

**IN THE CIRCUIT COURT OF THE  
11<sup>TH</sup> JUDICIAL CIRCUIT IN AND FOR  
MIAMI DADE-COUNTY, FLORIDA**

**COMPLEX BUSINESS  
LITIGATION DIVISION**

**IN RE: CHAMPLAIN TOWERS SOUTH  
COLLAPSE LITIGATION**

CASE NO.: 2021-015089-CA-01

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**RECEIVER AND PUTATIVE CLASS PLAINTIFFS'  
JOINT MOTION TO STAY THEIR CLAIMS AGAINST DEFENDANTS, BECKER &  
POLIAKOFF, P.A., MORABITO CONSULTANTS, INC., AND DESIMONE  
CONSULTING ENGINEERS, LLC, PENDING SETTLEMENT APPROVAL**

Michael I. Goldberg, in his capacity as Court-appointed Receiver (the “Receiver”) for Champlain Towers South Condominium Association, Inc. (the “Association”), and the Putative Class Plaintiffs, hereby jointly move for entry of an order staying (a) the Putative Class Plaintiffs’ claims and the Association’s crossclaims, against Defendant Becker & Poliakoff, P.A. (“Becker”), (b) the Putative Class Plaintiffs’ claims and the Association’s crossclaims, against Defendant Morabito Consultants, Inc. (“Morabito”), and (c) the Putative Class Plaintiffs’ claims and the Association’s crossclaims, against Defendant DeSimone Consulting Engineers, LLC (“DeSimone”). The Receiver and Putative Class Plaintiffs request this stay, so that all Parties can ensure that as much of available insurance resources can go towards helping the victims, and the Parties may focus their efforts on seeking Preliminary and Final Approval of these Settlements.<sup>1</sup>

Over the past several weeks, and at the direction of this Court, the Receiver and Putative

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<sup>11</sup> The Putative Class Plaintiffs have already filed with the Court a Motion to Certify a Global Issue Class (the “Motion for Certification”). The Motion for Class Certification is now fully briefed and the Putative Class Plaintiffs respectfully request that the Court first decide whether to grant preliminary approval of the Motion for Certification, and then the Receiver and Putative Class Plaintiffs will both seek Preliminary Approval of these two proposed Settlements.

Class Plaintiffs have engaged in productive Mediation efforts with Defendants Becker, Morabito, and DeSimone, that have resulted in settlements in principle that the parties are working to reduce to written settlement agreements.

The Receiver, Putative Class Plaintiffs and Becker participated in many mediation sessions, telephone and Zoom conversations, under the supervision of mediator, Mr. Lewis Jack, and have successfully negotiated a Global Settlement of all claims, crossclaims and defenses asserted (or that could have been asserted) by the Putative Class Plaintiffs against the Association and against Becker, and by the Association against Becker, for the sum of \$31,000,000.00 (thirty-one million dollars) payable to the Receivership Estate by various insurers of Becker.

Similarly, the Receiver, Putative Class Plaintiffs and Morabito, all participated in a mediation under the supervision and direction of Mediator Mr. Bruce Greer, who was appointed as Mediator by the Court, and have successfully negotiated a Global Settlement of all claims, crossclaims and defenses asserted (or that could have been asserted) by the Putative Class Plaintiffs against the Association and against Morabito, and by the Association against Morabito, for the sum of \$16,000,000.00 (sixteen million dollars) payable to the Receivership Estate by various insurers of Morabito.

Moreover, the Receiver, Putative Class Plaintiffs and DeSimone, all participated in a mediation under the supervision and direction of Mediator Mr. Bruce Greer, who was appointed as Mediator by the Court, and have successfully negotiated a Global Settlement of all claims, crossclaims and defenses asserted (or that could have been asserted) by the Putative Class Plaintiffs against the Association and against DeSimone, and by the Association against DeSimone, for the sum of \$8,550,000.00 (eight million five hundred and fifty dollars) payable to the Receivership Estate by various insurers of DeSimone.

Counsel for the Putative Class Plaintiffs and the Receiver have agreed that the Receiver

shall disburse the settlement amounts (once funded) as may be directed by future orders of the Court in the Receivership Action.

The parties respectfully request the Court stay the claims and crossclaims against Becker, Morabito, and DeSimone based on the following timeline, so that all parties can focus on these Settlements and limit any and all litigation expenses, that all should go towards the benefit of the victims. By at least sixty (60) days (if not earlier), the Receiver and Putative Class Plaintiffs will file Motion(s) with this Court to begin the process to approve the Settlement Agreements. The Receiver will request approval of the Settlement Agreements, entry of preliminary approval orders and bar orders for Becker, Morabito, and DeSimone, and approval of the form and content of the notices to be provided and the manner and method of publication of such notices. Similarly, the Putative Class Plaintiffs will also seek preliminary approval of the class action settlements with Becker, Morabito, and DeSimone, and direction that notice be given to the Class Members. Following a period for notice and an opportunity for all interested persons to be heard, the parties will request that the Court conduct a Final Fairness Hearing, during which time the Court will: (i) make a final decision whether to enter the final approvals and bar orders and (ii) make a final decision whether to approve the class action settlements as fair, reasonable, and adequate and entry by the Court of a final judgment and order thereon.

The Receiver and Putative Class Plaintiffs respectfully suggest that briefly staying the claims and crossclaims against Becker, Morabito, and DeSimone is necessary to avoid unnecessary litigation that would be rendered moot by this Court's approvals of the settlement agreements. *See, e.g., Arkin v. Smith Med. Partners, LLC*, No. 8:19-cv-1723-T-26AEP, 2020 WL 1666158, at \*2–\*3 (M.D. Fla. April 3, 2020) (staying class action litigation pending court's evaluation of proposed settlement to “avoid duplicative discovery efforts and related, overlapping issues” and to “allow

the parties—and the Court—to focus on the propriety of the Motion for Preliminary Approval”).

**WHEREFORE**, the Receiver and Putative Class Plaintiffs respectfully request that the Court stay all claims against Becker, Morabito, and DeSimone pending the proposed settlement approval process.

Respectfully submitted March 8, 2022.

*/s/ Adam M. Moskowitz*

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been filed on March 8, 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

