

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

CASE NO.: 98-11208 CA 31

CARL L. MASZTAL, JOSEPH A.  
GRAUPIER JUANA MARTINEZ and  
MARISOL FERNANDEZ, on behalf of  
themselves and all others so similarly  
situated,

Plaintiffs,

v.

THE CITY OF MIAMI, FLORIDA and  
ADORNO & YOSS, LLP,

Defendants.

---

**SECOND AMENDED ORDER GRANTING PRELIMINARY APPROVAL  
OF THE ADORNO AMENDED SETTLEMENT AGREEMENT AND  
CITY SETTLEMENT AGREEMENT AND SETTING DATE FOR  
FAIRNESS HEARING**

THIS CAUSE having come before the Court on a Joint Motion to Amend the Court's Previous Order Granting Preliminary Approval of Class Action Settlements, pursuant to Fla. R. Civ. P. 1.220(e), and the Court having reviewed and considered the Joint Motion for Amendment of the Order Granting Preliminary Approval of Class Action Settlement Agreement and Release reached by Plaintiffs, the Class and the City ("City Settlement") and the Class Motion for Preliminary Approval of Revised Law Firm Settlement Agreement and Release reached by the Plaintiffs, the

Class, and Adorno & Yoss, LL.P. ("Adorno Settlement"), having heard argument of counsel, testimony of witnesses, reviewed the amended settlement agreements, and having considered the terms and conditions of the proposed City Settlement and Adorno Settlement, and all prior proceedings had in this matter, and good cause for this Order having been shown,

**NOW, THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED** that the motion is **GRANTED** and that **paragraphs 8, 10, 13, 13(d) and 16 are amended as follows.**

1. The terms of the City Settlement Agreement and Release and the Revised Adorno Settlement and Release are hereby *preliminarily* approved, subject to further consideration at the Final Fairness Hearing provided for below. The Court concludes that the Settlements are sufficiently within the range of reasonableness to warrant the conditional certification of the settlement Class, the scheduling of the Final Fairness Hearing and the circulation of notice to members of the Class, each as provided for in this Order.

2. The Court finds that the proposed Settlement Agreements and Releases, filed of record, appear, upon preliminary review, to be fair, adequate, and reasonable, and shall be submitted to the class members for their consideration and for a final fairness hearing to determine whether the settlement will be approved by this Court.

3. All terms of the Settlement Agreements are expressly incorporated herein by reference and made part of this Order as if fully set forth herein. As to

all capitalized terms not expressly defined in this Order, the definitions set forth in the Settlements are controlling.

*CONDITIONAL CERTIFICATION OF THE CLASS*

4. For purposes of settlement only, pursuant to Fla. R. Civ. P. 1.220, the action styled Carl L. Masztal, Joseph A. Graupier, Juana Martinez, and Marisol Fernandez, on behalf of the themselves and all others similarly situated v. The City of Miami, Florida and Adorno & Yoss, LLP, Case No. 98-11208 CA 01, is conditionally certified as a class action on behalf of the following persons (the "Class"):

all persons or entities (including qualified legal successors as defined in paragraph 1.18 of the Settlement Agreements) that owned property in the City of Miami, Florida, including the City's former and current employees, agents, representatives, officials, officers, and their immediate family members, standing in their individual capacity as taxpayers, that paid the Fire/Rescue Assessment and/or Fire Assessment collected by the City from fiscal year 1997-1998 through and including fiscal year 2006-2007. The City of Miami is excluded from the Class.

5. The named Representative Plaintiffs, Carl L. Masztal, Joseph A. Graupier, Juana Martinez and Marisol Fernandez, are temporarily certified as representatives of the Class. This conditional certification of the Class and class representatives is solely for purposes of effectuating the Settlements. If the Settlement Agreements are terminated or are not consummated for any reason, the foregoing conditional certification of the Class and appointment of class representatives shall be void and of no further effect and the parties to the Settlements shall be returned to the status each occupied before entry of this

Order without prejudice to any legal argument that any of the parties to the Settlement Agreements might have asserted but for the Settlement Agreements.

6. Class certification under Fla. R. Civ. P. 1.220 is the fairest and most efficient and economical way of dealing with a multitude of individual claims that have been or could have been filed against the City and/or Adorno & Yoss. Pursuant to the Settlements between the parties, the Court finds that:

- a. The Class members are so numerous that joinder is impracticable;
- b. The claims of Carl L. Maszta, Joseph A Graupier, Juana Martinez and Marisol Fernandez, the class representatives, raise questions of law and fact common to the claims of the Class members and such questions of law and fact predominate;
- c. The claims of Carl L. Maszta, Joseph A Graupier, Juana Martinez and Marisol Fernandez, the class representatives, are typical of the claims of each Class member;
- d. Carl L. Maszta, Joseph A Graupier, Juana Martinez and Marisol Fernandez, are appropriate and adequate representatives for the Class that can protect the interest of all Class members that comprise the Settlement Class;
- e. Class counsel Richard L. Williams, Patrick A. Scott and Michael Garcia-Petit, are experienced and capable class counsel and shall serve as lead counsel for the Class; and
- f. A class action is an appropriate method for the fair and efficient adjudication of the claims of the Class members in this case.

*Class Notice and Right to Opt-Out*

7. The Class Notice combining notice of both Settlement Agreements and of the Final Fairness Hearing shall be provided to the Class by the Plaintiff both by mail and publication, in substantially the form submitted to the Court in its last hearing. The Class Notice is found to be an adequate and reasonable method of

notice that satisfies the requirements of Fla. R. Civ. P. 1.220, the Rules of this Court and due process.

8. The Class Notice Period will run for a period of forty-five (45) days commencing on May 6, 2008 and ending on June 19, 2008. Publication of Class Notice will run for a period of twenty (20) continuous days.

Fifteen (15) days into the Class Notice Period (May 20, 2008), the Administrator will commence publication of the Class Notice, at a minimum, six (6) times over the course of twenty (20) days locally in *The Miami Herald*, *El Nuevo Herald*, *Daily Business Review*, *Sun-Sentinel*, *Caribbean Today*, *Haiti En Marche* and nationally two (2) times in the *USA Today*.

Furthermore, all applicable notices, forms and the web site shall be in English, Spanish and Creole. Notices to appear in publication may appear in the primary language of the publication but must contain a disclaimer in the other two languages directing any possible claimant to the web site to obtain the full notices in their appropriate language.

The Administrator is to notify this Court and copy all counsel of record, prior to exceeding \$300,000 in costs and expenses. In addition, the Administrator is to provide the Court with a monthly accounting report, beginning on July 1, 2008, containing at a minimum the amounts spent and the purpose for the expenditure.

9. The Court also finds that the content of the Class Notice satisfies all of the necessary requirements in that it informs the class members as to (1) the nature of the pending litigation, (2) the right to object or opt out, (3) the fact that

they will be bound by the Final Judgment, if they choose not to opt out, (4) the general terms of the settlements, (5) the complete information being available in the Court files; and (6) the fact that any class member may be heard at the specified date, time, and place of the fairness hearing.

10. A Class Member may opt-out of the class at any time prior to July 10, 2008. Any class member that wishes to opt out or exclude themselves from the Settlements must file their written request for exclusion with the Clerk of the Court no later than July 10, 2008 as well as mail a copy to the Administrator postmarked no later than July 10, 2008 (twenty (20) days before the Fairness Hearing) at the following addresses.

To the Administrator: Masztal v. City of Miami  
Settlement Administrator  
P.O. Box 3170  
Portland, OR 97208-3170

To the Clerk of Court: Clerk of Court  
11th Judicial Circuit  
73 West Flagler St.  
Miami, FL 33130

11. The Court finds that the "opt-out" procedures as set forth in the Settlement Agreements are fair, reasonable and adequate.

12. The Court finds that the Class Notice and the Request for Refund Forms, and the post-settlement methodology set forth in the Settlement Agreements and Releases are reasonably calculated, under all of the circumstances, to apprise class members of their rights pursuant to the settlements and that those materials satisfy the requirements of due process, Fla. R. Civ. P. 1.220, and the Rules of this Court.

*FINAL FAIRNESS HEARING: RIGHT TO APPEAR AND OBJECT*

13. A Final Fairness Hearing shall take place before the undersigned, at the Eleventh Circuit Court, Dade County Courthouse, 73 West Flagler St., Miami, FL 33130, Courtroom 11-1, on Wednesday, July 30, 2008 at 10:00 A.M. to determine:

(a) whether the Court should certify the Class and whether Representative Plaintiffs and their counsel have adequately represented the Class;

(b) whether the Settlements, on the terms and conditions provided for in the Settlement Agreements, should be finally approved by the Court as fair, reasonable and adequate;

(c) whether the Action should be dismissed on the merits and with prejudice;

(d) whether the application for attorneys' fees and costs submitted by Class Counsel should be approved; and

1) A preliminary attorneys' fee hearing is scheduled for June 23, 2008 at 10:00 A.M. at the Dade County Courthouse, 73 West Flagler St., Miami, FL 33130, Courtroom 11-1 to hear testimony on Class Counsels' Attorneys' Fees Motion.

2) Any motions in support or opposition to said Attorneys' Fees must be submitted to the Court no later than the close of business on July 16, 2008, this includes any amendments to Class Counsels' previously submitted Attorneys' Fees Motion.

(e) such other matters as the Court may deem necessary or appropriate.

14. Counsel for the Parties should be prepared at the hearing to respond to any objections filed by the class members and to provide other information, as appropriate, bearing on whether or not the settlements should be approved.

15. The Court may finally approve the Settlements at or after the Final Fairness Settlement Hearing with any modifications agreed to by the parties and without further notice to the Class.

16. Any member of the Class that files and serves a written objection in the manner set forth below may appear at the Final Fairness Hearing in person or by counsel (a notice of appearance must be filed) and be heard, to the extent allowed by the Court, to object. However, no person shall be heard, and no papers, briefs, or other submissions shall be considered by the Court in connection with its consideration of those matters, **unless** on or before July 10, 2008 (twenty (20) days before the final fairness hearing), such person:

(a) files with the Clerk of the Circuit Court a notice of such person's intention to appear, together with a statement setting forth such person's objections to the matters to be considered and the basis therefore including specific legal authority and factual bases, together with any documentation that such person intends to rely upon at the Final Fairness Hearing, and

(b) serves copies of all such materials either by hand delivery or by first-class mail, postage prepaid, upon the following counsel:

To Adorno's Counsel: Hinshaw & Culbertson LLP  
Ronald L. Kammer, Esq.  
David P. Hartnett, Esq.  
9155 S. Dadeland Blvd.  
Suite 1600  
Miami, FL 33156

To Class Counsel: Patrick A. Scott, Esq.  
Richard L. Williams, Esq.  
Michael Garcia-Petit, Esq.  
2800 Miami Center  
201 S. Biscayne Blvd.  
Miami, FL 33131-4330

To Counsel for City: Julie O. Bru, City Attorney  
Office of the City Attorney  
444 SW Second Ave, Ste. 945

Miami, FL 33131

Thomas E. Scott, Esq.  
Scott A. Cole, Esq.  
Krista A. Fowler, Esq.  
Cole, Scott & Kissane, P.A.  
1390 Brickell Ave., Third Floor  
Miami, FL 33131

17. In accordance with the Settlement Agreements, if final approval is granted, the Class will release the City of Miami, Florida, including all of its current and former directors, officers, officials, employees, agents, representatives, attorneys, and managers; Adorno & Yoss, LLP, its insurers and reinsurers, its current or former attorneys, shareholders, staff, employees, officers, directors, representatives or agents, Henry Adorno, Mitchell Bloomberg, Robin Campbell; the Original Plaintiffs Eva Nagymihaly, Gordon Willits, Kenneth Merker, Jean and Jocelyn Prosper; and Judy Clark, Peter Clancy, Tenants and Taxpayers United for Fairness, Inc., and TTUFF, Inc., from any and all, and all manner of action and actions, cause and causes of action, claims, contracts, controversies, covenants, damages, legal and administrative relief, whether based upon federal, state, or local law, statute or ordinance, regulation, common law, contract, or any other source, including any claims relating to federal or state law, that have been, could have been, may or could be alleged or asserted, now or in the future by Plaintiffs, or any Class member, against the above parties, persons or entitles.

18. In addition, upon final approval of the Settlement Agreements by the Court, each Class member who has not timely excluded himself, herself or itself, will be deemed to have covenanted and agreed that he or she will forever refrain from instituting, maintaining, collecting or proceeding against any of the parties

contemplated to be released hereby, as more fully set forth in the paragraph above.

19. The Administrator is directed to give notice of the hearing and the Proposed Settlements to the Class members pursuant to the Settlement Agreements and Releases.

20. All Class members are barred and enjoined from prosecuting or continuing to prosecute any claims that are settled pursuant to the Settlement Agreements and Releases until such time as the Court considers this matter for final approval.

**DONE AND ORDERED** in Chambers, Miami, Florida, this 5 day of May, 2008.

  
\_\_\_\_\_  
**The Honorable Jose Rodriguez**  
**Circuit Court Judge**

- Copies furnished to:**  
 Richard L. Williams, Esquire  
 Patrick A. Scott, Esquire  
 Michael Garcia-Petit, Esquire  
 Lewis N. Brown, Esquire  
 Dyanne Feinberg, Esquire  
 Clifford Kornfield, Esquire  
 William Sullivan, Esquire  
 Norman Malinski, Esquire  
 Jaqueline Calderin, Esquire  
 Ronald L. Kammer, Esquire  
 David Hartnett, Esquire  
 Scott A. Cole, Esquire