

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
COMPLEX BUSINESS LITIGATION DIVISION

IN RE: CHAMPLAIN TOWERS SOUTH COLLAPSE
LITIGATION

CASE NO. 2022-001944-CA-43

UNIVERSAL PROPERTY & CASUALTY INSURANCE
COMPANY a/s/o MAX FRIEDMAN and ELLEN
FRIEDMAN, *et al.*,

vs.

CHAMPLAIN TOWERS SOUTH CONDOMINIUM
ASSOCIATION, INC., *et al.*,

**RECEIVER’S MOTION TO STAY SUBROGATION PROCEEDINGS AND
ALL OTHER PROCEEDINGS AGAINST THE ASSOCIATION IN THE ELEVENTH
JUDICIAL CIRCUIT, IN AND FOR MIAMI-DADE COUNTY, FLORIDA, ARISING
FROM THE CHAMPLAIN TOWERS SOUTH BUILDING COLLAPSE**

Michael I. Goldberg (the “Receiver”), in his capacity as the Court-appointed Receiver for the Champlain Towers South Condominium Association, Inc. (the “Association”), moves to stay¹ the subrogation action filed in the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida, styled *Universal Property & Casualty Insurance Company a/s/o Max Friedman and Ellen Friedman, et al. v. Champlain Towers South Condominium Association, Inc., et al.*, Case No. 2022-001944-CA-43 (11th Jud. Cir., Miami-Dade County, Fla.) (the “Subrogation Action”)

¹ In order to preserve all defenses available, and while this motion to stay remains unresolved by the Court, the Receiver seeks an extension of the deadline for his response to Universal’s Amended Complaint served on February 15, 2022.

pending resolution of the lead proceedings pending in this Court styled *In re Champlain Towers South Collapse Litigation*, Case No. 2021-015089-CA-43 (11th Jud. Cir., Miami-Dade County, Fla.) (the “Main Action”).

In addition, the Receiver requests that **all** other actions filed against the Association in the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida, involving the Champlain Towers South building collapse similarly be stayed **except for** this action – the Main Action.²

In support of this motion, the Receiver states:

1. The Main Action arises out of the tragic partial collapse of the Champlain Towers South building on June 24, 2021, and then subsequent demolition of the unsafe remainder of the structure on July 4, 2021. As a result of this tragedy, ninety-eight people died, one-hundred-thirty-six owners lost their units, and the contents of those units were destroyed. This tremendous loss of lives, homes, real property, and personal property has caused serious financial and personal distress to the survivors, on top of the horrific loss of loved ones, neighbors, and friends in the collapse. The **unimpeded** resolution of the Main Action is, for many, the best hope for achieving any recovery for their varied losses.

2. The initial complaint in the Main Action was filed on June 24, 2021. Since the date of the tragedy, the Association has been named as a defendant in dozens of lawsuits alleging that it was negligent in the operation and maintenance of the Condominium, thereby causing significant damage to numerous victims of the partial collapse and subsequent demolition of the unsafe remainder of the structure.

² The Receiver’s request does not include the action presently styled *Diane Cole, et al. v. Michael I. Goldberg, as Receiver for Champlain Towers South Condominium Association, Inc., et al.*, Case No. 2021-021726 CA 43 (11th Jud. Cir., Miami-Dade County, Fla.) (the “*Cole Action*”), which is technically “against the Association” at present. However, a motion to realign the parties to make the Association a plaintiff is pending. At the February 23, 2022, Status Conference in this action, the Court – to whom the *Cole Action* is also assigned – indicated that the motion would be granted. Upon the grant of that motion, the *Cole Action* will not be one “against the Association” and, accordingly, would not be subject to the stay requested herein.

3. On February 1, 2022, Universal Property and Casualty Insurance Company (“Universal”) initiated the Subrogation Action. The operative pleading – the *Amended Complaint* – was filed on February 3, 2022. *See* Docket, Case No. 2022-01944.

4. The Receiver was served with the *Amended Complaint* on February 15, 2022, making his response due March 7, 2022.

5. In addition to naming the Association as a defendant, Universal’s *Amended Complaint* names as defendants Morabito Consultants, Inc., Willcott Engineering, Inc., Eighty-Seven Park, LLC, Concrete Protection and Restoration, Inc., 8701 Collins Avenue Condominium Association, Inc., Collins Development, LLC, John Moriarty & Associates of Florida, Inc., NV5, Inc., NV5 Global, Inc., Terra World Investments, LLC, Terra Group, LLC, Bizzi & Partners Development, LLC, Scott Stewart, and 8701 Collins Development LLC (collectively, the “Subrogation Defendants”). *See id.*

6. As the Court will recognize, most of the Subrogation Defendants were named as defendants in the *Second Amended Complaint* and the Receiver’s *Crossclaims* filed in the Main Action.³

7. According to the *Amended Complaint*, Universal’s subrogors are Max Friedman and Ellen Friedman; Debra L. Godt and Neal K. Godt; Nancy Kress; Nancy Kress, Frank Klieman and Jay Kleiman; Mayra Cruz; Ryan Wolf and Cort Moritz; Anette Goldstein; Gino Cattarossi; Raymond Urgelles and Mercedes Urgelles; Marina Azen; Margarita Brito; John Brecker and Heather Walters; Camila Sterba and Gary Sterba; Adalberto Agüero and Nieves Isabel Agüero; Mary McGraw and Steve Nixon; Francesco Cordaro and Rosalia Cordaro; Susana Rodriguez;

³ The differences are that Willcott Engineering, Inc., Concrete Protection and Restoration, Inc., Bizzi & Partners Development, LLC, and Scott Stewart are named as defendants in the *Amended Complaint* and Becker and Poliakoff, P.A., is named as a defendant in the *Second Amended Complaint* and the *Crossclaims*.

Sarita Harari; Joseph Blasser and Elena Blasser; Steven Rosenthal; Emilia Mattei; Ricardo Abuawad and Olmsted Corp.; Susana Alvarez and Hortensia Alvarez; Leon Oliwkowicz; Magaly Delgado; Marcus J. Guara, Anaely Rodriguez and La Comparsita LLC; Helen Kopel and Cherry 1002 LLC; Jorge Zardoya and Zyr LLC; Ada Lopez; Daniela Silva and Ibrahim Issa; Esther Gorfinkel; Maggie A. Manrara and Alberto G. Manrara, The Maggie A. Manrara Declaration of Trust; Jay K. Miller; Antonio Lozano and Gladys M. Lozano; Reginald Long and Lisa Loveby; Moises Berezdivin and Diana Berezdivin; Susana Brief and Difasu USA Inc.; Juan A. Mora and Ana C. Mora; Simon Segal; Joseph Noreiga and Hilda Noriega; and David Epstein; and Richard Augustine and Carole Augustine (collectively, “Universal’s Subrogors”).⁴

8. Universal’s Subrogors are – as unit owners in the Champlain Towers South building – encompassed by the proposed liability class as to which Plaintiffs seek certification in the Main Action. *See Plaintiff’s 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)* (filed Jan. 28, 2022) at 1 (seeking certification of a class defined as including “All persons and entities ... owning units or personal property lost or destroyed at the Champlain Towers South condominium building ... at the time of the collapse[.]”).

9. On July 2, 2021, the Court appointed the Receiver as receiver for the Association. As relevant to this motion, Paragraph 8 of the *Agreed Order Appointing Receiver* provides:

During the period of this receivership, all persons, including creditors, banks, investors, or others, with actual notice of this Order, are enjoined from filing a petition for relief under the United States Bankruptcy Code without prior permission from this Court, or from in any way disturbing the assets or proceeds of the receivership or from prosecuting any actions or proceedings which involve the Receiver, or which affect the property of the Association.

Id. at ¶ 8 (emphasis added).

⁴ Universal’s Subrogors are listed and grouped as Universal listed them in its *Amended Complaint*. *See id.* at 1-3.

10. Thus, *over six months ago*, the Court enjoined prosecution of any other action against the Association arising out of the partial collapse of the Champlain Towers South building and subsequent demolition of the unsafe remainder of the structure.

11. Universal has been a participant in this proceeding since the outset. On July 8, 2021, it moved to intervene and interplead certain insurance proceeds. *See Intervenor Universal Property & Casualty Insurance Company's Motion to Intervene and Interplead Funds into Court Registry.*⁵ Accordingly, it cannot be argued that Universal did not have “actual notice of th[e] Order” enjoining it from prosecuting “actions or proceedings which involve the Receiver, or which affect the property of the Association.”

12. The Receiver submits that Universal’s Subrogation Action is directly contrary to the Court’s bar against proceedings affecting the Association’s property and, therefore, should be stayed pending resolution of the Main Action.

13. The Receiver requests that the Order staying the Subrogation Action expressly preserve and acknowledge the Receiver’s right to raise any and all defenses and arguments he may have in response to the *Amended Complaint* as provided by Rule 1.140, Fla.R.Civ.P., if and when the Universal Subrogation Action is allowed to proceed.

14. In addition, the Receiver further requests that the Court issue an order staying *all* other proceedings against the Association pending in the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida – *except for* this action, the Main Action – arising from or relating to the partial collapse and subsequent demolition of the unsafe remainder of the Champlain Towers South building.

⁵ In addition, on January 21, 2022 – and thus two weeks *before* the Subrogation Action was initiated – Universal’s counsel in the Subrogation Action filed a *Notice of Appearance and Designation of E-Mail Address* in the Main Action.

15. As noted above, the Association has been named as a defendant in dozens of lawsuits arising from the partial collapse and subsequent demolition of the unsafe remainder of the structure, the most recent of which – to the Receiver’s knowledge – is *Giannitsopoulos v. Champlain Towers South Condominium Association, Inc.*, Case No. 2022-003172 (11th Jud. Cir., Miami-Dade County, Fla.) (filed Feb. 18, 2022).

16. Being obligated to address such proceedings is not only a significant impediment to the Receiver’s focus on the multitude of issues raised in the Main Action, it serves to deplete the Associations’ limited funds and assets. No party’s interests would be harmed by imposition of the requested stay; to the contrary, preservation of the Association’s limited funds and assets is in the interest of every victim of the Champlain Towers South building’s partial collapse and subsequent demolition of the unsafe remainder of the remaining structure.

17. Although the Receiver submits that Paragraph 9 of the *Agreed Order Appointing Receiver* established a stay of all other proceedings against the Association, the multitude of filings against the Association since entry of the *Agreed Order Appointing Receiver* shows that a formal, independent “Order Imposing Stay” is necessary.

18. The Receiver requests that the stay order expressly preserve and acknowledge the Receiver’s right to raise any and all defenses and arguments he may have in response to claims asserted in the stayed actions as provided by Rule 1.140, Fla.R.Civ.P., if and when the stayed actions are allowed to proceed.

19. Upon issuance of the requested order, the Receiver will file it in every action pending in this Court against the Association involving the Champlain Towers South collapse of which the Receiver is aware, so as to ensure that all parties to such proceedings are put on additional, formal notice of the Court’s imposition of a stay.

WHEREFORE, the Receiver respectfully requests that the Court (i) stay the action styled *Universal Property & Casualty Insurance Company a/s/o Max Friedman and Ellen Friedman, et al. v. Champlain Towers South Condominium Association, Inc.*, Case No. 2022-001944-CA-43 (11th Jud. Cir., Miami-Dade County, Fla.), (ii) preserve and acknowledge the Receiver's right to defend that action in full if and when the stay is lifted, (iii) issue an order staying all other proceedings pending in this Court – except for this action – filed against the Association arising from or relating to the partial collapse and subsequent demolition of the unsafe remainder of the Champlain Towers South building, and (iv) grant the Association such other and further relief as the Court deems just and proper.

BERGER SINGERMAN LLP
Attorneys for the Receiver
1450 Brickell Ave., Suite 1900
Miami, Florida 33131
Telephone: (305) 755-9500
Fax: (305) 714-4340

By: s/ Paul Steven Singerman
Paul Steven Singerman
Florida Bar No. 378860
Anthony J. Carriuolo
Florida Bar No. 434541
Jordi Guso
Florida Bar No. 863580
Singerman@bergersingerman.com
acarriuolo@bergersingerman.com
Jguso@bergersingerman.com
mnewland@bergersingerman.com
DRT@bergersingerman.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 24, 2022 a copy of the *Receiver's Motion to Stay Subrogation Proceedings and All Other Proceedings in the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida, Arising from the Champlain Towers South Building Collapse* was

electronically filed with the Clerk of Court by using the Florida Courts E-Filing Portal and a copy of same was furnished to all counsel of record through the Florida Court's E-Filing Portal.

By: *s/ Anthony J. Carriuolo*
Anthony J. Carriuolo