

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2021-015089-CA-01

SECTION: CA43

JUDGE: Michael Hanzman

In re:

Champlain Towers South Collapse Litigation.

**NOTICE OF INTENT TO SERVE SUBPOENA
ON THE MIAMI-DADE COUNTY POLICE DEPARTMENT,
MOTION TO SHORTEN TIME FOR OBJECTIONS, AND
REQUEST FOR EXPEDITED CONSIDERATION OF ANY OBJECTIONS**

Pursuant to Rule 1.351, Fla. R. Civ. P., Champlain Towers South Condominium Association, Inc. (the “Association”), through its Court-appointed Receiver Michael I. Goldberg, provides notice of its intent to serve the attached *Subpoena Duces Tecum (Without Deposition) to Miami-Dade County Police Department* (“*Subpoena*”; copy attached as Exhibit A).

In addition, the Association moves to (i) shorten the time for any party to object to the *Subpoena* to 5 days from the date of this Notice and Motion and (ii) upon service of the *Subpoena* on the Miami-Dade County Police Department (“MDCPD”), require any objections by the MDCPD to be served within 7 days of service. The Association further requests that the Court expedite consideration of any objections.

In support, the Association states as follows:

1. Following the tragic collapse of the 136-unit Champlain Towers condominium on June 24, 2021, portions of the construction elements, structures, items, and materials from the structure (the “Contents”) were removed from the site located at 8777 Collins Avenue, Surfside, Florida, by or at the direction of the MDCPD to protect and maintain the Contents.

2. The Contents were, are, and always have been the Association’s property.

3. The Association understands that the Contents are currently stored in a confidential off-site warehouse possessed or controlled by the MDCPD (the “Warehouse Site”).¹

4. The parties to this action, as well as interested participants in the investigation as authorized by the Court, are preparing a joint testing protocol that will be submitted to the Court with respect to inspecting, measuring, surveying, photographing, videoing, testing, or sampling the Contents.

5. Immediate access to the Contents is essential and critical to the timely investigation of the issues in this action and to keep the case on schedule for the March 2023 trial setting.

6. The MDCPD has not voluntarily provided access to the Warehouse Site for the necessary inspection and testing of the Contents.

7. The MDCPD has indicated it will make access to the Warehouse Site and the Contents available at some point in time; however, not for several months from the present date.

8. Delayed and/or uncertain access is of no current use to the parties or the Court.

9. Accordingly, the Association intends to serve the attached *Subpoena* on the MDCPD to obtain immediate access to the Contents.

10. Rule 1.351(b) provides, “If any party serves an objection to production under this rule within 10 days of service of the notice, the documents or things shall not be produced pending resolution of the objection[.]”

11. The Association moves to have the 10-day period for objections provided by Rule 1.351(b) shortened to 5 calendar days, such that any objections will be served on or before January 24, 2022.

¹ To the extent any portion of the Contents has been moved to other property possessed or controlled by the MDCPD, the term “Warehouse Site” means and includes any location to which the Contents have been moved.

12. In addition, upon service of the *Subpoena*, the MDCPD will have the opportunity to object to the *Subpoena*. See Rule 1.410(c), Fla. R. Civ. P.

13. The Association further moves to have the MDCPD be ordered to serve any objections it may have within 7 days from service of the *Subpoena*.

14. Finally, the Association requests that the Court expedite its consideration and adjudication of (i) any objections to issuance of the *Subpoena* by any party and (ii) any objections by the MDCPD.

WHEREFORE, the Association respectfully requests that the Court order that (i) any objections by a party to the *Subpoena* must be served within 5 calendar days and (ii) that the Miami-Dade County Police Department must serve any objections to the *Subpoena* within 7 days of service. The Association further requests that the Court expedite consideration of any objections, and such other and further relief as the Court deems just and proper.

Dated: January 19, 2022

Respectfully submitted,

AKERMAN LLP

201 East Las Olas Boulevard, Suite 1800

Fort Lauderdale, Florida 33301-2229

Telephone: (954) 463-2700

Facsimile: (954) 463-2224

By: /s/ Andrew P. Gold

Andrew P. Gold, Esq.

Florida Bar No. 612367

Primary email: andrew.gold@akerman.com

Secondary email: jill.parnes@akerman.com

Christopher Carver, Esq.

Florida Bar No. 993580

Primary email: christopher.carver@akerman.com

Secondary e-mail: cary.gonzalez@akerman.com

and

Brenda Radmacher, Esq.
California Bar No. 185265
Admitted Pro Hac Vice
brenda.radmacher@akerman.com
AKERMAN LLP
601 West Fifth Street, Suite 300
Los Angeles, California 90071

Attorneys for Receiver/Association

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of January, 2021, this *Notice of Intent to Serve Subpoena on the Miami-Dade County Police Department, Motion to Shorten Time for Objections, and Request for Expedited Consideration of Any Objections* was filed electronically through the Florida Court's E-Filing Portal, which will provide electronic service of the filing to all counsel of record, and is also being served by e-mail on:

Jess McCarty, Esq.
Executive Assistant County Attorney
Miami-Dade County Attorney's Office
Stephen P. Clark Center
111 N.W. 1st Street – Suite 2810
Miami, FL 33128
Tel: 305-375-1634
Fax: 305-375-5634
jmm2@miamidade.gov

Counsel for the Miami Dade County Police Department

By: Andrew P. Gold
Attorney

EXHIBIT A

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2021-015089-CA-01
SECTION: CA43
JUDGE: MICHAEL HANZMAN

In re:

Champlain Towers South Collapse Litigation.

**SUBPOENA DUCES TECUM (WITHOUT DEPOSITION) TO
MIAMI-DADE COUNTY POLICE DEPARTMENT**

THE STATE OF FLORIDA:

TO: Oliver S. Spicer, Jr., Records Custodian
MIAMI-DADE COUNTY POLICE DEPARTMENT
Central Records Bureau
9105 NW 25 Street
Doral, Florida 33172

YOU ARE COMMANDED to appear at the confidential off-site warehouse under the control of the Miami-Dade County Police Department (“MDCPD”), to be disclosed to undersigned counsel by the MDCPD under confidential procedures 24 hours in advance, at **10:00 a.m.** on **February 3, 2022**, and to permit entry onto the designated premises, land, or other property possessed or controlled by you, so that the requesting party, and all other parties in interest in the above-referenced case and as authorized by the Court, may inspect, measure, survey, photograph, video, test, or sample the property and items removed from the Champlain Towers Condominium South site at 8777 Collins Avenue, Surfside, FL 33154 (the “Collapse Site”), and stored within the subject warehouse location, and to provide ongoing access on a continuing basis to allow for the testing required by the parties in interest in the above-referenced case and as authorized by the Court.

In addition, you shall provide all documents and photographs, including, but not limited to, any computerized data and information regarding the photographing, tagging, and identification of all of the materials and items removed from the Collapse Site maintained within the subject warehouse location and where they were located at the Collapse Site.

These items will be inspected and may be copied at that time. You will not be required to surrender the original items. **You may comply with this Subpoena by providing the items to be produced to the attorney whose name appears on this Subpoena on or before the scheduled date of production. Please produce this information on an encrypted external hard drive or removable hard drive such as a thumb drive or other similar device.** You may condition the preparation of the copies upon the payment in advance of the reasonable cost of preparation. If such costs exceed \$100, you must contact the undersigned counsel to obtain advance approval. You may mail or deliver the copies to the attorney whose name appears on this Subpoena and thereby eliminate your appearance at the time and place specified above. You have the right to object to the production pursuant to this Subpoena at any time before production by giving written notice to the attorney whose name appears on this Subpoena.

THIS WILL NOT BE A DEPOSITION. NO TESTIMONY WILL BE TAKEN AT THIS TIME. IF TESTIMONY IS NECESSARY AT A LATER DATE, COUNSEL WILL SERVE A SUBSEQUENT SUBPOENA.

If you fail to:

- (1) appear as specified; or
- (2) furnish or permit entry onto the designated premises to permit inspection, measurement, surveying, photography, video, testing, and/or sampling instead of appearing as provided above; or
- (3) object to this Subpoena,

you may be in contempt of court.

You are subpoenaed to appear by the attorneys whose name appear on this Subpoena and, unless excused from this Subpoena by the attorneys or the Court, you shall respond to this Subpoena as directed.

IN ACCORDANCE WITH Fla. R. Civ. P. 1.351, all counsel of record in this action have been served with notice of intent to serve this Subpoena.

Dated: For the Court

Andrew P. Gold, Esq.
Florida Bar No. 612367
Primary email: andrew.gold@akerman.com
Secondary email: jill.parnes@akerman.com
Christopher Carver, Esq.
Florida Bar No. 993580
Primary email: christopher.carver@akerman.com
Secondary e-mail: cary.gonzalez@akerman.com
AKERMAN LLP
201 East Las Olas Boulevard, Suite 1800
Fort Lauderdale, Florida 33301-2229
Telephone: (954) 463-2700
Facsimile: (954) 463-2224

and

Brenda Radmacher, Esq.
California Bar No. 185265
Admitted Pro Hac Vice
brenda.radmacher@akerman.com
AKERMAN LLP
601 West Fifth Street, Suite 300
Los Angeles, California 90071
Attorneys for Receiver/Association

and

Saltz Mongeluzzi & Bendesky P.C.
Attorneys for Plaintiffs
One Liberty Place – 52nd Floor
1650 Market Street
Philadelphia, PA 19103
Telephone: (215) 575-2970

By: _____
ROBERT J. MONGELUZZI
(admitted pro hac vice)
Email: rmongeluzzi@smbb.com
JEFFREY P. GOODMAN
(admitted pro hac vice)
Email: JGoodman@smbb.com
On Behalf of Plaintiffs' Steering Committee

and

GREENBERG TRAUIG, P.A.
Counsel for 8701 Collins Development, LLC
333 S.E. 2nd Avenue, Suite 4400
Miami, Florida 33131-3238
Telephone No.: (305) 579-0506
Facsimile No.: (305) 579-0717
Email: thomasmic@gtlaw.com
Email: barnettch@gtlaw.com

By: _____
MICHAEL J. THOMAS
Florida Bar No.: 21309
CHRISTOPHER L. BARNETT
Florida Bar No.: 0360510
Aurore A. Nicaud
Florida Bar No.: 1033409

DAVID B. WEINSTEIN
Florida Bar No. 604410
RYAN HOPPER
Florida Bar No. 107347
GREENBERG TRAUIG, P.A.
101 E. Kennedy Blvd., Suite 1900
Tampa, Florida 33602
Telephone: (813) 318-5700
Facsimile No.: (813) 318-5900
Email: weinsteind@gtlaw.com
Email: hopperr@gtlaw.com

In accordance with the Americans with Disabilities Act of 1990 (ADA), persons with disabilities needing special accommodations should contact the office of the attorney listed above at Akerman LLP at telephone number (954) 463-2700 prior to the proceeding.