IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

COMPLEX BUSINESS
LITIGATION DIVISION

CLASS REPRESENTATION

CASE NO. 2021-015089 CA 01

IN RE: CHAMPLAIN TOWERS SOUTH
COLLAPSE LITIGATION
_____/

DEFENDANT JOHN MORIARTY & ASSOCIATES OF FLORIDA, INC.'S REPLY TO PLAINTIFFS' OMNIBUS RESPONSE TO DEFENDANTS' MOTIONS TO DISMISS

Defendant, John Moriarty & Associates of Florida, Inc. ("JMAF"), by and through its undersigned counsel, hereby files its Reply to Plaintiffs' Omnibus Response ("Response" or Resp.") to Defendants' Motions to Dismiss Consolidated Second Amended Class Action Complaint, and states as follows:

REPLY ARGUMENT

Plaintiffs contend they have "done far more than Florida Rule of Civil Procedure 1.110 requires, and dismissal at this stage is entirely unwarranted." Resp. at 2. This assertion as to JMAF is unjustified based on the pleadings and Florida law, and it must be rejected. JMAF is not looking for Plaintiffs to plead with "the utmost rigor", or "nit-picking with misplaced attacks on the form of the pleading", as Plaintiffs generally argue. Resp. at pg. 2. Rather, JMAF's arguments are clearly substance over form, using the overwhelming allegations in the Second Amended Complaint ("SAC" or "Complaint") to establish its position that it should not be a party to this action.

Where the claims as pled against JMAF are rejected by long-standing Florida law, it does everyone a disservice to keep those claims in the case unnecessarily and improperly. Plaintiffs are

misguided by believing that the amount of detail in the Complaint, which is unquestionably extensive, as to the alleged factors contributing to the collapse provides the necessary foundation for the causes of action against all Defendants. This is not true as to JMAF, as the collapse occurred well after it had completed the project, in the face of alleged patent defects and damage caused to Champlain Towers South ("CTS"), and the project was turned over to the Owner/Developer.

A. The Complaint Does Not Adequately Allege the Elements of Negligence against JMAF, Where It is Clear From the Face of the Complaint that JMAF is Not Liable Pursuant to the Slavin Doctrine (Addressing Section C(1) of Response)

Plaintiffs accurately state the legal standard for motions for dismiss. Resp. at 2-3. Yet, in making their arguments, they ignore key allegations in the Complaint that are dispositive of the negligence claims against JMAF. Resp. at 49-50.

JMAF set forth some of Plaintiffs' painstakingly detailed allegations in its Motion to Dismiss and/or Strike ("Motion" or "Mot."). Mot. at 1-18. In short, the theme underlying Plaintiffs' theories of liability is that Defendants knew their construction activities dangerously undermined CTS's structural stability. Resp. at 48-49. Yet, according to Plaintiffs, the Defendants collectively pushed aside these deficiencies "for the sake of greed, speed, or most likely both." SAC at § 86. And in doing so, Eighty-Seven Park was ultimately developed and constructed between 2015 and 2020. SAC at § 49. CTS' catastrophic collapse occurred on June 24, 2021, well after construction at Eighty-Seven Park had been completed. SAC at § 1.

Even accepting all of Plaintiffs' allegations as true, they must still be able to establish the stated legal cause of action against JMAF. Because of the Slavin doctrine, they cannot do so, and dismissal of the negligence claim against JMAF is warranted.

1. The Slavin Doctrine Applies to Bar Plaintiffs' Negligence Claim Against JMAF (Addressing Section C(2) of Response)

The specific argument opposing JMAF's Motion is found on pgs. 48-59 of the Response. Plaintiffs claim that: (1) JMAF is attempting to expand the Slavin doctrine's limited application to immunize general contractors for acts the doctrine never contemplated, and (2) JMAF has forgotten the policy objective when it applies Slavin to this case. Resp. at 49. However, turning Slavin on its head, Plaintiffs claim if the Court were to apply the venerable doctrine here, "property owners would become insurers of general contractors, thereby radically changing the nature of their relationship." Resp. at 52. Such accusations are misplaced and exhibit a misunderstanding of Slavin, which places the burden of responsibility for injures to third parties on the entity that controls the environment when the injuries occur. The public policy behind Slavin is specifically to curtail a contractor's liability to third persons, with such liability cut off and passed on to the owner for patent defects after the work has been completed. Since 1958, Florida courts have decided that Slavin is good law for allocating the respective liability of the owner and contractor for injuries to a third person caused by the construction of improvements to real property.

JMAF is not trying to expand the Slavin doctrine; rather, Plaintiffs are trying to limit its scope to allow for claims against JMAF to proceed in this case. The public policy behind the Slavin doctrine is critically vital here, where the "doctrine was born of the need to limit a contractor's liability to third persons. [A] contractor who performs work does not owe a duty to the whole world, or else the extent of his responsibility would be difficult to measure and a sensible man would hardly engage in the occupation under such conditions." McIntosh v. Progressive Design & Eng'g, 166 So. 3d 823, 828 (Fla. 4th DCA 2015).

In their Response, by arguing that Slavin should be limited so as to not "bestow almost absolute immunity on general contractors" (Resp. at pg. 52), Plaintiffs are really advocating for

what is considered the "foreseeability doctrine" or "modern rule", which provide that a contractor remains liable for injury or damage to a third person caused by the contractor's negligence, despite completion and acceptance of the work by the owner. While this is the majority rule in the United States, it is definitely not the law in Florida.

Plaintiffs provide parenthetical descriptions of a myriad of cases addressing Slavin in their Response. However, many of these authorities have a factual background which is inapposite, and/or the legal findings actually support JMAF's position seeking dismissal of the instant negligence claim. For example, in Foster v. Chung, 743 So. 2d 144, 145-47 (Fla. 4th DCA 1999), a woman died in an automobile accident when the driver lost control of his vehicle while driving through a puddle of standing water. Her estate sued many defendants involved in the negligent construction and maintenance of the roadway, median, and irrigation system that caused a hazardous condition. The project engineers moved for summary judgment based on Slavin, and the trial court granted the motion. On appeal, the Fourth District refused to apply Slavin finding the plaintiff's expert affidavit created an issue of fact as to whether the city knew or should have known of the defect due to two other accidents on the highway at issue. 743 So. 2d at 147.

Here, Plaintiffs' allegations are that JMAF and the Terra Defendants ("Owner" or "Developer") knew or should have known of the impact of their dangerous construction practices on CTS. Yet, they chose to ignore all of the warnings, notices and evidence of damage being caused to CTS, demonstrating complete disregard for the safety and welfare of CTS' residents and occupants. Accepting Plaintiffs' allegations as true for purposes of the Motion, the Complaint has a plethora of statements that JMAF knowingly engaged in construction practices which compromised the structural integrity of CTS, and the dangers were patent and occurred throughout the construction of Eighty Seven Park, which was completed in early 2020. There are no issues

of fact as to whether the allegations were patent or latent, nor are there any issues of fact as to whether the owner accepted JMAF's work. Thus, the Slavin doctrine applies.

In Plaza v. Fisher Development, Inc., 971 So. 2d 918, 925 (Fla. 3d DCA 2007), also cited by Plaintiffs, the trial court held as a matter of law that the alleged defects were patent and that the injury occurred after the contractor had completed its work and the owner had accepted the work. Thus, the Third District concluded that summary judgment under the Slavin doctrine as to the negligence claim was proper.

While most cases involving the Slavin doctrine arrive at the appellate court via a summary judgment motion or post-trial after final judgment has been entered, the Slavin defense can be raised at the motion to dismiss stage. If the face of the complaint contains allegations which demonstrate the existence of an affirmative defense, then such defense can be considered on a motion to dismiss. See Frank v. Campbell Prop. Mgmt., Inc., 351 So. 2d 364 (Fla. 4th DCA 1977) (citing Fla. R. Civ. P. 1.110(d)); Newberry Square Fla. Laundromat, LLC v. Jim's Coin Laundry and Dry Cleaners, Inc., 296 So. 3d 584 (Fla. 1st DCA 2020) ("[a] motion to dismiss should not be granted on the basis of … defenses unless the … defenses appear on the face of the pleading."). Here, where the allegations in the Complaint demonstrate the existence of the Slavin defense, the Court can grant JMAF's motion to dismiss. See Mori v. Industrial Leasing Corp., 468 So. 2d 1066 (Fla. 3d DCA 1985) (affirming dismissal of the complaint with prejudice where the defects alleged in the complaint, a lack of parking and barricades, were obvious, thus the contractor was relieved of liability under Slavin).

In Vancelette v. Boulan S. Beach Condo. Ass'n, Inc., 229 So. 3d 398 (Fla. 3d DCA 2017), also cited by Plaintiffs, the Third District aptly noted, "the Slavin doctrine holds that acceptance of the completed work by the owner relieves the construction and design defendants of further

liability [to third parties] as to alleged patent defects." 229 So. 3d at 400 (plaintiff tripped and fell on an unmarked curb leading up to a sidewalk access ramp). It makes no difference who seeks to hold the contractor liable, or where specifically the injury occurred. Instead, the Slavin doctrine deals with "the legal effect of an owner's acceptance of the work." Id. Thus, Slavin should be applied to bar Plaintiffs' negligence claims against JMAF since the construction had been accepted by the Owner, after the defective and dangerous condition was obvious to the Owner and JMAF or should have been with the exercise of due care.

Plaintiffs' reliance on dicta in Florida Freight Terminals, Inc. v. Cabanas, 354 So. 2d 1222 (Fla. 3d DCA 1978) is also of no moment. That case involved a wrongful death action arising out of the crash of an airplane that had been loaded by the defendant airfreight handler with Christmas trees. The airfreight handler attempted to assert Slavin as a defense to a negligence claim. The Third District declined to apply *Slavin* in this context—noting that:

> a careful examination of the cases in which the rule has been allowed to operate to insulate an independent contractor from liability for his negligent acts or omissions reveals that the factual contexts of the cases generally encompassed the builder/subcontractor relationship vis-à-vis construction defects in buildings or delivery of material to a fixed job site. We decline to extend it at this late date into an area far afield from that in which we believe it was intended to apply, and on facts materially different from those in which the rule has been held applicable.

354 So. 2d at 1225.

Unlike in Florida Freight, this case encompasses the builder/subcontractor context involving patent defects caused during the building of Eighty-Seven Park, which allegedly contributed to the structural demise of CTS. JMAF is not asking the Court to apply the doctrine into an "area far afield," nor are "the facts materially different than those in which the rule has been held applicable."

In the case at bar, there are no questions of fact as to whether the defective conditions were patent or latent. Based on the abundance of allegations in the Complaint, they were clearly patent. If the dangerousness of the condition is obvious, then the defect is patent, and the contractor is automatically relieved of liability under Slavin. See FDOT v. Capeletti Bros, Inc., 743 So. 2d 150, 152 (Fla. 3d DCA 1999) ("the test for patency is not whether or not the condition was obvious to the owner, but whether or not the dangerousness of the condition was obvious had the owner exercised reasonable care"). Thus, Plaintiffs' argument that there are factual issues for a jury to decide before Slavin can apply has no merit.

Likewise, there are no factual issues concerning the Terra Defendants' acceptance of the project and control after JMAF had completed construction. This is precisely the type of situation that the Slavin doctrine was meant to address.

2. The Slavin Elements are Met (Addressing Section C(3) of Response)

The parties do not dispute that there are two required elements for the Slavin doctrine: (1) the defect or dangerous condition must be patent; and (2) the owner must have accepted the contractor's work. See Slavin v. Kay, 108 So. 2d 462 (Fla. 1958); see also McIntosh, 166 So. 2d at 823; Capeletti Bros., 743 So. 2d at 152. JMAF's Motion illustrates the application of these elements to the instant case. Motion at 21-25. JMAF even went one-step further and explained how the exception to Slavin did not apply, which is not disputed by Plaintiffs in their Response. Motion at 25-28.

Similar to Plaintiffs' inaccurate assertion that JMAF seeks to expand Slavin beyond its reach, Plaintiffs' argument that the Slavin elements are not met is also unavailing, where an examination of the Complaint provides the necessary factual support. JMAF's construction activities allegedly included dangerous and sporadically monitored vibrations, improper and

unmonitored dewatering, excavation work damaging CTS' south foundation wall, and sloping 87th Terrace to divert water runoff into CTS' structural elements. SAC at ¶ 214. JMAF allegedly knew or should have known these activities damaged CTS' structural elements. SAC at ¶ 3-4. Thus, these allegations are sufficient to satisfy the first element.

The "acceptance" required from the owner to relieve the contractor of liability for injuries to third persons is a practical acceptance, and formal acceptance is not required. Kendrick v. Middlesex Dev. Corp., 586 So. 2d 436 (Fla. 1st DCA 1991). Even though acceptance does not mean that the entire project has to be completed (see McIntosh, 166 So. 3d at 830), Plaintiffs allege that construction of Eighty-Seven Park was concluded in 2020. SAC at ¶ 49. Thus, the second element is easily satisfied as well.

Plaintiffs incorrectly assert that JMAF attempted to convert its Motion into one for summary judgment by raising the Slavin defense. Resp. 54-55. However, this argument should also be rejected for multiple reasons. First, the Slavin defense can be raised on a motion to dismiss. See Mori, 468 So. 2d 1066. Even Plaintiffs' citation to Papa John's International, Inc. v. Cosentino, 916 So. 2d 977 (Fla. 4th DCA 2005), supports JMAF's position. In Papa John's, the Fourth District noted that, "[i]f the face of the complaint contains allegations which demonstrate the existence of an affirmative defense, then such a defense may be considered on a motion to dismiss." 916 So. 2d at 983. As such, JMAF does not have to wait until summary judgment to obtain relief based on this defense.

Second, a court may consider a document attached to a motion to dismiss without converting the motion into one for summary judgment if the attached document is (1) central to the plaintiff's claim and (2) undisputed. Day v. Taylor, 400 F.3d 1272, 1275-6 (11th Cir. 2005). "Undisputed" means that the authenticity of the document is not challenged. Id. at 1276.

JMAF attached a copy of the temporary certificates of occupancy for the project to the Motion to further demonstrate Plaintiff's claim that construction of Eighty Seven Park had concluded by early 2020 and owners could occupy the units. SAC at ¶49. It was not imperative to include the TCOs, and the Motion succeeds even without their consideration by the Court. Further, it is undisputed that the construction was concluded before the collapse of CTS on June 24, 2021. SAC at ¶1.

In their Response, Plaintiffs did not challenge the authenticity of the temporary certificates of occupancy. Resp. at 55. Instead, they claim that "issuance of the 'temporary' certificate of occupancy does not undisputedly mean that the contractor had fully completed its work and has not remained on the property to do remedial or corrective work or that the owner has accepted the contractor's work as being in full compliance with the terms of the contract." Resp. at 55.

Plaintiffs' contention misses the mark. The South Florida Building Code makes no distinction between temporary and permanent certificates of occupancy. See Pilato v. Edge Investors, L.P., 609 F. Supp. 2d 1301 (S.D. Fla. 2009). The relevant Building Code section provided:

SECTION 111

CERTIFICATE OF OCCUPANCY

> **111.1 Use and occupancy**. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made, until the building official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provision of this code or of other ordinances of the jurisdiction.
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> **111.3 Temporary occupancy.** The building official is authorized to issue a temporary certificate of occupancy before the completion

> of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid.

Florida Bldg. Code. §§ 111.1 and 111.3 (2010 ed.).

Certificates of occupancy were issued in Nov. and Dec. 2019 for parts of Eighty-Seven Park's common areas and the residential floors within the building. JMAF attached the certificates of occupancy to the motion as further proof that the Owner accepted JMAF's work and the building was approved for residents to safely move in. Even though the documents were temporary certificates, all three certificates bolster Plaintiffs' allegation (taken as true) that the construction was completed in 2020.

Plaintiffs insinuate that if JMAF had remained on the property to do remedial or corrective work, then it would not be able to satisfy the "acceptance" element of the Slavin doctrine as a defense. Resp. at 55. However, that assertion is directly contrary to the law. See McIntosh, 166 So. 3d at 829 (rejecting the plaintiff's argument that acceptance did not occur because the ninety-day burn-in period to allow the contractor to correct any errors had not ended, and Broward County had not taken over maintenance of the intersection). The plaintiff in McIntosh unsuccessfully argued that there was no acceptance of the project by Broward County during a contractor warranty period where the contractor maintained the traffic signals if something went wrong. 166 So. 3d at 827.

Plaintiffs try to brush off key authority such as McIntosh that supports JMAF's position. Resp. at 51. Plaintiffs claim McIntosh has distinguishable facts but fail to distinguish those facts. As addressed in detail in the Motion, McIntosh is instructive and should be considered in determining whether to apply the Slavin doctrine here. Motion at 24-26.

Plaintiffs argue that Slavin is limited to defective conditions created on the owner's land and cites to one case in support, Gonsalves v. Sears Roebuck and Company, 859 So. 2d 1207 (Fla. 4th DCA 2003), which is improperly relied upon for Plaintiffs' flawed premise. In Gonsalves, a homeowner purchased carpet for a staircase from Sears, which installed the carpeting through its contractor. The carpeting was not installed correctly. It had to be taken up, replaced and was then repaired multiple times. There was a long series of attempts to correct the defect. Before Sears could ever remedy the problem, the homeowner fell and sustained serious injuries. The homeowner sued Sears and the carpet installer. The trial court granted summary judgment based on the Slavin defense. The Fourth District reversed, concluding that there was a factual issue as to whether the work was ever completed. Sears was asked to rectify the patent defects. 859 So. 2d at 1209.

Gonsalves does not hold, and makes no reference, that injuries to third parties must occur on the land being improved for Slavin to apply, as opposed to an adjacent property. Plaintiffs are creating another element that does not exist. Additionally, there are no allegations of any demand made for JMAF to remedy the alleged patent defects before the work was accepted, and no such remedial work by JMAF was attempted or underway when CTS collapsed. Once the project was completed and residents began moving into Eighty-Seven Park, responsibility shifted to the Owner, and JMAF was exonerated for liability to third parties that may later become injured due to patent defects. Thus, Gonzales is inapposite, and the Slavin doctrine is applicable here.

In sum, on the face of the Complaint, Plaintiffs' detailed allegations as to JMAF's alleged negligence support application of the Slavin doctrine. The Slavin doctrine should place the burden of responsibility for injuries to third parties on the entity that controlled the environment when the injuries occur—here that was the Owner/Developer. JMAF's work for the Terra Defendants had been completed and accepted. The Terra Defendants were in the better position to remedy any

alleged defective conditions once the construction was completed. Thus, Slavin applies to bar the negligence claims against JMAF, and this Court should dismiss Count III of the Second Amended Class Action Complaint.

B. Plaintiffs Have Not Plead Adequate Facts to Support JMAF's Strict Liability for its Sheet Pile-Driving Activities, and Even if the Doctrine Applied, it Must be Limited to Property Damage Only (Addressing Section II (A) of Response)

Plaintiffs' Response simply regurgitates the law on strict liability for ultrahazardous and abnormally dangerous activities, which JMAF already accomplished in its Motion. Plaintiffs fail to explain how the allegations of sheet pile driving satisfy each of the six factors laid out in section 520 of the Restatement (Second) of Torts for determining whether an activity is abnormally dangerous. Plaintiffs cannot satisfy all six factors. Motion at 28-31.

In any event, even if pile driving is deemed to be ultrahazardous as a matter of law, Plaintiffs have not pointed to a single case which imposed strict liability for damages other than property damage. Hutchinson v. Capeletti Bros., Inc., 397 So. 2d 952 (Fla. 4th DCA 1981), Great Lakes Dredging & Dock Co. v. Sea Gull Operating Corp., 460 So. 2d 510 (Fla. 3d DCA 1984), and Poole v. Lowell Dunn Co., 573 So. 2d 51 (Fla. 3d DCA 1990) are contrary to Plaintiffs' claim for wrongful death and personal injury damages as sought in the Complaint.

In Hutchinson, a residence was damaged during the course of constructing a bridge. The Fourth District shifted the loss occasioned by the non-negligent activity to the construction company after concluding that while the pile-driving activity which damaged the residence had substantial value to the community, it involved a high degree of risk of harm to the property of others. 397 So. 2d 952 (emphasis added). There is no authority in Hutchinson that supports Plaintiffs' expansion of the doctrine to wrongful death or personal injury damages.

Next, in Great Lakes, a hotel owner sought to recover damages for financial losses due to guest cancellations caused by noise from a rock-crushing machine. The Third District concluded that financial losses were not the type of harm that was within the scope of the abnormal risk of the activity. 460 So. 2d 510. In so holding, the court noted that, "[c]entral to this doctrine, however, is a finding that the ultrahazardous or abnormally dangerous activity poses some physical, rather than economic, danger to persons or property in the area, which danger must be of a certain magnitude and nature." 460 So. 2d at 513.

The Third District in Great Lakes reached the conclusion that the doctrine of strict liability for ultrahazardous or abnormally dangerous activity had no application in the case. The court reasoned, "there is utterly no showing in this record that the rock-crushing machine poses any physical danger to any person or property in the immediate area where it is situated on the beach…." 460 So. 2d at 513. As for the second reason, the court concluded that to the extent the machine might conceivably be engaged in ultrahazardous or abnormally dangerous activity, then the damages suffered by the hotel were entirely outside the abnormal risk of harm which this machine could possibly create. Id.

Finally, Plaintiffs' contention that JMAF misreads Poole is backwards. There is nothing in Poole to support an extension of strict liability claims to personal injury or wrongful death damages. The damages in Poole were limited to property damages. 573 So. 2d at 52.

Here, Plaintiffs are seeking to apply strict liability for certain construction activities (sheet pile driving) that are alleged to have caused structural damage to the adjacent property, which contributed to the collapse of the building resulting in the tragic deaths of many people. The Third District's reference in Great Lakes to strict liability applying to the foreseeable danger to "persons or property" does not apply to the tragic deaths suffered in this case. The sheet pile driving did

not allegedly pose a risk of physical danger to any person on the adjacent property at the time of the pile driving activities. In fact, the sheet pile driving activity at Eighty-Seven Park took place in 2016, more than five years before the fatal injuries occurred at the time of the collapse. SAC at § 100. Therefore, just like in Great Lakes, the wrongful deaths and personal injury damages suffered by Plaintiffs are outside of the abnormal risk of physical harm which the machinery might create. Engaging in what is deemed to be ultrahazardous activity does not make the participant strictly liable for any resulting injuries or damages, just as to the harm which makes the activity abnormally dangerous. The risk caused from pile driving is that the vibrations cause damage to neighboring structures, not personal injury or death.

None of Plaintiffs' cited authorities support an application of strict liability for a claim for wrongful death or personal injury damages. Other states appear to have limited this doctrine to property damage as well for pile driving activity. See, e.g. Cincinnati Terminal Warehouses v. Contractor, Inc., 324 N.E. 2d 581 (Ohio 1st Dist. 1975) (concluding that the rule of absolute liability may constitute a basis for recovery for property damage occasioned by pile driving); D'albora v. Tulane Univ., 274 So. 2d 825 (La. 4th Cir. 1973) (involving action for damage to adjacent buildings resulting from pile driving during construction of immediately adjacent land); Lowry Hill Props., Inc. v. Ashbach Constr. Co., 291 Minn. 429 (Minn. 1971) (involving action for property damage to apartment buildings adjacent to interstate highway construction area, where pile driving was performed); Caporale v. C.W. Blakeslee & Sons, Inc., 149 Conn. 79 (Conn. 1961) (involving an action to recover for damage to property allegedly caused by vibrations resulting from pile driving operations during the construction of the Connecticut turnpike).

Thus, even if this Court were to find that strict liability applies based on Hutchinson, the applicable recovery for this count against JMAF should be limited to property damages. All

references to or demands for damages for personal injuries, wrongful death, pain and suffering or emotional distress against JMAF for strict liability must be stricken.

CONCLUSION

For the foregoing reasons as well as those stated in the Motion to Dismiss, this Court should grant JMAF's Motion to Dismiss and/or to Strike the Consolidated Second Amended Class Action Complaint, dismissing counts III and IV, or in the alternative, striking all of the improper allegations as to negligence due to the application of the Slavin doctrine and as to damages outside of the protected harm covered by the allegedly abnormally dangerous activity for strict liability, along with such other relief as this Court deems just and proper.

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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that a true and correct copy of the foregoing has been provided via Florida's E-filing Portal and/or electronic mail to all parties of record, on this 3rd day of February, 2022.

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