

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

**COMPLEX BUSINESS LITIGATION  
DIVISION**

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

**In re:**

**Champlain Towers South Collapse Litigation**  
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**PLAINTIFFS' REPLY TO DEFENDANT CHAMPLAIN TOWERS SOUTH  
CONDOMINIUM ASSOCIATION, INC.'S AFFIRMATIVE DEFENSES TO  
PLAINTIFFS' CONSOLIDATED THIRD AMENDED CLASS ACTION COMPLAINT**

Plaintiffs, Raquel Azevedo de Oliveira, as personal representative of the Estates of Alfredo Leone and Lorenzo de Oliveira Leone; Kevin Spiegel, as personal representative of the Estate of Judith Spiegel; Kevin Fang, as personal representative of the Estate of Stacie Fang; Raysa Rodriguez; and Steve Rosenthal, by and through their undersigned counsel, hereby file this Reply to Defendant CHAMPLAIN TOWERS SOUTH CONDOMINIUM ASSOCIATION, INC.'s Affirmative Defenses to Plaintiffs' Consolidated Third Amended Class Action Complaint dated March 29, 2022, and state:

1. Defendant's Eighth Affirmative Defense fails to state a legal defense for failure to set forth sufficient ultimate facts supporting the Defendant's claim that it is entitled to a set-off for all "reimbursements and payments" received by Plaintiffs and is denied. The Florida Legislature has abolished joint and several liability for economic and noneconomic damages in negligence actions. *See Port Charlotte HMA, LLC v. Suarez*, 210 So. 3d 187, 190 (Fla. 2d DCA 2016) (reversing order granting setoff). Any apportionment of fault will be determined by Fla. Stat.

768.81, if applicable. Furthermore, Defendant is not entitled to a set-off from benefits payable by collateral sources to the extent such collateral sources have a subrogation right, and even if some collateral source payments are appropriate for a setoff they may not be admitted into evidence at trial. *Joerg v. State Farm Mut. Auto. Ins. Co.*, 176 So. 3d 1247, 1253 (Fla. 2015); *Gormley v. GTE Products Corp.*, 587 So.2d 455 (1991).

2. In addition to the foregoing, all other of Defendant's affirmative defenses are denied by operation of Florida Rule of Civil Procedure 1.110(e).

**CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that on this 18<sup>th</sup> day of April, 2022, a true and correct copy of the foregoing was electronically filed with the Clerk of Court using the Florida Court's e-Filing portal which will send a notice of electronic filing to all attorneys of record.

<p>Dated: April 18, 2022</p> <p><i>/s/ Harley S. Tropin</i> Harley S. Tropin (FBN 241253) Javier A. Lopez (FBN 16727) Jorge L. Piedra (FBN 88315) Tal J. Lifshitz (FBN 99519) Eric S. Kay (FBN 1011803) KOZYAK TROPIN &amp; THROCKMORTON LLP 2525 Ponce de Leon Boulevard, 9th Floor Coral Gables, FL 33134 Tel: (305) 372-1800 hst@kttlaw.com</p> <p><b><i>Plaintiffs' Co-Chair Lead Counsel</i></b></p>	<p>Respectfully submitted,</p> <p><i>/s/ Rachel W. Furst</i> Rachel W. Furst (FBN 45155) 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 rwf@grossmanroth.com</p> <p><b><i>Plaintiffs' Co-Chair Lead Counsel</i></b></p>
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<p><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  rncid@podhurst.com</p> <p><b><i>Plaintiffs' Personal Injury and Wrongful  Death Track Lead Counsel</i></b></p>	<p><u>/s/ Javier A. Lopez</u>  Javier A. Lopez (FBN 16727)  KOZYAK TROPIN &amp;  THROCKMORTON LLP  2525 Ponce de Leon Boulevard, 9th Floor  Coral Gables, FL 33134  Tel: (305) 372-1800  jal@kttlaw.com</p> <p><b><i>Plaintiffs' Economic Loss and Property  Damage Track Co-Lead Counsel</i></b></p>
<p><u>/s/ Adam M. Moskowitz</u>  Adam M. Moskowitz (FBN 984280)  Howard M. Bushman (FBN 364403)  Adam A. Schwartzbaum (FBN 93014)  Joseph M. Kaye (FBN 117520)  THE MOSKOWITZ LAW FIRM, PLLC  2 Alhambra Plaza, Suite 601  Coral Gables, FL 33134  Tel: (305) 740-1423  adam@moskowitz-law.com</p> <p><b><i>Plaintiffs' Economic Loss and Property  Damage Track Co-Lead Counsel</i></b></p>	<p><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</p> <p><b><i>Plaintiffs' Wrongful Death Damage Claim  Liaison Counsel</i></b></p>
<p><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</p> <p><b><i>Plaintiffs' Wrongful Death Charitable  Liaison Counsel</i></b></p>	