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

COMPLEX BUSINESS LITIGATION DIVISION

IN RE: CHAMPLAIN TOWERS SOUTH COLLAPSE LITIGATION.

CLASS REPRESENTATION

CASE NO. 2021-015089-CA-01

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PLAINTIFFS' MOTION TO CERTIFY A LIABILITY CLASS PURSUANT TO FLORIDA RULES OF CIVIL PROCEDURE 1.220(b)(3), 1.220(d)(1), & 1.220(d)(4).

The Proposed Class Representatives respectfully request the Court certify a liability issue only class, pursuant to Florida Rule of Civil Procedure1.220(b)(3), (d)(1), and (d)(4), defined as "**All persons and entities located at, residing at, or owning units or personal property lost or destroyed at the Champlain Towers South condominium building, located at 8777 Collins Avenue, Surfside, Florida 33154, at the time of the Champlain Towers South's collapse on June 24, 2021, together with the personal representatives and statutory survivors of all persons whose lives were lost in or as a result of the CTS Collapse.**"[1] (the "Liability Class")

The most efficient and expedient manner to advance this litigation is to conditionally certify the Liability Class, bifurcate these proceedings into liability and damages phases, and proceed towards a liability trial to first resolve the question of the Defendants' (and possibly *Fabre* Defendants) liability and apportionment of fault for the cause of the CTS Collapse. *See, e.g.*, *Engle v. Liggett Grp., Inc.*, 945 So. 2d 1246, 1267–71 (Fla. 2006); *Las Olas Co. v. Fla. Power & Light Co.*, No. CACE19019911-18, 2020 WL 9874296 (Fla. 17th Cir. Ct. Dec. 14, 2020), *aff'd per curiam Infratech Corp. v. Las Olas Co.*, 320 So. 3d 751 (Fla. 4th DCA 2021), *reh'g denied* (Fla. 4th DCA July 13, 2021).

FACTS COMMON TO ALL PUTATIVE LIABILITY CLASS MEMBERS

On June 24, 2021, at approximately 1:22 a.m., the Champlain Towers South ("CTS") condominium building in Surfside, Florida suffered a catastrophic failure and partial collapse, killing 98 people and destroying 55 units. The remaining structure was demolished ten days later, after being deemed dangerously unstable (the "CTS Collapse"). Plaintiffs brought these consolidated proceedings on behalf of all victims impacted by the CTS Collapse caused by the

[1] Excluded from the Liability Class are Defendants, Plaintiffs' counsel and their employees, and the judicial officers supervising this case. The language of the Liability Class definition has been revised to clarify that it is a global class, solely on the issue of Defendants' liability, that includes all who suffered the common impact of the CTS Collapse.

negligence of multiple parties, both for wrongful death, personal injury, and economic loss. Ignoring for years technical reports indicating that the structural integrity of the building needed immediate repair, as well as numerous complaints from CTS occupants, the Defendants allowed nearly one hundred people to die, and many others to suffer tremendous, irreplaceable loss, injury and damage.[2] Condominium owners, tenants, family members, and overnight guests are among the deceased.[3] Those who survived lost family and friends, have been deprived of their homes and worldly possessions, and are forced to start from scratch.

It is undisputed that the CTS Collapse occurred and directly caused the damages to all of the Plaintiffs and proposed Class Members. Thus, the common and predominant question for the jury to answer ***at this stage*** is whether the Defendants' tortious conduct and/or breach of duties owed to the class members caused the collapse, and how to apportion liability among those at fault. Certifying the Liability Class and allowing this action to proceed towards one liability trial will allow the Court to effectively steer this litigation towards that end.

The Common Liability Issues as to all of the Defendants

1. The Eighty-Seven Park Construction Defendants: Terra Defendants, Moriarty, NV5, and DeSimone

"Keep moving the job forward . . . Do not let any neighbor delay us" was the main theme of the luxury condominium construction project known as "Eighty-Seven Park," which was built at 8701 Collins Avenue, immediately adjacent to the southern boundary of CTS. Second Consolidated Amended Class Action Complaint ("Complaint" or "Compl.") ¶¶ 47–50. The "Terra Defendants," Defendants 8701 Collins Development, LLC, Terra Group, LLC, and

[2] Dawn E. Lehman, *The Herald built a computer model to explore how Surfside tower fell. Here's what it showed*, MIAMI HERALD (Dec. 1, 2021, 12:00 PM), https://www.miamiherald.com/news/special-reports/surfside-investigation/article256178672.html (last accessed January 23, 2022)

[3] Mark Osborne, Morgan Winsor, Meredith Deliso, and Arielle Mitropoulos, *What we know about the victims of the Surfside building collapse*, ABC NEWS (July 27, 2021, 5:58 AM) https://abcnews.go.com/US/victims-surfside-condo-collapse/story?id=78517075)

Terra World Investments, LLC, developed and constructed Eighty-Seven Park, a sprawling, 18-story building. *Id.* ¶¶ 47–50, 148. The Terra Defendants' safety-be-damned philosophy was shared by Defendants John Moriarty & Associates of Florida, Inc. ("Moriarty"); NV5, Inc. ("NV5"); and DeSimone Consulting Engineers, LLC ("DeSimone"). Moriarty was retained as the general contractor of the Eighty-Seven Park project, NV5 as the geotechnical engineer and inspector, and DeSimone, the structural engineer. *Id.* ¶¶ 17–19.

By the zoning as it existed when the Terra Defendants purchased 8701 Collins Avenue, Eighty-Seven Park would have been built at least 60 to 70 feet away from CTS. *Id.* ¶ 68. In late 2014, however, the Terra Defendants "purchased" 87th Terrace, a public street and right-of-way, to expand Eighty-Seven Park's footprint right up to southern foundational wall of CTS, by making a "donation" to the City of Miami Beach *Id.* Thus, these Defendants pushed the construction zone of Eighty-Seven Park to the absolute limit, and then proceeded to deploy construction techniques known to be ultrahazardous and inherently dangerous, without adhering to necessary safety measures. *Id.* ¶¶ 66, 87.

More specifically, the Terra Defendants, Moriarty, NV5, and DeSimone knowingly ignored warnings about the risk of construction to CTS, and directed, supervised, and carried out negligent construction practices, including their (1) excavation (*id.* ¶¶ 184–192, 334–36), (2) pile driving (*id.* ¶¶ 87–152, 333), (3) soil compaction (*id.* ¶¶ 153–165), and (4) dewatering activities. (*id.* ¶¶166–183, 334–36). In their excavation of 87th Terrace, these Defendants directed and performed work that penetrated CTS's foundation wall, leaving gaps and holes where water intruded into the CTS foundation structure, causing the basement parking garage to flood. *Id.* ¶¶ 184–200. They ultimately sloped the narrow footpath that replaced 87th Terrace to divert runoff away from Eighty-Seven Park and into CTS's structural components. *Id.* ¶¶ 193–200, 334–36).

As to pile driving and compaction, NV5 warned that vibrations caused during these construction activities would damage CTS's foundation and property if precautions were not taken. *Id.* ¶¶ 75–78. Nonetheless, these Defendants consistently pressed full force forward with the less expensive methods of construction, including driving 40-foot sheet piles deep into the ground with vibrational hammers, a mere ten feet away from the CTS's foundation, which they were explicitly warned against. *Id.* ¶¶ 68, 76

The Terra Defendants also ignored CTS occupants' life safety concerns, including a 2016 letter which highlighted the daily vibrational tremors that could be felt by CTS occupants on their balconies, sitting in their living rooms, working out in the gym, and laying in bed. *Id.* ¶ 130. They also blatantly ignored Occupational Safety and Health Administration ("OSHA") requirements, engineering report warnings from NV5, and prioritized efficiency over the safety of human life throughout their construction project. *Id.* ¶ 86

Even after NV5 advised the Terra Defendants, Moriarty, and DeSimone to monitor the vibrations caused by their pile-driving, they chose to monitor only sporadically and then ignored the warning signs the monitoring revealed. *Id.* ¶¶ 87–101. Those readings that were recorded revealed vibrations exceeding allowable limits along the southern foundation wall of CTS. *Id.* ¶¶ 102–128, 153–65. Yet, none of these Defendants bothered to check the impact of these activities on CTS, putting the adjacent structure in obvious peril.

Defendant Moriarty was in the unique position of closely monitoring all activity on site to ensure compliance with safety standards. Instead of ensuring compliance, Moriarty assented to the Terra Defendants' negligence, including specifically the failure to properly determine where and when to monitor vibrations during sheet pile installations during the construction of Eighty-Seven Park. *Id.* ¶ 106. No vibration monitoring for sheet pile driving, for example, was conducted anywhere on site, except for the north perimeter. *Id.* ¶ 111. This decision was approved nearly a year following NV5's report, which specified the extreme dangers to

adjacent structures of unmonitored and uncontrolled vibrations caused by sheet pile driving. *Id.* ¶ 107. After Moriarty ceased monitoring vibrations at the site on March 14, 2016, Moriarty informed the Terra Defendants that, despite the discontinuance of monitoring, the sheet pilings were going to have to be driven an additional one-hundred feet into the ground. *Id.* ¶ 126. There is therefore, most likely deliberately, no record of the additional extreme vibrations that CTS was subjected to during this additional vibrational sheet pile driving. *Id.* ¶ 127.

NV5, despite issuing engineering reports warning of the specific dangers associated with vibrations from sheet pile driving, said nothing as the Terra Defendants proceeded with the most dangerous methods. And, notwithstanding its own instructions to monitor the activity closely, NV5 hired a firm, Geosonics, to conduct vibration monitoring sporadically and only as to certain installation sites. *Id.*, ¶ 112. Those that were monitored were only monitored intermittently for short periods of time. *Id.* ¶ 115. Even so, the data gathered from Geosonics reflected that 29 out of 36, or a staggering 80% of these intermittent, short-term, selectively applied vibrational monitoring readings *exceeded acceptable and safe levels*. *Id.* ¶ 118. With this knowledge in mind from a March 2016 meeting, NV5 along with the Terra Defendants and Moriarty, chose not to take appropriate safety measures and instead moved forward with still more unmonitored vibratory sheet piling installations. *Id.* ¶¶ 120, 123. Vibrational sheet piling continued after Geosonics' final vibrational reading and went *deeper* into the ground, *with no monitoring*. *Id.* ¶ 126.

DeSimone, the structural engineer, worked alongside the Terra Defendants, NV5, and Moriarty, to ignore crucial safety recommendations regarding the project. *Id.* ¶ 74. DeSimone, too, failed to comply with OSHA requirements and failed to take care to preserve CTS's structural integrity. *Id.* ¶¶ 79, 85. DeSimone too sat idly by while Florida Building Codes, warnings from CTS occupants, and NV5's warnings and instructions were flagrantly ignored. *Id.* ¶ 86. For example, DeSimone was aware that a safer, more suitable, vibration-free basement

excavation support was available for the Eighty-Seven Park property: Deep Soil Mix ("DSM") wall. *Id.* ¶ 88. This method though, compared to driven sheet piles, takes longer to install, is more expensive, and requires a specialty contractor. *Id.* ¶ 93.

Like the other Defendants, DeSimone continued vibratory sheet piling installation in the face of technical evidence indicating that 80% of readings exceeded safe and allowable limits. *Id.* ¶ 120. All complaints from CTS occupants regarding breaking and falling concrete, excessive vibrations, daily tremors and shaking of the building, structural issues, and flooding in the garage were simply passed along to DeSimone's lawyers as a claims matter and were not responded to adequately. *Id.* ¶ 142.

In further disregard of their duties, the Terra Defendants, Moriarty, NV5, and DeSimone engaged in dewatering activities that effected the structural integrity of CTS. *Id.* ¶ 166–83. Dewatering is the process of removing and controlling the presence of groundwater and stormwater during a construction project for purposes of facilitating deep excavation work and allowing the foundation construction to occur in dry soil rather than wet and unstable soil. *Id.* ¶ 166. Dewatering on a site carries with it the inherent risk of impacting the water table underlying adjacent properties by creating a differential, which causes stress and load re-distribution in the adjacent structure. *Id.* ¶167. Despite warnings in NV5's April 2015 report and an October 2015 proposed dewatering plan submitted to the Miami-Dade County Division of Environmental Resources Management by an engineering firm on behalf of the Terra Defendants, the Terra Defendants, Moriarty, NV5, and DeSimone failed to take reasonably required measures to monitor how its dewatering activities would impact the water table under CTS. *Id.* ¶ 169–83.

Due to the non-delegable duty of care held by these Defendants for the inherently dangerous construction activities, they are all responsible for the negligent actions of their subcontractors, employees, and agents who performed work at Eighty-Seven Park. *Id.* The

negligence exhibited by DeSimone and disregard for the safety and wellbeing of CTS occupants resulted in one of the deadliest building collapses in United States history. *Id.* ¶ 434.

2. The Association

The Champlain Towers South Condominium Association, Inc. (the "Association"), violated the duty imposed on it—by both its own governing documents and Miami-Dade County ordinances—to maintain all parts of the building in a safe condition for occupants. *Id.* ¶ 216. Like other named Defendants, the Association was on notice for years about concrete damage, cracking, spalling, and water damage throughout the building. *Id.* ¶ 219. Aside from many occupants' personal accounts of building damage, the Association's own hired structural engineer, Defendant Morabito Consultants, Inc. ("Morabito"), produced a detailed analysis of the building's damage and need to immediately rectify certain issues as far back as 2018. *Id.* ¶ 227. The findings in the report identified collective structural issues that posed an enormous risk to the health, life, and safety of CTS occupants. *Id.* ¶ 231. The Association failed to take any action to warn of these critical life safety issues, and moreover, took no action to make the immediate, necessary repairs. *Id.* ¶¶ 236, 237. The Association's lack of action and its detrimental effects to the building are evidenced in Morabito's second inspection that was conducted in 2020. *Id.* ¶ 239. The 2020 report revealed that the structural issues and concrete damage first identified in 2018 had significantly worsened, and again the Association warned no one of these critically dangerous and ever-worsening issues. *Id.* ¶ 240. In an April 2021 letter, the Association admitted that much of the structural work could have been completed or at least planned years before, but simply was not. *Id.* ¶ 244.

3. Morabito

Frank Morabito, the Association's hired engineering consultant, did nothing to warn unsuspecting CTS occupants that the current structural integrity of the building presented major safety issues, other than simply handing its 2018 report to the Association. *Id.* ¶ 234. Morabito

was intimately familiar with the pervasiveness of structural damage, having conducted inspections in 2018 and 2020 of the building, and knew that without remediation efforts, the building was at significant risk of collapse. *Id.* ¶ 241. Morabito acted with negligent disregard for the safety of CTS occupants in failing to submit the required reports to building and regulatory officials for Miami-Dade County and the Town of Surfside, all while knowing the serious risk of harm that CTS's structural issues presented. *Id.* ¶ 242. Morabito's negligence was a contributing cause of the tragic collapse of CTS, and the resulting death and severe physical and economic injury sustained by the Liability Class. *Id.* ¶ 243.

4. Becker

Becker & Poliakoff P.A. ("Becker"), the Association's long-time law firm, was highly familiar with the needs of CTS, first beginning their professional relationship in February 1993. *Id.* ¶ 246. Becker boasts the largest practice group dedicated specifically to condominium and planned development law in the state of Florida.[4] The firm touts possessing top attorneys who are industry leaders in the field,[5] and has more Board-Certified Attorneys in Condominium and Planned Development Law, than any other firm in Florida. *Id.* ¶ 250. And in providing services to CTS over the years, Becker stepped into a role as more than a law firm, guiding the CTS Board and its occupants through the ins and outs of property management. *Id.* ¶ 256.

Becker, which served as the "Safety Net" for the Association, and the individual unit owners, was informed on numerous occasions, by both Morabito and CTS occupants, that there were serious issues with the CTS building that needed to be immediately remedied. *Id.* ¶¶ 276–78. Becker received the 2018 Morabito report detailing the serious structural repairs needed. *Id.* ¶ 277. Not only that, but, as Donna DiMaggio Berger, a Shareholder in Becker's

[4] BECKER & POLIAKOFF, https://beckerlawyers.com/practices/florida-community-association/ (last visited Jan. 26, 2021)

[5] *Id.*

Community Association Practice, confirmed "several owners . . . told us that the construction [at Eighty-Seven Park] created reverberations that shook their windows to the point that they thought their windows might crack." *Id.* ¶ 274. Susanna Rodriguez, wrote a three-page certified letter to Becker about the repairs needed and attaching the Morabito report. *Id.* ¶ 278–81. Although the Chair of Becker's Community Association practice group, Kenneth Direktor now claims to never have *even read* the short Morabito report prior to CTS's collapse, *id.* ¶ 295, he personally addressed Ms. Rodriguez's letter inquiry. *Id.* ¶ 284.

Despite this evidence of notice, Becker never consulted with Morabito about the findings in their important report. *Id.* ¶ 298. Like other named Defendants, Becker was in a position for several years to have stepped in with appropriate remediation measures to re-establish the structural integrity of the CTS building, and negligently chose not to do so. Despite Becker's expertise and ability to appreciate the significance of the risk posed to CTS occupants and its knowledge and ability to properly advise the CTS Association how to respond to mitigate that risk, Becker completely and totally failed to render that advice or to take any measures to ensure that the issues that ultimately lead to the collapse of CTS were addressed in any meaningful way. *Id.* ¶¶ 535–540. This reckless disregard for safety and the lives of CTS occupants was a contributing cause of damages to the Liability Class.

Plaintiffs and the Liability Class allege that the conduct of all those named above directly and proximately caused the CTS Collapse and resulted in the death and destruction wrongfully suffered by the Liability Class members. Certifying the Liability Class and holding one liability trial will enable the Liability Class to prove these allegations in one fell swoop, *and more importantly,* not require each victim to expend tens of millions of dollars each (which they do not have) to separately retain adequate counsel and experts to conduct this litigation.

The Common Claims of the Representative Plaintiffs

Each of the five proposed Plaintiff class representatives either owned, resided, or survived a family member who perished at CTS during the CTS Collapse. *See* **Composite Exhibit A** (Proposed Class Representative declarations). All state under oath that they are knowledgeable about the nature of this case and are ready and able to serve as a Plaintiff and a class representative. *Id.* ¶ 6. All seek to be appointed as a representative of the Liability Class and understand that as a class representative, each will have the duty to represent the interests of all unnamed Liability Class members. *Id.* ¶ 7. All share the same interest in determining and apportioning fault amongst the Defendants and attest they will carefully guard the interests of absent Liability Class members. *Id.* ¶ 8. All have dedicated a significant amount of time to this matter, including searching for and producing information relevant to this action, promptly responding to questions from their counsel, and reviewing filings and attending hearings in the lawsuit. *Id.* ¶ 9. All have and will continue to keep themselves informed as to the status of the case and will work with their counsel to respond to discovery requests, be prepared for a deposition, and are willing to make themselves available to testify at trial. *Id.* None has ever sought to be appointed as a class representative on behalf of a class in any other litigation. *Id.* ¶ 10. They are clearly adequate, typical and all have common issues with the proposed class.

LEGAL ARGUMENT

Plaintiffs seek class certification pursuant to Florida Rule of Civil Procedure 1.220, which is patterned after Federal Rule of Civil Procedure 23. As a result, the Court may look to federal cases as persuasive authority on the interpretation of the Florida Rule. *Chase Manhattan Mortg. Corp. v. Porcher*, 898 So. 2d 153, 156–57 (Fla. 4th DCA 2005); *Seven Hills, Inc. v. Bentley,* 848 So.2d 345, 352–53 (Fla. 1st DCA 2003); *Powell v. River Ranch Prop. Owners Ass'n, Inc.*, 522 So. 2d 69, 70 (Fla. 2d DCA), *rev. den.*, 531 So. 2d 1354 (Fla. 1988).

The purpose of a class action lawsuit "is to save a multiplicity of suits, to reduce the expense of litigation, to make legal processes more effective and expeditious, and to make available a remedy that would not otherwise exist." *Tenney v. City of Miami Beach*, 11 So. 2d 188, 189 (Fla. 1942). Stated another way, class actions facilitate judicial economy by avoiding multiple suits on the same subject matter, provide a feasible means for asserting the rights of those who would have no realistic day in court if a class action were not available, and deter inconsistent results, assuring a uniform, singular determination of rights and liabilities. *Am. Pipe & Constr., Co. v. Utah*, 414 U.S. 538 (1974).

Plaintiffs seek *conditional* certification of only a *liability issue* class pursuant to Rules 1.220(b)(3), (d)(1), and (d)(4). Rule 1.220(d)(1) provides the Court's class certification order "may be conditional," and gives the Court continuing jurisdiction to modify class certification to address new evidence, issues, claims, or defenses as they arise. *Clearview Imaging L.L.C. v. Mercury Ins. Co. of Fla.*, 2010 WL 9940700, at *10 (Fla. 13th Cir. Ct. 2010).

Further, Rule 1.220(d)(4)(A) states that "a claim or defense may be brought or maintained on behalf of a class concerning particular issues." *See also Engle*, 945 So. 2d at 1268–71. *Engle*, a landmark class action decision by the Florida Supreme Court, authorizes the trial court to adopt a phased approach to litigating class action cases. As thoroughly explained in *Engle*, this Court is permitted to separately certify a class for purposes of deciding particular issues such as liability, causation, and damages. Thus, a trial court can place conditions upon class certification, and can separately certify a class for purposes of deciding particular issues such as liability, causation, and damages.

This same phased approach was recently adopted, approved, and successfully completed, in *Las Olas Co. v. Fla. Power & Light Co.*, which applied this rule to certify an "issue class," to solely determine liability, that was upheld on appeal. *Infratech Corp. v. Las Olas Co.*, 320 So. 3d 751 (Fla. 4th DCA 2021) (*per curiam* affirmance), *reh'g denied* (Fla. 4th

DCA July 13, 2021). And beyond Florida, courts consistently certify class claims and phase litigation between common and individual issues arising out of a single catastrophic event or course of conduct, with damages determinations and allocations left to later proceedings. *See In re IKO Roofing Shingle Prods. Liab. Litig.*, 757 F.3d 599, 603 (7th Cir. 2014) (Easterbrook, J.) (fashioning a class remedy to award class members damages in a manner requiring "buyer-specific hearings" would not "run[] afoul of *Comcast Corp. v. Behrend*, 569 U.S. 27 (2013)); *Allapattah Servs., Inc. v. Exxon Corp.*, 333 F.3d 1248, 1261 (11th Cir. 2003), *aff'd sub nom. Exxon Mobil Corp. v. Allapattah Services, Inc.*, 545 U.S. 546 (2005) (recognizing that the "presence of individualized damages issues does not prevent a finding that the common issues in the case predominate" and affirming lower court's certification of a class with individual damages issues to be dealt with in subsequent proceedings); *Cent. Wesleyan v. W.R. Grace & Co.*, 6 F.3d 177, 188 (4th Cir. 1993) (affirming conditional certification of a nationwide class of colleges and universities with asbestos in their buildings despite the "daunting number of individual issues", including the ability of each college to prove liability, differing statutes of limitation, differing asbestos products and exposures, present in the case); *In re Oil Spill by Oil Rig Deepwater Horizon in Gulf of Mexico*, 910 F. Supp. 2d 891 (E.D. La. 2012) (certifying class affected by explosions and fire on board Deepwater Horizon for settlement purposes); *Sala v. Nat'l R.R. Passenger Corp.*, 120 F.R.D. 494 (E.D. Pa. 1988) (certifying class action for passengers on train that derailed and finding that "the common issues of defendant's liability and defenses as well as causation predominate over the individual issues of injuries and damages"); *In re Three Mile Island Litig.*, 87 F.R.D. 433 (M.D. Pa. 1980) (certifying class who may have suffered economic harm from nuclear accident); *see also* Manual of Complex Litigation (Fourth) (2004) ("MCL") § 22.71 (courts have certified mass torts through Federal Rule of Civil Procedure 23(b)(3) and (c)(4) and that most often the cases certified are single event mass torts such as this one).

The CTS Collapse is a classic "single-incident mass tort," (i.e., a single event causing injuries within a limited time period and within a limited geographic region), which most courts have concluded is well suited for a phased litigation structure, where an initial trial is held on liability and common damages questions, followed by "later proceedings in which the findings on common issues from the first trial would apply." *Las Olas Co.*, 2020 WL 9874296 at *4 (quoting MCL § 22.93). Moreover, "'single-event mass accident cases such as this one are considered to be well-suited to class treatment . . . . This is the general consensus, and it has been repeated across the United States for at least three decades'" *Id.* (quoting *Jeffries v. W. Virginia-Am. Water Co.*, No. 17-C-765 (W.Va. Cir. Ct. July 14, 2020)). Thus, Plaintiffs now seek certification of the Liability Class in order to proceed to a trial as to liability and if successful, will propose to the Court a manner to conduct the second damage phase. If the remaining Defendants are successful in obtaining no liability verdicts at trial, this single action may resolve claims against them for all of the proposed victims.

PROPOSED CLASS DEFINITION

Rule 1.220 contains no particular requirements for a class definition, but Florida case law requires that the class be "described with some degree of certainty." *Clearview Imaging L.L.C.*, 2010 WL 9940700, at *10 (citing *Harrell v. Hess Oil & Chem. Corp.*, 287 So. 2d 291, 294 (Fla. 1973); *Paradise Shores Apts., Inc. v. Practical Maint. Co., Inc.*, 344 So. 2d 299, 302 (Fla. 2d DCA 1977)). A class also must be ascertainable. *BJ's Wholesale Club, Inc. v. Bugliaro*, 273 So. 3d 1119, 1121 (Fla. 3d DCA 2019). It must "'contain[] objective criteria that allow for class members to be identified' . . . through a manageable process that does not require much, if any, individual inquiry.'" *Id.*, at 1121–22 (quoting *Karhu v. Vital Pharms., Inc.*, 621 F. App'x 945, 946 (11th Cir. 2015)).[6]

[6] In *Cherry v. Dometic Corp.*, 986 F.3d 1296 (11th Cir. 2021), the United States Court of Appeals for the Eleventh Circuit disavowed the "administrative feasibility" requirement for

Plaintiffs seek certification of the following Liability Class: **All persons and entities located at, residing at, or owning units or personal property lost or destroyed at the Champlain Towers South condominium building, located at 8777 Collins Avenue, Surfside, Florida 33154, at the time of the Champlain Towers South's collapse on June 24, 2021, together with the personal representatives and statutory survivors of all persons whose lives were lost in or as a result of the CTS Collapse.** Excluded from the Liability Class are the Defendants, Plaintiffs' counsel and their employees, and the judicial officers and their immediate family members and associated court staff assigned to this case.

I. THE CLASS SATISFIES THE REQUIREMENTS OF RULE 1.220(a).

To certify a class, Plaintiffs carry the burden of pleading and proving all elements required by Rule 1.220, including the four elements of rule 1.220(a): numerosity, commonality, typicality, and adequacy. *Sosa v. Safeway Premium Fin. Co*., 73 So. 3d 91, 106 (Fla. 2011) (citation omitted). Plaintiffs more than satisfy all four of these requirements.

A. The Class is Sufficiently Numerous.

To satisfy numerosity, the Court should consider whether joinder of claims among individuals would be "impracticable." Fla. R. Civ. P. 1.220(a)(1). Classes as small as twenty-five members satisfy this requirement, *see Est. of Bobinger v. Deltona Corp.,* 563 So. 2d 739, 743 (Fla. 2d DCA 1990), and a precise count of the number of class members is not necessary for class certification purposes. *See Powell v. River Ranch Prop. Owners Ass'n, Inc.,* 522 So. 2d 69, 69 (Fla. 2d DCA 1988), *rev. denied,* 531 So.2d 1354 (Fla. 1988).

The Class Members are so numerous that joinder of all members is impracticable. The exact size of the Liability Class is unknown, but includes at least the owners, residents,

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establishing ascertainability of class members as a precondition to certification, which it had previously adopted in its unpublished decision in *Karhu*.

occupants, and guests of the 136 units destroyed in the collapse of CTS, making joinder impracticable and class treatment appropriate.

B. Plaintiffs and Class Members Share Common Claims.

"The primary concern in determining commonality is whether the representative members' claims arise from the same course of conduct that gave rise to the other claims, and whether the claims are based on the same legal theory." *Las Olas Co.,* 2020 WL 9874296, at *6 (citing *Smith v. Glen Cove Apts. Condos. Master Ass'n, Inc.*, 847 So. 2d 1107, 1110 (Fla. 4th DCA 2003), *approved, Sosa v. Safeway Premium Fin. Co.*, 73 So. 3d 91 (Fla. 2011)). Commonality is satisfied because Plaintiffs' and Class Members' claims arise from the same incident—the CTS Collapse—and are based on the same legal theory: that Defendants' tortious conduct and/or breach of duty owed to the class members caused and/or contributed to the CTS Collapse, causing Plaintiffs' and Class Members' damages. *See id.* (citing *Smith* and finding commonality satisfied where plaintiffs and class members "all have claims arising from the same, exact incident—the Water Main Break—that are based on the same legal theory of negligence or gross negligence."); *Navelski v. Int'l Paper Co.*, 244 F. Supp. 3d 1275, 1305–06 (N.D. Fla. 2017) (concluding commonality satisfied because questions regarding whether defendant negligently maintained dam that failed and caused flooding were "issues that underlie every claim" of plaintiffs and class).

Once a common course of conduct is established, individual defenses are insufficient to defeat commonality. *See McFadden*, 687 So. 2d at 359. Commonality is met even if there are individual differences with respect to damages. *Id.* Accordingly, the Court should reject any argument that differences with respect to Class Members' damages defeat commonality, which, as explained below, is not an issue involved in Plaintiffs' proposed Liability Class. Of course, the Class Members' damages vary, but these damages will be resolved individually and in a separate phase, as in *Engle.*

C. Plaintiffs' Claims are Typical of the Claims of All Class Members.

"The key inquiry for a trial court when it determines whether a proposed class satisfies the typicality requirement is whether the class representative possesses the same legal interest and has endured the same legal injury as the class member." *Sosa*, 73 So. 3d at 114. To determine typicality, Florida courts examine whether the class members seek the same remedy. *Smith*, 847 So. 2d at 1111 (finding typicality where plaintiffs all claimed defendants were negligent, causing their damages). The mere presence of factual distinctions between class members will not defeat typicality. *Id.*; *see also Navelski*, 244 F. Supp. 3d at 1306 ("The claims of the class representatives in this case are typical since they are based on the same legal theories—negligence, trespass, nuisance, and strict liability—and arise from the same event, practice, or course of conduct . . . that give rise to the claims of the other class members.").

Typicality is satisfied because all class members allege they all were impacted and sustained damages when Defendants negligently caused the CTS Collapse. *See* Comp. Ex. A. Thus, "the claims of the class representatives in this case are typical since they are based on the same legal theory negligence . . . and arise from the same event, practice, or course of conduct . . . that give rise to the claims of the other class members" such that "[t]he Court will not need to make highly individualized legal or factual determinations to assess Defendants' liability." *Las Olas Co.*, 2020 WL 9874296 at *6 (citing *Navelski*, 244 F. Supp. 3d at 1306).

D. Plaintiffs Are Adequate Class Representatives.

Adequacy "is met if the named representative has interests in common with the proposed class members and the representative and his or her qualified attorneys will properly prosecute the class action." *Las Olas Co.*, 2020 WL 9874296, at *7 (citing *Smith*, 847 So. 2d at 1111); *Colonial Penn*, 694 So. 2d at 854; *W.S. Badcock Corp.*, 696 So. 2d at 780). Adequacy of representation embodies concerns which fall into two categories: (1) whether the class representative will competently, responsively, and vigorously prosecute the suit; (2) and

whether the relationship of the representative plaintiff's interests to those of the absent class members is such that there is not likely to be a divergence in viewpoint or goals in the conduct of the suit. *Hessen v. Metro-Dade Cnty.*, 513 So. 2d 1330 (Fla. 3d DCA 1987), *rev. denied*, 525 So. 2d 876 (Fla. 1988).

Plaintiffs have already served the Court and the Class in a representative capacity and have evidenced their commitment through their active prosecution of this lawsuit. *See* Comp. Ex. A (indicating that Plaintiffs have reviewed the pleadings, provided information to counsel, will respond to interrogatories and document requests, prepare for deposition, are willing to make themselves available for trial, and are knowledgeable of the case and of their duties to the Class). There is no divergence between Plaintiffs' interests and those of Liability Class members. *See, e.g., Smith*, 847 So. 2d at 1111 (finding plaintiffs adequate where they "seek the same relief . . . and they have suffered the same injury as the class members").

Plaintiffs have not only engaged the services of counsel and law firms who are experienced in complex commercial litigation, with specific experience in class action and construction litigation, but this Court has specifically established a comprehensive leadership structure of the region's top legal professionals to ensure that all victims of the CTS Collapse are represented competently and effectively. *See Drezner v. Champlain Towers S. Condo. Ass'n, Inc.*, No 2021-015089-CA-01 (July 16, 2021) (order establishing leadership structure). Counsel will adequately prosecute this action, and will assert, protect, and otherwise well represent Plaintiffs and the absent Class Members. Plaintiffs, and their counsel, are clearly adequate.

II. THE CLASS SATISFIES RULE 1.220(B)(3)'S REQUIREMENTS.

In addition to the requirements of Rule 1.220(a), "the proponent of class certification must satisfy one of the three subdivisions of [R] ule 1.220(b)." *Sosa*, 73 So. 3d at 106. Plaintiffs seek to certify the Class pursuant to Rule 1.220(b)(3), which provides that a class may be

certified if "the questions of law or fact common to the claim or defense of the representative party and the claim or defense of each member of the class predominate over any question of law or fact affecting only individual members of the class," and if "class representation is superior to other available methods for the fair and efficient adjudication of the controversy."

A. Common Questions of Law and Fact Predominate.

"Florida courts have held that common questions of fact predominate when the defendant acts toward the class members in a similar or common way." *Las Olas Co.*, 2020 WL 9874296, at *7 (citing *Sosa,* 73 So. 3d at 111). To satisfy predominance, "common questions must not only exist but predominate and pervade." *Sosa,* 73 So. 3d at 111. "[I]f, in examining claims, a trial court finds that common issues of fact and law impact more substantially the efforts of every class member to prove liability than the individual issues that may arise, then class claims predominate." *Id.*, at 112; *see also Smith*, 847 So. 2d at 1111 ("whether [defendant] was liable for negligence[] predominate[s] over other questions such as, for example, damages, which may be different for each member of the class").

Common issues predominate in this litigation because all of Plaintiffs' and the Class's claims are based on the contention that Defendants negligently caused or contributed to the cause(s) of the CTS Collapse. *See, e.g., Las Olas Co.*, 2020 WL 9874296, at *7; *see also Sterling v. Velsicol Chem. Corp.*, 855 F.2d 1188, 1197 (6th Cir. 1988) (explaining that "where the defendant's liability can be determined on a class-wide basis because the cause of the disaster is a single course of conduct which is identical for each of the plaintiffs, a class action may be the best suited vehicle to resolve such a controversy."). Therefore, "[e]very class member's claims depend on common evidence that will resolve these same liability issues, and

proof of one plaintiff's claims necessarily will be proof of the others'." *Las Olas Co.*, 2020 WL 9874296, at *7 (citing *Navelski*, 244 F. Supp. 3d at 1309).[7]

Because every aspect of Defendants' liability can be resolved on a classwide basis, these issues predominate over any damages issues that may require individualized proof, and thus Plaintiffs seek certification of a liability-only class pursuant to Rule 1.220(b)(3) and (d)(4). This phased approach to litigating these proceedings, authorized by the Florida Supreme Court in *Engle*,[8] was specifically adopted by the Broward County Circuit Court and affirmed on appeal before the Fourth District Court of Appeal in *Las Olas Company v. Florida Power & Light Company*, where some of Plaintiffs' counsel here were appointed co-lead class counsel and successfully conducted a jury trial on liability issues to a favorable jury verdict, and are now amid the damages phase.

B. Class Representation is the Superior Method to Adjudicate this Controversy.

Three factors for courts to consider when deciding whether a class action is the superior method of adjudicating a controversy are (1) whether a class action would provide the class members with the only economically viable remedy; (2) whether there is a likelihood that the

[7] That some class members ultimately may not be successful on their damage claims does not defeat certification where common issues otherwise predominate. *Las Olas Co.*, 2020 WL 9874296, at *7 (citing *Navelski*, 244 F. Supp. 3d at 1309 (in turn citing *Torres v. Mercer Canyons Inc.*, 835 F.3d 1125, 1136 (9th Cir. 2016) ("[E]ven a well-defined class may inevitably contain some individuals who have suffered no harm as a result of a defendant's unlawful conduct.")); *Kohen v. Pac. Inv. Mgmt. Co. LLC*, 571 F.3d 672, 677 (7th Cir. 2009) (observing that it is inevitable "that a class will often include persons who have not been injured by the defendant's conduct;" but "[s]uch a possibility or indeed inevitability does not preclude class certification"))).

[8] *See Engle*, 945 So. 2d at 1268–71 (explaining that Rule 1.220(d)(4)(A), which provides that "a claim or defense may be brought or maintained on behalf of a class concerning particular issues," permits the court to separately certify a class for purposes of deciding particular issue such as liability). Moreover, Rule 1.220(d)(1) provides that the Court's class certification order "may be conditional," and gives the Court continuing jurisdiction to modify the class certification to address new evidence, issues, claims, or defenses as they arise. *Clearview Imaging L.L.C.,* 2010 WL 9940700, at *10.

individual claims are large enough to justify the expense of separate litigation; and (3) whether a class action cause of action is manageable. *Sosa*, 73 So. 3d at 116 (citation omitted).

Resolving the common issues is economically viable and manageable because the evidence to be presented for these common issues is identical for all class members. *See Jenkins v. Raymark Indus., Inc.*, 782 F.2d 468, 473 (5th Cir. 1986) (finding an accelerated trial plan on class issues "is clearly superior to the alternative of repeating, hundreds of times over, the litigation of the state of the art issues with, as that experienced judge says, 'days of the same witnesses, exhibits and issues from trial to trial'"); *Navelski*, 244 F. Supp. 3d at 1310 ("[B]ecause proof during the liability phase will not differ among class members, it is unlikely that management of the class action will become overwhelming or unreasonably difficult.").

Certifying the proposed Liability Class is thus consistent with the goals of Rules 1.220(b)(3) and (d)(4) as it "materially advances the disposition of the litigation as a whole." MCL, §21.24 at 273; *Jacob v. Duane Reade, Inc.*, 293 F.R.D. 578, 593 (S.D.N.Y. 2013).

CONCLUSION

Plaintiffs respectfully request that this Honorable Court certify the Liability Class as defined herein, appoint Plaintiffs as class representatives, and appoint all Undersigned Counsel as Class Counsel, together with such other and further relief as this Honorable Court deems just, equitable, and proper.

Respectfully submitted January 28th, 2022.

/s/ Adam M. Moskowitz
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<u>/s/ Rachel W. Furst</u> Rachel W. Furst (FBN 45155) Stuart Z. Grossman Andrew Yaffa Alex Arteaga-Gomez GROSSMAN ROTH YAFFA COHEN, P.A. 2525 Ponce de Leon Boulevard, Suite 1150 Coral Gables, FL 33134 Tel: (305) 442-8666 rwf@grossmanroth.com ***Plaintiffs' Co-Chair Lead Counsel***	*<u>/s/ Harley S. Tropin</u>* Harley S. Tropin (FBN 241253) Jorge L. Piedra (FBN 88315) Tal J. Lifshitz (FBN 99519) Eric S. Kay (FBN 1011803) KOZYAK TROPIN & THROCKMORTON LLP 2525 Ponce de Leon Boulevard, 9th Floor Coral Gables, FL 33134 Tel: (305) 372-1800 hst@kttlaw.com ***Plaintiffs' Co-Chair Lead Counsel***
<u>/s/ Ricardo M. Martínez-Cid</u> Aaron S. Podhurst (FBN 63606) Ricardo M. Martínez-Cid (FBN 383988) Lea P. Bucciero (FBN 84763) PODHURST ORSECK, P.A. 1 SE 3rd Avenue, Suite 2300 Miami, FL 33131 Tel: (305) 358-2800 rmcid@podhurst.com ***Plaintiffs' Personal Injury and Wrongful Death Track Lead Counsel***	*<u>/s/ Javier A. Lopez</u>* Javier A. Lopez (FBN 16727) KOZYAK TROPIN & THROCKMORTON LLP 2525 Ponce de Leon Boulevard, 9th Floor Coral Gables, FL 33134 Tel: (305) 372-1800 jal@kttlaw.com ***Plaintiffs' Economic Loss and Property Damage Track Co-Lead Counsel***
<u>/s/ Stuart Z. Grossman</u> Stuart Z. Grossman (FBN 156113) GROSSMAN ROTH YAFFA COHEN, P.A. 2525 Ponce de Leon Boulevard Suite 1150 Coral Gables, FL 33134 Tel: (305) 442-8666 szg@grossmanroth.com ***Plaintiffs' Wrongful Death Damage Claim Liaison Counsel***	*<u>/s/ Curtis B. Miner</u>* Curtis B. Miner (FBN 885681) COLSON HICKS EIDSON, P.A. 255 Alhambra Circle, Penthouse Coral Gables, FL 33134 Tel: (305) 476-7400 curt@colson.com ***Plaintiffs' Wrongful Death Charitable Liaison Counsel***
<u>/s/ Judd G. Rosen</u> Judd G. Rosen (FBN 458953) GOLDBERG & ROSEN, P.A. 2 S. Biscayne Boulevard, Suite 3650 Miami, FL 33131 Tel: (305) 374-4200 jrosen@goldbergandrosen.com ***Plaintiffs' Non-Owner Personal Injury and Wrongful Death Subclass Lead Counsel***	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been filed on January 28th, 2022, with the Clerk of the Court by using the Florida Courts E-Filing Portal, which will send a Notice of Electronic Filing on all counsel of record.

/s/ Adam M. Moskowitz
Adam M. Moskowitz

Exhibit A

IN THE CIRCUIT COURT OF THE 11TH 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

DECLARATION OF RAYSA RODRIGUEZ IN SUPPORT OF CLASS CERTIFICATION

I, RAYSA RODRIGUEZ, hereby declare as follows:

1. I am over the age of 18 and fully competent to make this declaration. I make this declaration is in support of the Motion for Class Certification. I have personal knowledge of the facts stated herein and if called upon as a witness, I would and could testify competently to the matters set forth herein.

2. I lived in Unit 907 in the Champlain Towers South Condominium building located at 8777 Collins Avenue, Surfside, Florida 33154, at the time of the Champlain Towers South's collapse on June 24, 2021. I was the owner of that unit. I moved to the unit in 2003, and was living there until the collapse.

3. At the time of the collapse, I was inside the apartment sleeping. I woke up and discovered that the adjacent tower had collapsed and left a wall of dust. I was able to escape through the stairwell of my building and helped many of my neighbors escape as well.

4. As a result of the tragic collapse caused by the negligence of the Defendants, I lost my home and all of my personal belongings.

5. I am knowledgeable about the nature of this case and I am ready and able to serve as a Plaintiff and a class representative.

6. I seek to be appointed as a representative of the Liability Class (as defined in the Consolidated Second Amended Class Action Complaint). I understand that as a class representative, I will have the duty to represent the interests of all unnamed class members.

7. To my knowledge, I have no conflict with the interests of the other members of the Liability Class. I share the same interests as members of the Liability Class in determining and apportioning fault amongst the Defendants and will carefully guard the interests of absent Liability Class members.

8. I have dedicated a significant amount of time to this matter, including searching for and producing information relevant to this action, promptly responding to questions from my counsel, and reviewing some of the filings and attending hearings in the lawsuit. I have and will continue to keep myself reasonably informed as to the status of the case and will work with my counsel to respond to discovery requests and be prepared for a deposition. In addition to appearing for my deposition, I am willing to make myself available to testify at trial.

9. I have never sought to be appointed as a class representative on behalf of a class in any other litigation.

Date: January 14, 2022

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING DOCUMENT AND THAT THE FACTS STATED HEREIN ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Raysa Rodriguez

IN THE CIRCUIT COURT OF THE 11TH 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

DECLARATION OF STEVE ROSENTHAL IN SUPPORT OF CLASS CERTIFICATION

I, STEVE ROSENTHAL, hereby declare as follows:

1. I am over the age of 18 and fully competent to make this declaration. I make this declaration is in support of the Motion for Class Certification. I have personal knowledge of the facts stated herein and if called upon as a witness, I would and could testify competently to the matters set forth herein.

2. I lived in Unit 705 in the Champlain Towers South Condominium building located at 8777 Collins Avenue, Surfside, Florida 33154, at the time of the Champlain Towers South's collapse on June 24, 2021. I am the owner of that unit and was living there.

3. At the time of the collapse, I was inside the apartment sleeping. I was awakened by the loud sounds of the collapse and was rescued from my balcony by first responders.

4. As a result of the tragic collapse caused by the negligence of the Defendants, I lost my home and all of my personal belongings.

5. I am knowledgeable about the nature of this case and I am ready and able to serve as a Plaintiff and a class representative.

6. I seek to be appointed as a representative of the Liability Class (as defined in the Consolidated Second Amended Class Action Complaint). I understand that as a class representative, I will have the duty to represent the interests of all unnamed class members.

7. To my knowledge, I have no conflict with the interests of the other members of the Liability Class. I share the same interests as members of the Liability Class in determining and apportioning fault amongst the Defendants and will carefully guard the interests of absent Liability Class members.

8. I have dedicated a significant amount of time to this matter, including searching for and producing information relevant to this action, promptly responding to questions from my counsel, and reviewing some of the filings and attending hearings in the lawsuit. I have and will continue to keep myself reasonably informed as to the status of the case and will work with my counsel to respond to discovery requests and be prepared for a deposition. In addition to appearing for my deposition, I am willing to make myself available to testify at trial.

9. I have never sought to be appointed as a class representative on behalf of a class in any other litigation.

Date: January 13, 2022

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING DOCUMENT AND THAT THE FACTS STATED HEREIN ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Steve Rosenthal

IN THE CIRCUIT COURT OF THE 11TH 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

DECLARATION OF RAQUEL AZEVEDO DE OLIVEIRA IN SUPPORT OF CLASS CERTIFICATION

I, RAQUEL AZEVEDO DE OLIVEIRA, hereby declare as follows:

1. I am over the age of 18 and fully competent to make this declaration. I make this declaration is in support of the Motion for Class Certification. I have personal knowledge of the facts stated herein and if called upon as a witness, I would and could testify competently to the matters set forth herein.

2. I lived in Unit 512 in the Champlain Towers South Condominium building located at 8777 Collins Avenue, Surfside, Florida 33154, at the time of the Champlain Towers South's collapse on June 24, 2021. I was renting that unit and lived there with my husband, Alfredo Leone, and five-year-old son, Lorenzo de Oliveira Leone.

3. At the time of the collapse, Alfredo and Lorenzo were inside the apartment and died as a result. I was out of town, visiting family in Colorado.

4. As a result of the tragic collapse caused by the negligence of the Defendants, I lost my husband and my son. I also lost all of my personal belongings, and my family's belongings.

5. I bring this class action as the Personal Representative of the Estates of Alfredo and Lorenzo. I am knowledgeable about the nature of this case and I am ready and able to serve as a Plaintiff and a class representative.

6. I seek to be appointed as a representative of the Liability Class (as defined in the Consolidated Second Amended Class Action Complaint). I understand that as a class representative, I will have the duty to represent the interests of all unnamed class members.

7. To my knowledge, I have no conflict with the interests of the other members of the Liability Class. I share the same interests as members of the Liability Class in determining and apportioning fault amongst the Defendants and will carefully guard the interests of absent Liability Class members.

8. I have dedicated a significant amount of time to this matter, including searching for and producing information relevant to this action, promptly responding to questions from my counsel, and reviewing some of the filings and attending hearings in the lawsuit. I have and will continue to keep myself reasonably informed as to the status of the case and will work with my counsel to respond to discovery requests and be prepared for a deposition. In addition to appearing for my deposition, I am willing to make myself available to testify at trial.

9. I have never sought to be appointed as a class representative on behalf of a class in any other litigation.

1/25/2022

Date: January ___, 2022

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING DOCUMENT AND THAT THE FACTS STATED HEREIN ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

DocuSigned by:

99F958AA7F00496...

Raquel Azevedo de Oliveira

IN THE CIRCUIT COURT OF THE 11TH 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

DECLARATION OF KEVIN FANG IN SUPPORT OF CLASS CERTIFICATION

I, KEVIN FANG, hereby declare as follows:

1. I am over the age of 18 and fully competent to make this declaration. I make this declaration is in support of the Motion for Class Certification. I have personal knowledge of the facts stated herein and if called upon as a witness, I would and could testify competently to the matters set forth herein.

2. I bring this class action in my capacity as the Personal Representative of the Estate of Stacie Fang. Stacie Fang was my sister.

3. Stacie Fang lived in Unit 1002 in the Champlain Towers South Condominium building located at 8777 Collins Avenue, Surfside, Florida 33154, at the time of the Champlain Towers South's collapse on June 24, 202. She lived there with her 15-year-old son, Jonah Handler.

4. At the time of the collapse, Stacie and Jonah were inside the apartment. Stacie died from the injuries she sustained during the collapse. Her son, Jonah, survived and is the sole beneficiary of her estate.

5. As a result of the tragic collapse caused by the negligence of the Defendants, I lost my sister. Jonah lost his mother. All of Stacie's personal belongings were also lost in the

collapse.

6. I am knowledgeable about the nature of this case and I am ready and able to serve as a Plaintiff and a class representative.

7. I seek to be appointed as a representative of the Liability Class (as defined in the Consolidated Second Amended Class Action Complaint). I understand that as a class representative, I will have the duty to represent the interests of all unnamed class members.

8. To my knowledge, I have no conflict with the interests of the other members of the Subclass of non-unit owner victims. I share the same interests as members of the Subclass of non-unit owner victims in determining and apportioning fault amongst the Defendants and will carefully guard the interests of absent Subclass of non-unit owner victim members.

9. I have dedicated a significant amount of time to this matter, including searching for and producing information relevant to this action, promptly responding to questions from my counsel, and reviewing some of the filings and attending hearings in the lawsuit. I have and will continue to keep myself reasonably informed as to the status of the case and will work with my counsel to respond to discovery requests and be prepared for a deposition. In addition to appearing for my deposition, I am willing to make myself available to testify at trial.

10. I have never sought to be appointed as a class representative on behalf of a class in any other litigation.

Date: 01/20/2022

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING DOCUMENT AND THAT THE FACTS STATED HEREIN ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Kevin Fang

IN THE CIRCUIT COURT OF THE 11TH 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

DECLARATION OF KEVIN SPIEGEL IN SUPPORT OF CLASS CERTIFICATION

I, KEVIN SPIEGEL, hereby declare as follows:

1. I am over the age of 18 and fully competent to make this declaration. I make this declaration is in support of the Motion for Class Certification. I have personal knowledge of the facts stated herein and if called upon as a witness, I would and could testify competently to the matters set forth herein.

2. I lived in Unit 603 in the Champlain Towers South Condominium building located at 8777 Collins Avenue, Surfside, Florida 33154, at the time of the Champlain Towers South's collapse on June 24, 2021. I am the owner of that unit and lived there with my wife, Judith Spiegel.

3. At the time of the collapse, Judith was inside the apartment and died as a result. I was out of town on a work trip.

4. As a result of the tragic collapse caused by the negligence of the Defendants, I lost my wife. I also lost my home and all of my personal belongings. Our three adult children, Rachel Spiegel, Josh Spiegel, and Michael Spiegel, lost their mother. At the time of the collapse, Judith was also a part-time caregiver for our grandchildren.

5. I bring this class action as the Personal Representative of the Estate of Judith Spiegel. I am knowledgeable about the nature of this case and I am ready and able to serve as a Plaintiff and a class representative.

6. I seek to be appointed as a representative of the Liability Class (as defined in the Consolidated Second Amended Class Action Complaint). I understand that as a class representative, I will have the duty to represent the interests of all unnamed class members.

7. To my knowledge, I have no conflict with the interests of the other members of the Liability Class. I share the same interests as members of the Liability Class in determining and apportioning fault amongst the Defendants and will carefully guard the interests of absent Liability Class members.

8. I have dedicated a significant amount of time to this matter, including searching for and producing information relevant to this action, promptly responding to questions from my counsel, and reviewing some of the filings and attending hearings in the lawsuit. I have and will continue to keep myself reasonably informed as to the status of the case and will work with my counsel to respond to discovery requests and be prepared for a deposition. In addition to appearing for my deposition, I am willing to make myself available to testify at trial.

9. I have never sought to be appointed as a class representative on behalf of a class in any other litigation.

Date: January ___, 2022
Jan 14, 2022

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING DOCUMENT AND THAT THE FACTS STATED HEREIN ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Kevin Spiegel (Jan 14, 2022 09:31 EST)

Kevin Spiegel

CTS Class Rep Declaration (Kevin Spiegel)

Final Audit Report 2022-01-14

Created:	2022-01-14
By:	Lisa Adamson (lka@grossmanroth.com)
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