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

CASE NO: 2023-019490-CA-01
SECTION: CA43
JUDGE: Thomas J. Rebull

Fuquan Thomas et al

Plaintiff(s)

vs.

Prestige Management Solutions, Inc. et al

Defendant(s)

_____/

ORDER GRANTING PLAINTIFFS' AMENDED MOTION FOR CLASS CERTIFICATION [DE 39]

This cause came before the Court for an evidentiary hearing on February 4, 2025, on Plaintiffs' Amended Motion for Class Certification [DE 39] (the "Motion"). Upon consideration of the Motion, reply [DE 50], and argument of counsel at the hearing, the Court, being otherwise advised on the premises it is **ORDERED**[1] **and ADJUDGED** that the Motion [DE 39] is **GRANTED**. The Court makes the following findings of fact and conclusions of law in support of its ruling:

I. FACTUAL BACKGROUND

Plaintiffs filed this class action lawsuit against Prestige Management Solutions, Inc. ("Defendant") to address the injuries suffered by the tenants of the New World Condominium ("New World Condo") located at 395 NW 177 Street Miami Gardens, Florida. Plaintiffs bring this class action against Defendant pursuant to Florida Rule of Civil Procedure 1.220.

On January 28, 2023, a fire occurred at the New World Condo that displaced its approximately 245 residents and rendered their homes uninhabitable. Plaintiffs allege that the fire started on or just beneath the roof. Per the Declaration of Condominium, the New World

Condominium Apartments Condominium Association, Inc. ("the Association") was responsible for maintaining the roof and other common elements of New World Condo. Declaration at § 10.1. The unit owners, however, own a pro rata share of the common elements. Declaration at § 4.1.

The Association delegated its duties to maintain the roof and common elements to Defendant. Defendant hired a contractor Plaintiffs contend is unlicensed to re-roof New World Condo. Plaintiffs also allege that the New World Condo's smoke detectors, fire alarms and fire extinguishers were inoperable, the building did not have adequate fire stops, and the building was cited in the past for its failure to meet Miami Dade County's fire standards. Plaintiffs contend that these failures are the fault of Defendant (and the Association) who they allege owe a non-delegable duty to the tenants to keep the premises safe.

Based upon the above allegations, Plaintiffs bring the following causes of action:

Count I: Premises Liability

Count II: Negligence

II. **LEGAL STANDARD**

A party seeking class certification must plead and prove the elements required by Florida Rule of Civil Procedure 1.220. *Sosa v. Safeway Premium Fin. Co.*, 73 So. 3d 91, 105 (Fla. 2011). This includes the four elements of Rule 1.220(a)—numerosity, commonality, typicality, and adequacy of representation—and one of the three subdivisions of Rule 1.220(b). Under Rule 1.220(b)(3), a party must establish that common questions of law or fact predominate over any individual questions of the separate class members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. "A trial court should resolve doubts with regard to certification in favor of class certification, especially in the early stages of litigation." *Sosa*, 73 So. 3d at 105; *Chase Manhattan Mortg. Corp. v. Porcher*, 898 So. 2d

153, 156 (Fla. 4th DCA 2005). Class certification is favored where "[t]he purpose of the class action is to provide litigants who share common questions of law and fact with an economically viable means of addressing their needs in court." *Johnson v. Plantation Gen. Hosp. Ltd. P'ship,* 641 So. 2d 58, 60 (Fla. 1994).

III. **PLAINTIFFS HAVE STANDING**

Before addressing the four prerequisites to class certification, the Court will address the threshold issue of standing. To have standing, "the plaintiff must show that a case or controversy exists between the plaintiff and the defendant, and that such case or controversy continues from the commencement through the existence of the litigation." *Ferreiro v. Phila. Indem. Ins. Co.*, 928 So. 2d 374, 377 (Fla. 3d DCA 2006).

Plaintiffs have standing because they all resided at the New World Condo on the day of the fire, occupied an apartment unit at the complex, lost all or most of their personal belongings, and were forced to relocate because of the fire or subsequent water damages. Plaintiffs submitted declarations attesting to these facts and their deposition testimony confirms that. *Fla. Power Corp. v. Smith*, 202 So. 2d 872, 882 (Fla. 2d DCA 1967) ("Facts established by the testimony of a witness, whether a party or otherwise, and not refuted, constitute a part of the facts of the case, the same as any other fact in evidence.").

IV. **CLASS DEFINITION**

Here, the proposed class of plaintiffs is: "All tenants and others who lawfully resided in a condominium unit at New World Condo on January 28, 2023." The proposed class expressly excludes the following individuals: "Prestige management, the Association, Owners, any officers and directors of the Association, together with legal representatives, heirs, successors, or assigns of any of the foregoing, and any judicial officer assigned to this matter and his or her immediate family."

The Court finds that the class definition contains objective criteria that enable individuals to determine whether they are a member of the class.

V. **PLAINTIFFS SATISFY THE REQUIREMENTS UNDER RULE 1.220(a)**

Each of the four elements of Rule 1.220(a) is met in this case. The proposed class is sufficiently numerous, common questions of law or fact are raised by the claims of each member of the class, the class representatives' claims are typical of the claims of all the class members, and the named representatives and their counsel can fairly and adequately protect and represent the interests of the class.

a. **NUMEROSITY**

Rule 1.220(a)(1) requires Plaintiffs to show that the proposed class is so numerous that joinder of all members would be impracticable. There is no specific number or precise count needed to satisfy the numerosity requirement, rather "class certification is proper if the class representative does not base the projected class size on mere speculation." *Sosa*, 73 So. 3d at 114 (citing *Toledo v. Hillsborough Cnty. Hosp. Auth.*, 747 So. 2d 958, 961 (Fla. 2d DCA 1999)). Classes as small as twenty-five have been held to fulfill the numerosity requirement. *See Estate of Bobinger v. Deltona Corp.*, 563 So. 2d 739, 743 (Fla. 2d DCA 1990). Regarding "impracticability," it is sufficient to show that it is inconvenient or difficult to join all members of the class. *See Smith v. Glen Cove Apartments Condos. Master Ass'n, Inc.*, 847 So. 2d 1107, 1110 (Fla. 4th DCA 2003).

The number of class members in this case satisfies the numerosity requirement because there are at least 142 class members. Certifying the class does not prevent Defendant or the Association from raising other issues at trial or before. For class certification purposes, Plaintiffs have met their burden to show a sufficiently suitable class and beyond mere speculation.

b. **COMMONALITY**

Rule 1.220(a)(2) requires class action plaintiffs to identify questions of law or fact common to the class. "The threshold of the commonality requirement is not high." *Sosa,* 73 So. 3d at 107; *Broin v. Philip Morris Cos.*, 641 So. 2d 888, 890 (Fla. 3d DCA 1994). Mere factual differences between class members do not preclude a finding of commonality. *Morgan v. Coats*, 33 So. 3d 59, 64 (Fla. 2d DCA 2010). "And individualized damages inquiries do not preclude class certification." *Id.*

The Court finds that the commonality requirement has been met because the case revolves around the Defendant's alleged negligent actions which caused or contributed to the demise of the New World Condo. Common legal and factual issues include: whether the Defendant owed a duty of care to the tenants or those legally occupying the condominium; whether the Defendant was negligent in failure to secure a functional fire alarm system, failing to have working fire extinguishers, failing to address fire code violations, failing to address fire code requirements related to the 40-year recertification, failing to procure appropriate insurance, and failing to provide fire stops in the cockloft area beneath the roof; whether the Defendant and the Association negligently retained the contractor; whether the contractor caused the fire; whether the Defendant is liable for the actions of its contractor; and whether the Defendant's and the Association's failure to maintain the premises resulted in (or contributed to) the fire as well as Plaintiffs' constructive eviction. These questions will be answered consistently for the entire class and this case is thus capable of class wide resolution. *See Sosa*, 73 So. 3d at 110.

c. **TYPICALITY**

Rule 1.220(a)(3) requires a plaintiff to demonstrate that his or her claims are typical of those of the proposed class. "The key inquiry for a trial court when it determines whether a proposed class certifies the typicality requirement is whether the class representative possesses the same legal interest and has endured the same legal injury as the class members." *Sosa*, 73 So. 3d at 114. Like

the test for commonality, the test for typicality is not demanding, and focuses on the general similarity between the plaintiffs' legal theories and the theories of those whom they seek to represent. *Morgan v. Coats*, 33 So. 3d at 65. "Mere factual differences between the class representative's claims and the claims of the class members will not defeat typicality." *Discount Sleep of Ocala, LLC v. City of Ocala*, 245 So. 3d 842, 852 (Fla. 5th DCA 2018) (citing *Sosa*, 73 So. 3d at 114).

The Court finds that Plaintiffs' claims are typical of those of all absent class members. Plaintiffs and the proposed class members were all tenants and lawfully occupying the New World Condo on the day of the fire. Plaintiffs' claims are based on the same legal theories as the claims of the rest of the class members: Defendant's alleged negligence and breach of its duties. Plaintiffs and the proposed class members claims all arise from the same facts, including the alleged failure to maintain adequate fire safety measures and hiring of an unlicensed contractor, which Plaintiffs allege led to the fire at the New World Condo and the harms they suffered. Additionally, Plaintiffs and the proposed class all suffered the same harms—they had their residences destroyed by the fire or water damage, lost all or most of their personal belongings, and were forced to relocate—and seek compensation for their losses due to the fire.

d. **ADEQUACY**

To satisfy Rule 1.220(a)(4), a plaintiff must show that "the representative party can fairly and adequately protect and represent the interests of each member of the class." Fla. R. Civ. P. 1.220(a)(4); *Sosa,* 73 So. 2d at 115. "In examining adequacy, a trial court's inquiry is two-pronged: (1) whether the class counsel has the qualifications, experience, and ability to conduct the litigation; and (2) whether the class representative's interests are antagonistic to the interests of the class members." *Pinnacle Condo. Ass'n, Inc. v. Haney*, 262 So. 3d 260, 263 n.4 (Fla. 3d DCA 2019).

The Court finds that adequacy is met in this case. First, the proposed class counsel from the law firms of Kozyak Tropin & Throckmorton and Stewart Tilghman Fox Bianchi & Cain, P.A. regularly engage in complex litigation and have the qualifications, experience and ability to conduct this litigation. Second, Plaintiffs have the same interests as the proposed class members because they and all the proposed class members were tenants and lawful occupants of the New World Condo and have suffered the same types of harm due to the same course of conduct. Plaintiffs have also participated in discovery and sat for hours of deposition, illustrating to this Court that they are adequate representatives.

VI. **PLAINTIFFS SATISFY THE REQUIREMENTS OF RULE 1.220(b)**

In addition to meeting the four requirements of Rule 1.220(a), a plaintiff seeking class certification must satisfy one of the subsections of Rule 1.220(b). Rule 1.220(b)(3) provides that certification is appropriate if common questions of law or fact predominate over any individual questions of the separate members, and the class action is superior to other available methods for a fair and efficient adjudication of the controversy. Fla. R. Civ. P. 1.220(b)(3). Here, both requirements are met.

a. **PREDOMINANCE**

The predominance requirement parallels the commonality requirement of Rule 1.220(a)(2), but they are not identical. "The predominance requirement is more stringent because, to satisfy this requirement, common questions must not only exist but also predominate and pervade." *Sosa*, 73 So. 3d at 111. "Florida courts have held that common questions of fact predominate when the defendant acts toward the class members in a similar or common way." *Id.* Predominance is also satisfied where a class representative necessarily proves the cases of the other class members by proving his own individual case. *Id.* at 112.

Here, the Court finds that common questions of fact and law predominate over individual

inquiries. Plaintiffs' claims are rooted in Defendant's alleged negligent conduct, which uniformly affected all class members. Common legal issues also include whether Defendant had a legal duty to the tenants or lawful occupants, whether that duty was nondelegable, and whether that duty was breached. By establishing Defendant's negligence toward any of the Plaintiffs as tenants of New World Condo, Plaintiffs will necessarily establish Defendant's negligence toward the entire class. Although Plaintiffs may have individual damages determinations, that does not preclude this Court's decision to certify the class. *See Sosa*, 73 So. 3d at 113.

b. **SUPERIORITY**

Courts consider three factors when deciding whether a class action is the superior method of adjudicating a controversy: "(1) whether a class action would provide the class members with the only economically viable remedy; (2) whether there is a likelihood that the individual claims are large enough to justify the expense of separate litigation; and (3) whether a class action cause of action is manageable." *Sosa*, 73 So. 3d at 116 (citing *Morgan*, 33 So. 3d at 66).

Here, the Court finds that a class action is the superior method to adjudicate this case. Pursuing individual claims would likely be financially burdensome and impractical for Plaintiffs and many, if not all, class members. The litigation of this case as a class action will also create efficiencies because Plaintiffs' claims present identical issues for all class members, which Defendant will likely meet with identical defenses. Thus, the litigation of these issues in one proceeding rather than over 142 separate proceedings will "provide tremendous economy to the judiciary and to the [defendant]." *City of Pompano Beach v. Fla. Dep't of Agric.*, No. 00-18394, 2002 WL 1558217, at *6 (Fla. Cir. Ct. Jan. 24, 2002). Plaintiffs have also proffered methodologies to assess damages for the class. That is all that is required at this juncture of the proceedings.

CONCLUSION

Based on the foregoing, the Court **ORDERS AND ADJUDGES** that Plaintiffs have demonstrated

by competent, substantial evidence that this action meets the requirements for class certification pursuant to Florida Rule of Civil Procedure 1.220. The Court certifies the class as herein defined: "All tenants and others who lawfully resided in a condominium unit at New World Condo on January 28, 2023." The Court appoints Plaintiffs as Class Representatives and Dwayne Robinson, Esq., Benjamin Widlanski, Esq., and Abe Andrew Bailey, Esq., of Kozyak Tropin & Throckmorton and Michael Levine, Esq., of Stewart Tilghman Fox Bianchi & Cain, P.A. as counsel on behalf of the class.

---

[1] At the conclusion of the hearing the Court orally announced its rulings on the record and requested that Movants' Counsel prepare an initial draft of the written order. The Court then carefully reviewed and edited counsel's draft, ensuring that this Order accurately reflects its independent and unexaggerated judgment. *Compare Univ. of Miami v. Jones*, 390 So. 3d 213, 214 (Fla. 3d DCA 2024) (cleaned up) ("Trial courts are not precluded from adopting a party's proposed order, so long as the order does not substitute for a thoughtful and independent analysis of the facts, issues, and law by the trial judge.") *with Corp. Mgmt Advisors, Inc. v. Boghos*, 756, So.2d 246, 249 (Fla. 5th DCA 2000) ("a judge's practice of delegating the task of drafting sensitive, dispositive orders to counsel, and then uncritically adopting the orders nearly verbatim would belie the appearance of justice and creates the potential for overreaching and exaggeration on the part of the attorney preparing findings of fact") *and Perlow v. Berg-Perlow*, 875 So. 2d 383, 390 (Fla. 2004) ("[w]hen the trial judge accepts verbatim a proposed final judgment submitted by one party without an opportunity for comments or objections by the other party, there is an appearance that the trial judge did not exercise his or her independent judgment in the case. This is especially true when the judge has made no findings or conclusions on the record that would form the basis for the party's proposed final judgment. This type of proceeding is fair to neither parties involved in a particular case nor our judicial system … the better practice would be for the trial judge to make some pronouncements on the record of his or her findings and conclusion in order to give guidance for preparation of the proposed final judgment").

> Initially, we note that "Florida law does not prohibit the adoption, verbatim, of a judgment that has been proposed by a party to the litigation" Smith v. Wallace, 249 So. 3d 670, 672 (Fla. 2d DCA 2017); *In re T.D. v. Dep't of Children & Family Servs*., 924 So. 2d 827, 831 (Fla. 2d DCA 2005) (no "post-Berg-Perlow decisions of this court requires reversal solely on the ground that a trial court has adopted a judgment prepared by one of the parties"). *See also Kendall Healthcare Grp., Ltd. v. Madrigal*, 271 So. 3d 1120, 1122 (Fla. 3d DCA 2019) (rejecting appellant's argument "that the trial judge failed to exercise his independent judgment merely because he adopted verbatim [appellee's] proposed order"). Instead, **"what is critical for a reviewing court is that a final judgment reflect the trial judge's independent decision on the issues of a case, not that the judge used words drafted by one of the parties to express that decision."**
>
> *Flint v. Fortson*, 744 So. 2d 1217, 1220 (Fla. 4th DCA 1999).

Tercier v. Univ. of Miami, Inc., 383 So. 3d 847, 854 (Fla. 3d DCA 2023), *reh'g denied* (Oct. 6, 2023) (emphasis added).

DONE and **ORDERED** in Chambers at Miami-Dade County, Florida on this 23rd day of April, 2025.

2023-019490-CA-01 04-23-2025 1:47 PM

2023-019490-CA-01 04-23-2025 1:47 PM
Hon. Thomas J. Rebull

CIRCUIT COURT JUDGE
Electronically Signed

No Further Judicial Action Required on **THIS MOTION**

CLERK TO **RECLOSE** CASE IF POST JUDGMENT

Electronically Served:
Abe Andrew Bailey, abailey@kttlaw.com
Abe Andrew Bailey, mr@kttlaw.com
Alisha Hixon, alisha.hixon@fpl.com
Amber J. Mannings, amannings@kttlaw.com
Amber J. Mannings, sv@kttlaw.com
Daniel A. Pelz, dpelz@drbdc-law.com
Daniel A. Pelz, dortiz@drbdc-law.com
Daniel A. Pelz, service-dap@drbdc-law.com
Dwayne A. Robinson, drobinson@kttlaw.com
Dwayne A. Robinson, LMF@Kttlaw.com
Dwayne A. Robinson, fsr@kttlaw.com
Joseph W. Downs, jdowns@drbdc-law.com
Joseph W. Downs, dortiz@drbdc-law.com
Joseph W. Downs, Service-jwd@drbdc-law.com
Lorenzo Lorenzo Jr, llorenzo@drbdc-law.com
Lorenzo Lorenzo Jr, Service-LL@drbdc-law.com
Lorenzo Lorenzo Jr, marodriguez@drbdc-law.com

Physically Served: