierce to Marrone); P-25 (Letter 8/8/2018 from Greenblatt Pierce to *Smiley Action* defense counsel); Tr. 6/17/24, Pierce at 88:13-89:5; Tr. 6/18/24, Marrone at 163:22-24. After Greenblatt Pierce received no attorneys' fees from the District Court, it was free to seek recovery in this court. D-49 (Memorandum Opinion Denying Greenblatt Pierce's Motion to Intervene filed in the *Smiley Action*); D- 50 (Order Denying Greenblatt Pierce's Motion to Intervene filed in the *Smiley Action*). Greenblatt Pierce could seek attorneys' fees under multiple theories. Pa.R.C.P. 1020; Order at Dkt. at 12/7/21. In fact, Greenblatt Pierce could litigate its claim for equitable relief only because Judge Padilla expressly held that there was "no evidence of a contract between [Greenblatt Pierce] and Marrone regarding the sharing of attorney fees and costs in the *Smiley Action* after Marrone departed Greenblatt Pierce." Order and Op. for Summ. J., Dkt. at 9/26/23 at 7.

III. GREENBLATT PIERCE'S ATTORNEYS' FEES ARE REASONABLE⁵

A. Proper Amount for an Attorney's Services

131. An attorney who successfully proves they are entitled to recover attorneys' fees in quantum meruit can recover the "proper amount for the services" they rendered. *Meyer*, 179 A.3d at 1103; *Angino*, 131 A.3d at 509 ("Clearly, a discharged contingency fee lawyer is entitled to just compensation. . . .").

132. Determining the proper amount for an attorney's services is a fact intensive inquiry that requires the consideration of facts such as the "character of services rendered, the importance of the litigation, the skill necessary, the standing of the attorney, the benefit derived from the services rendered and the ability of the client to pay, as well as the amount of money involved." *Angino*, 131 A.3d at 511 (quoting *Mager v. Bultena*, 797 A.2d 948, 960-2 (Pa. Super. 2002) (Joyce, J. concurring)); *Carmen Enterprises, Inc. v. Murpenter, LLC*, 185 A.3d 380, 396 (Pa. Super. 2018); *In re LaRocca's Trust Estate*, 246 A.2d 337, 339, (Pa. 1968).

133. The determination is at the "sound discretion of the trial court." *Id.*

⁵ The Marrone defendants argue that the correct forum to determine the reasonableness of Greenblatt Pierce's attorneys' fees is the federal court because the Smiley Action was a federal class action. Defs. Proposed Findings of Fact, Dkt. at 8/30/24 at 37. This argument is not persuasive. Because Greenblatt Pierce is not seeking a new attorneys' fees award from the class settlement but rather recovery from an existing reward, no judicial review is required under Federal Rule of Civil Procedure 23(h). In fact, the *Smiley Action* court held that Greenblatt Pierce's claim for attorneys' fees was "collateral" to the Middle District's calculation of attorneys' fees in the *Smiley Action*, thereby opening the door to this case. D-49 (Memorandum Opinion Denying Greenblatt Pierce's Motion to Intervene filed in the *Smiley Action*) at 4.

B. Greenblatt Pierce Performed a Significant Amount of Work on the *Smiley Action*

134. Greenblatt Pierce was involved in the *Smiley Action* for six years, from the commencement to filing the petition for a writ of certiorari before the United States Supreme Court. P-3 (*Smiley Action* Complaint) at 13; Tr. 6/17/24, Pierce at 46:21-22.

135. Greenblatt Pierce's records demonstrate that its attorneys worked a total of 719.8 hours on the case. P-34 (Greenblatt Pierce Time Records in the *Smiley Action*); P-35 (Thomas Marrone Time records in the *Smiley Action*); P-41 (Pierce Affidavit July 29, 2020); Tr. 6/17/24, Pierce at 114:10-23.⁶

C. The *Smiley Action* Benefitted from Greenblatt Pierce's Services

136. Greenblatt Pierce's work was beneficial to the *Smiley Action* and did not equate to mere assistance. The firm recruited class members, lead discovery, represented plaintiffs at hearings, and even hired an expert to write a damages report. As replacement counsel David Cohen testified, all of Greenblatt Pierce's work was used to prepare for the ultimate settlement conference in the *Smiley Action*. Tr. 6/18/24, N. Cohen at 9:1-8; Tr. 6/17/24, Pierce at 55:7-13, 60:13-23, 62:25-63:7, 74:18-24, 81:20-82:6, 95:5-8; 97:19-21; Tr. 6/18/24, Pierce at 257:11-259:1; Tr. 6/17/24, Marrone at 157:24-158:5, 195:13-18, 217:20-23; Tr. 6/18/24, Smiley at 103:22-104:1; D-93 (Brief for Appellants and Appendix, Volume 1 filed in 14-458 provided essential legal services identifying plaintiffs, participating in discovery, representing the

⁶ Greenblatt Pierce owns Mr. Marrone's time while he was a partner at Greenblatt Pierce. The Operating Agreement controls any fee and time arrangement between Mr. Marrone and Greenblatt Pierce while Mr. Marrone was a member at the firm. Order and Op. for Summ. J., Dkt. at 9/26/23 at 8. According to the Operating Agreement, Mr. Marrone was paid a "base draw." P-1 (Greenblatt Pierce Memorandum of Understanding) at 5. While Mr. Marrone would have been entitled to an additional bonus for any money recovered in cases he co-counseled with Ms. Pierce, the provision does not apply in this case because the *Smiley Action* recovery occurred after Mr. Marrone left the firm. *Id.*; Order and Op. for Summ. J., Dkt. at 9/26/23 at 9.

plaintiffs at hearings, devising litigation strategy, and calculating damage 3 in United States Court of Appeals for the Third Circuit) at 75-85; P-6 (Email chain 4/13/2015 between Patricia Pierce and Thomas Marrone); P-37 (DuPont Cost Sheet for Greenblatt Pierce); P-8 (Email chain 10/7/2016 between Thomas Marrone and Patricia Pierce); P-9 (Email chain 10/17/2016 between Patricia Pierce and Thomas Marrone); P-17 (Email chain 7/23/2018 between Patricia Pierce and Thomas Marrone); *see Angino*, 131 A.3d 502, 511 (Pa. Super. 2016) (ruling an attorney who worked on the case and was terminated prior to arbitration was owed attorney's fees because his work was "relevant and important" to the settlement award).

D. Greenblatt Pierce's Attorneys' Rates are Justified Given the Demands of the Smiley Action

137. Greenblatt Pierce's rates for their work in the *Smiley Action* are justified.

138. Ms. Pierce's rate of \$700 per hour is justified because she is an experienced practitioner in employment law. Tr. 6/17/24, Pierce at 32:15-17, 33:2-18.

139. Though she does not have specific expertise in wage and hour cases, she used her many years of experience to work with Mr. Marrone as co-counsel and held equal responsibilities in the *Smiley Action*. Tr. 6/17/24, Pierce at 32:15-17, 33:2-18, 37:25-38:4, 39:17-40:7, 49:16-17, 55:7-13.

140. Despite the fact that Ms. Pierce has more experience in employment law, Ms. Pierce's rate is comparable to Mr. Marrone's: her rate is identical to Mr. Marrone's when he was at Greenblatt Pierce and her rate is currently lower than Mr. Marrone's rate for the *Smiley Action*. P-30 (Supplemental Memorandum in Support of Unopposed Awards to Named Plaintiffs and Class Counsel, with exhibits, filed 9/14/2020 in the *Smiley Action*) at 20; Tr. 6/17/24, D. Cohen at 226:16-23; P-34 (Greenblatt Pierce Time Records in the *Smiley Action*); Tr. 6/17/24, Pierce at 32:15-17, 33:2-18; Tr. 6/18/24, Marrone at 123:19-24.

141. A review of the time records shows that Ms. Pierce did not unnecessarily bill her time in the *Smiley Action*. Tr. 6/17/24, Pierce at 56:8-11; Tr. 6/18/24, Pierce at 155:17-24; Tr. 6/18/24, N. Cohen at 15:23-16:6; P-34 (Greenblatt Pierce Time Records in the *Smiley Action*).

142. Further, senior associate Noah Cohen's rates were fair.

143. Mr. Noah Cohen provided valuable services in the *Smiley Action*. Tr. 6/18/24, N. Cohen at 20:13-21:2.

144. In fact, he was more involved in some aspects of the *Smiley Action* than Mr. Marrone. Tr. 6/18/24, N. Cohen at 20:13-21:2; Tr. 6/18/24, Marrone at 191:6-10.

145. Thus, because Greenblatt Pierce's attorneys performed a significant amount of work, benefitted the *Smiley Action*, risked non-payment for legal work, and had justified rates for its attorneys, Greenblatt Pierce is entitled to recover its requested attorneys' fees in quantum meruit.

IV. GREENBLATT PIERCE IS ENTITLED TO RECOVER PROFITS AND BENEFITS DEFENDANTS RECEIVED UNDER A THEORY OF UNJUST ENRICHMENT

146. Greenblatt Pierce argues that, under an unjust enrichment theory, it is also entitled to a portion of the excess award that the Marrone defendants received in addition to their lodestar from the *Smiley Action*. Pl. Proposed Findings of Fact, Dkt. at 8/30/24 at 45-48.

147. Unjust enrichment is a different form of recovery than quantum meruit. *Artisan Builders, Inc. v. Jang*, 271 A.3d 889, 892-94 (Pa. Super. 2022).

148. It is a recovery of the "value of the benefit conferred" by the plaintiff. *Id.* (quoting *Durst v. Milroy General Contracting, Inc.*, 52 A.3d 357, 360 (Pa. Super. 2012)); see also *Martin v. Little, Brown and Co.*, 450 A.2d 984, 988 (Pa. Super. 1982).

149. Similar to quantum meruit, a party seeking unjust enrichment recovery must demonstrate that: “[there are] benefits conferred on defendant by plaintiff, [there are] appreciation of such benefits by defendant, and [there is] acceptance and retention of such benefits under such circumstances that it would be inequitable for defendant to retain the benefit without payment of value.” *Styer v. Hugo*, 619 A.2d 347, 350 (Pa. Super. 1993).

150. Courts look to see if the “enrichment of the defendant is unjust.” *Id.*

151. In this case, the Marrone defendants were unjustly enriched by retaining 100 percent of the additional amount of attorneys’ fees the Middle District awarded in addition to their lodestar.

152. As analyzed above, Greenblatt Pierce conferred benefits on the Marrone defendants, the Marrone defendants appreciated the benefits, and retained those benefits.

153. It was unjust for the Marrone defendants to retain the entire excess award because Greenblatt Pierce’s litigation services helped resolve key legal issues in the *Smiley Action* that led to the settlement. Tr. 6/18/24, Donovan at 245:22-246:4; D-93 (Brief for Appellants and Appendix Filed for the Third Circuit Appeal) at 75-85; Tr. 6/17/24, Pierce at 74:18-24, 95:5-8; 97:19-21; P-6 (Email chain 4/13/2015 between Patricia Pierce and Thomas Marrone); P-37 (DuPont Cost Sheet for Greenblatt Pierce).

154. Greenblatt Pierce also timely sought attorneys’ fees by asserting a lien after withdrawing from the *Smiley Action*. P-24 (Letter 8/7/2018 from Greenblatt Pierce to Thomas Marrone); P-25 (Letter 8/8/2018 from Greenblatt Pierce to David Fryman, Esquire and Eric Magnus, Esquire); Tr. 6/17/24, Pierce at 88:13-89:5; Tr. 6/18/24, Marrone at 163:22-24.

155. Greenblatt Pierce's request for 29 percent of the attorney's fee award given to Stephen Zouras and the Marrone defendants in excess of their lodestar is reasonable and equitable.⁷

156. Thus, because Greenblatt Pierce's legal services contributed to obtaining the settlement and attorneys' fees were timely sought, it would be unjust for the Marrone defendants to retain the benefits without payment. *Cf. Styer*, 619 A.2d at 351-2 (ruling that it was not unjust for successor counsel to retain benefits because prior counsel pursued "unfruitful" legal theories for four years and inadequately protected their right to compensation after withdrawing from the action).

CONCLUSION

For all the foregoing reasons, the Court finds for plaintiff Greenblatt Pierce Funt & Flores LLC ("Greenblatt Pierce"), and against defendants Thomas More Marrone and MoreMarrone, LLC, on its quantum meruit and unjust enrichment claims in the amount of \$ 837,602.78: 1) \$451,038.84 (Greenblatt Pierce's lodestar value and costs paid); 2) \$209,427 (29 percent of the attorneys' fees awarded in excess of the Marrone defendants' lodestar); plus interest at the statutory annual rate of six percent accruing daily since October 20, 2020 (\$177,136.94 through 4/11/25)

⁷ The percentage was calculated by comparing Greenblatt Pierce's lodestar value with that of David Cohen and Mr. Marrone. Greenblatt Pierce's lodestar for their work in the *Smiley Action* is \$413,340, Mr. David Cohen's is \$336,227, and Mr. Marrone's is \$691,560. P-30 (Supplemental Memorandum in Support of Unopposed Awards to Named Plaintiffs and Class Counsel, with exhibits, filed 9/14/2020 in the *Smiley Action*) at 20; P-41 (Pierce Affidavit July 29, 2020); P-42 (Pierce Affidavit August 26, 2020). If Greenblatt Pierce had been included in the original settlement fund, their recovery would have been 29 percent of the total combined lodestar of all counsel. The excess attorneys' fees awarded to David Cohen and Mr. Marrone was \$722,163. P-33 (Final Settlement Approval Order dated October 2, 2020 in the *Smiley Action*); Tr. 6/18/24, Marrone at 222:10-15. It is fair to award Greenblatt Pierce the excess amount proportionate to that of their lodestar in the *Smiley Action*.

The Court also grants declaratory judgment as to plaintiff Greenblatt Pierce Funt & Flores LLC's charging lien on the *Smiley Action*.

BY THE COURT:



ABBE F. FLETMAN, J.