

**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

In re: Champlain Towers South Collapse Litigation

**CLASS PLAINTIFFS' JOINDER AND RESPONSE TO RECEIVER'S MOTION TO
CONFIRM COMPLIANCE
WITH ARTICLE 6.7 OF THE JUNE 2022 SETTLEMENT AGREEMENT
IN CONTEMPLATION OF DISTRIBUTION**

Class Plaintiffs, by and through undersigned co-chair lead counsel, hereby join in the Receiver Michael I. Goldberg's (the "Receiver") Motion to Confirm Compliance with Article 6.7 of the June 2022 Settlement Agreement in Contemplation of Distribution, filed November 18, 2022 (the "Motion"),¹ and respond to the Defendants 8701 Collins Development, LLC, Terra World Investments, LLC and Terra Group, LLC (collectively the "8701 Defendants") response and objection to the Motion (the "Response"), and the response and joinder filed by Defendant DeSimone Consulting Engineers LLC on December 22, 2022.

1. Class Plaintiffs join in the Receiver's Motion and agree that this Court can and should find that the provisions of Article 6.7 of the June 2022 Settlement Agreement have been fulfilled, such that the Settlement Administrator may distribute to the victims the \$30,000,000.00 Subrogation Holdback Sum, without any Temporary Holdback limitation on the sums available to be disbursed.

¹ Capitalized terms not defined herein are defined in the "In Re: Champlain Towers South Collapse Litigation Class Action Settlement Agreement" (the "June 2022 Settlement Agreement"), finally approved by the Court on June 24, 2022.

2. As set forth in the Motion, Article 2.1.125 of the June 2022 Settlement Agreement, setting specific, alternative conditions for meeting the SCM Subrogation Deadline, has been satisfied by the Court's orders and the dismissal of the Universal Action.

3. Specifically, the Court's orders in this case, including the August 30, 2022, Final Order and Judgment (the "August Final Order"), and the August 31, 2022, Final Order Barring, Restraining, and Enjoining Claims (the "August Bar Order"), dismiss with prejudice and bar any claims that might be brought against the Settling Parties arising from the CTS Collapse, including any subrogation claims that might exist against the Settling Parties. As set forth in the Motion, these orders enjoin and permanently bar all "SCM Insurer Subrogation Claims," as defined in the June 17, 2022, Settlement Agreement (the "June 2022 Settlement Agreement").

4. Additionally, the Universal Action has been dismissed and although the language of the dismissal filed in that action did not include the words "with prejudice," that dismissal was functionally a dismissal with prejudice, given the orders of this Court barring the Universal Action and prohibiting any such claim for subrogation or other recovery to be filed against any of the Settling Parties in connection with the CTS Collapse. Paragraph 11 of the August Final Order specifically referenced and barred both "subrogation" claims and the "Universal Action."

5. Also, the Insurer Waivers for the insurers specifically listed in the June 2022 Settlement Agreement have been provided to the Settling Parties, consistent with Article 3.1 of the June 2022 Settlement Agreement.

6. Finally, no SCM Insurer made any claim as a part of the Settlement Class,² nor filed any objection to the Class Settlement, or otherwise brought a claim to the attention of the Court.

² The June 2022 Settlement Agreement and June Order and Final Judgment certifying the settlement class defined the Settlement Class to include any "entities who suffered a loss of, or damage to, real property or personal property, or suffered other economic loss, as a result of the CTS Collapse."

The Universal Action aside, the undersigned counsel is not aware of any subrogation claims that have been or will be asserted in any court.

7. Given that the Court's orders barring any further claims arising out of the CTS Collapse are now final and non-appealable, including the August Final Order and the August Bar Order, the Settling Parties have obtained the global peace for which they bargained in the June 17, 2022, Settlement Agreement, and to which the 8701 Defendants refer in the Response. No Settling Party can be held liable for any SCM Insurer Subrogation Claim that may exist or for any other claim arising from the CTS Collapse.

8. Accordingly, this Court can and should find that the provisions of Article 6.7 of the June 2022 Settlement Agreement have been fulfilled, such that the Settlement Administrator may distribute the \$30,000,000.00 Subrogation Holdback Sum, without any Temporary Holdback limitation on the sums available to be disbursed.

9. For the Court's review, a proposed Order is attached hereto as Exhibit 1, which includes findings that ought to satisfy the concerns raised by the Defendants in the Response. By such an order, this Court could again affirm that the subrogation claims against the Settling Parties are barred.

Respectfully submitted this 29th day of December, 2022.

/s/ Harley S. Tropin

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Plaintiffs' Co-Chair Lead Counsel

CERTIFICATE OF SERVICE

We hereby certify that on December 29, 2022, we electronically filed the foregoing with the Clerk of the Court using the Court's electronic filing portal. We also certify that the foregoing is being electronically served this day on all counsel of record via transmission of Notices of Electronic Filing generated by the Court's electronic filing portal.

By: /s/ Harley S. Tropin
Harley S. Tropin

By: /s/ Rachel W. Furst
Rachel W. Furst

Plaintiffs' Co-Chair Lead Counsel

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

In re: Champlain Towers South Collapse Litigation

**[PROPOSED] ORDER ON RECEIVER’S MOTION TO CONFIRM COMPLIANCE
WITH ARTICLE 6.7 OF THE JUNE 2022 SETTLEMENT AGREEMENT
IN CONTEMPLATION OF DISTRIBUTION**

THIS CAUSE came before the Court upon the Receiver Michael I. Goldberg’s (the “Receiver”) Motion to Confirm Compliance with Article 6.7 of the June 2022 Settlement Agreement in Contemplation of Distribution, filed November 18, 2022 (the “Motion”).¹ The Class Plaintiffs filed a response and joinder in the Motion on December 28, 2022 (the “Plaintiffs’ Joinder”). Defendants 8701 Collins Development, LLC, Terra World Investments, LLC and Terra Group, LLC (collectively the “8701 Defendants”) filed a response and objection to the Motion (the “8701 Response”). Defendant DeSimone Consulting Engineers LLC filed a response and joinder in the 8701 Response on December 22, 2022 (the “DeSimone Joinder”). No other interested person filed a response or objection to the Motion.

The Court having considered the Motion, the Plaintiffs’ Joinder, and the 8701 Response, the DeSimone Joinder, noting that no other objections or responses to the Motion were filed by any interested person, having considered the proposed order, and being otherwise fully advised in the premises,

HEREBY ORDERS AND ADJUDGES as follows:

¹ Capitalized terms not defined herein are defined in the “In Re: Champlain Towers South Collapse Litigation Class Action Settlement Agreement” (the “June 2022 Settlement Agreement”), finally approved by the Court on June 24, 2022.

1. The Court finds that its orders in this case, including the August 30, 2022, Final Order and Judgment (the “August Final Order”), and the August 31, 2022, Final Order Barring, Restraining, and Enjoining Claims (the “August Bar Order”), bar any and all claims that might be brought against the Settling Parties arising from the CTS Collapse, including any subrogation claims that might exist against the Settling Parties. These orders enjoin and permanently bar all “SCM Insurer Subrogation Claims,” as defined in the June 17, 2022, Settlement Agreement (the “June 2022 Settlement Agreement”), which the Court now reaffirms by entry of this Order.

2. The Court also recognizes that the Universal Action has been dismissed and that, although the language of the dismissal filed in that action did not include the words “with prejudice,” that dismissal was functionally a dismissal with prejudice, given the orders of this Court barring the Universal Action and prohibiting any such claim for subrogation or other recovery to be filed against any of the Settling Parties in connection with the CTS Collapse. Paragraph 11 of the August Final Order specifically referenced and barred both “subrogation” claims and the “Universal Action.”

3. Additionally, the Insurer Waivers for the insurers specifically listed in the June 2022 Settlement Agreement have been provided to the Settling Parties, consistent with Article 3.1 of the June 2022 Settlement Agreement.

4. Finally, the Court recognizes and confirms that no SCM Insurer made any claim as a part of the Settlement Class,² nor filed any objection to the Class Settlement, or otherwise brought a claim to the attention of the Court.

² The June 2022 Settlement Agreement and June Order and Final Judgment certifying the settlement class defined the Settlement Class to include any “entities who suffered a loss of, or damage to, real property or personal property, or suffered other economic loss, as a result of the CTS Collapse.”

5. Given that the Court's orders barring any further claims arising out of the CTS Collapse are now final and non-appealable, including the August Final Order and the August Bar Order, the Court finds that the Settling Parties have obtained the global peace for which they bargained in the June 17, 2022, Settlement Agreement, and to which the 8701 Defendants refer in the Response, and thus no Settling Party can be held liable for any SCM Insurer Subrogation Claim that may exist or for any other claim arising from the CTS Collapse.

6. Accordingly, the Court finds that the provisions of Article 6.7 of the June 2022 Settlement Agreement have been fulfilled, such that the Settlement Administrator may distribute the \$30,000,000.00 Subrogation Holdback Sum, as authorized and directed by the Court, without any Temporary Holdback limitation on the sums available to be disbursed.

DONE and **ORDERED** in Chambers at Miami, Florida, this ____ day of December, 2022.

Hon. Michael Hanzman
CIRCUIT COURT JUDGE