

24th JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

NO. 839-979

DIVISION "H"

ANNE CANNON, INDIVIDUALLY,
AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED

VERSUS

METAIRIE TOWERS CONDOMINIUM ASSOCIATION, INC., METAIRIE TOWERS BOARD OF DIRECTORS, THROUGH ITS INDIVIDUAL MEMBERS, RON CARTER, BETTY MILES, ELLYN MEIER, CAROLYN DIAZ, JENNIFER FAGAN, MARY KAY ZAHN, & ANNE BABST, STRATEGIC CLAIMS CONSULTANTS, LLC, GNO PROPERTY MANAGEMENT, L.L.C., BURLINGTON INSURANCE COMPANY, GREENWICH INSURANCE COMPANY, FEDERAL INSURANCE COMPANY, INTERSTATE FIRE & CASUALTY INSURANCE COMPANY, COLONY INSURANCE COMPANY, SCOTTSDALE INSURANCE COMPANY, EVANSTON INSURANCE COMPANY, OLD REPUBLIC INSURANCE COMPANY, ACE PROPERTY AND CASUALTY INSURANCE COMPANY, HARCO NATIONAL INSURANCE COMPANY, AND INTERNATIONAL FIDELITY INSURANCE COMPANY

FILED: _____

DEPUTY CLERK

FIFTH SUPPLEMENTAL AND AMENDING
CLASS ACTION PETITION FOR DAMAGES

NOW INTO COURT, through undersigned counsel, comes the **Plaintiff, Anne Cannon**, individually and on behalf of all others similarly situated, who respectfully represents as follows:

1.

The Class Action Petition for Damages is supplemented to add Paragraph XLI as follows:

XLI.

La. R.S. § 9:2792.1 provides:

A person who serves as a director...of a homeowners association...shall not be individually liable for any act or omission resulting in damage or injury...provided he was acting in good faith and within the scope of his official functions and duties, unless such damage or injury was caused by his willful or wanton misconduct.

2.

The Class Action Petition for Damages is supplemented to add Paragraph XLII as follows:

XLII.

The Board members are not exempt from liability in their individual capacity because they were not acting within the scope of their official functions and duties as required by La. R.S. § 9:2792.1.

3.

The Class Action Petition for Damages is supplemented to add Paragraph XLIII as follows:

XLIII.

Additionally, the Metairie Towers Declaration of Condominium, Section IV(4), provides:

Neither the directors, Board, officers of the Association, nor Declarant shall be personally liable to the Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as Directors, Board, Officers, or Declarant, except for any acts or omissions found by a court to constitute gross negligence or fraud.

4.

The Class Action Petition for Damages is supplemented to add Paragraph XLIV as follows:

XLIV.

The Board members are not exempt from personal liability because they committed gross negligence.

5.

The Class Action Petition for Damages is supplemented to add Paragraph XLV as follows:

XLV.

Specifically, the Board members committed gross negligence and/or acts and omissions beyond their official functions and duties by violating the Declaration of Condominium and the Louisiana Condominium Act in the following non-exclusive respects:

- (1) Failing to restore and repair Metairie Towers in violation of the Declaration of Condominium Section XI(1) and La. R.S. §§ 9:1123:107 and 9:1123.112(G);
- (2) Entering into contracts without proper due diligence or vetting and failing to get competitive bids;
- (3) Failing to put important and/or required issues to a vote of the unit owners, including serious financial issues, deviation from the condominium documents in violation of the Declaration of Condominium, Section XIX, and the decision to proceed with remediation, repairs, and/or asbestos abatement in violation of the Declaration of Condominium, Section XI(1) and La. R.S. § 9:1123.112(G);
- (4) Gutting Metairie Towers and all its units down to the studs without approval of the unit owners and without having sufficient funds to complete the restoration;
- (5) Failing to be transparent with the unit owners, including regarding the restoration timeline and the sufficiency of the insurance funds;
- (6) Failing to comply with the requirements of the Declaration of Condominium X(5) and La. R.S. § 9:1123.112(D), which required the appointment of a trustee for the benefit of the unit owners to manage the insurance proceeds, including failing to enter into an insurance trust agreement with GNO and/or Strategic;
- (7) Failing to ensure or certify that there were sufficient insurance funds to complete the restoration when invoices were paid;

- (8) Failing to properly manage or administer the insurance funds;
- (9) Failing to have Metairie Towers annually appraised for the purpose of maintaining adequate property insurance in violation of the Declaration of Condominium Section X(1) and La. R.S. § 9:1123.112(A)(1);
- (10) Failing to maintain adequate property insurance in violation of the Declaration of Condominium Section X(1) and La. R.S. § 9:1123.112(A)(1);
- (11) Failing to obtain construction bids early on following Hurricane Ida and the subsequent water event of September 28, 2021 to determine how much it would cost to complete the restoration project;
- (12) Settling the first party insurance claims without first having obtained construction bids and without knowing how much it would cost to complete the restoration project;
- (13) Mismanaging the insurance claims and the remediation, repairs, and restoration project; and
- (14) Failing to retain a construction manager to oversee the restoration project.

6.

The Class Action Petition for Damages is supplemented to add Paragraph XLVI as follows:

XLVI.

Because many of their omissions and actions alleged herein explicitly violated the Declaration of Condominium and the Louisiana Condominium Act, the Board was not acting within the scope of their official functions and duties and is not shielded from individual liability by La. R.S. § 9:2792.1.

7.

The Class Action Petition for Damages is supplemented to add Paragraph XLVII as follows:

XLVII.

Moreover, the Board members acted with gross negligence as alleged and enumerated herein and thus, pursuant to its own Declaration of Condominium, they may be held personally liable.

8.

Plaintiff reasserts and reavers all allegations contained in the Original and First, Second, Third, and Fourth Supplemental and Amending Class Action Petition for Damages as if copied herein *in extenso*.

WHEREFORE, your Plaintiff, Anne Cannon, individually and on behalf of all others similarly situated, prays that a copy of this Fifth Supplemental and Amending Class Action Petition for Damages be duly cited and served upon the Defendants, and that after due proceedings are had, that there be judgment rendered in favor of Plaintiff, and against Defendants, jointly, severally and *in solido*, in the full and true sum fixed by this Honorable Court, together with legal interest from the date of judicial demand, until paid, for all costs of these proceedings, and for all general and equitable relief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have on the 20 day of may, 2025 served a copy of the foregoing pleading on all known counsel for all parties to this proceeding, by emailing, faxing, or mailing same by United States mail, properly addressed and first-class postage prepaid.