

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

**DOUGLAS CHIODINI, on behalf of himself
and all others similarly situated,**

Plaintiff,

v.

BH MANAGEMENT SERVICES, LLC,

Defendant.

Case No. 6:23-cv-147-CEM-DCI

CLASS ACTION

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (hereinafter referred to as the “Agreement”), dated December 13, 2024, is entered into between Plaintiff, Douglas Chiodini (“Plaintiff” or “Class Representative”), individually and on behalf of the “Class Members” (as defined below), and Defendant, BH Management (“Defendant” or BH”). This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the “Released Claims” in favor of the “Released Parties,” as defined below, upon and subject to the terms and conditions contained herein and the approval of the Court.

RECITALS

WHEREAS, on January 21, 2023, Plaintiff filed a Class Action Complaint in the above-styled action asserting claims against BH under the Florida Residential Landlord Tenant Act, Fla.

Stat. § 83.40 (“FRLTA”) and Florida’s Consumer Collection Practices Act, Fla. Stat. § 559, *et seq.* (“FCCPA”), for retained security deposits fees collected by BH (the “Lawsuit”);

WHEREAS, on October 29, 2024, the Parties engaged in voluntary mediation with experienced Mediator, Lance Harke, and through that process reached an agreement under which the Parties desire and intend to settle and resolve the claims asserted in the Lawsuit on a class-wide basis;

WHEREAS, the Parties wish to avoid the expense and uncertainty of continued litigation;

WHEREAS, the Parties believe that settlement by way of this Agreement is in their best interest;

WHEREAS, counsel for the Class Members believes, in view of the costs, risks, and delays and potential benefit of continued litigation and perhaps additional appeals balanced against the benefits of settlement to the Class Members, that the class settlement as provided in this Agreement is in the best interest of the Class Members and is a fair, reasonable, and adequate resolution of the Lawsuit;

WHEREAS, prior to entering into this Agreement, counsel for the Parties engaged in significant discovery and mediation;

WHEREAS, the Parties desire and intend to seek Court approval of the proposed class action settlement of the Lawsuit as set forth in this Agreement and, upon Court approval, to seek a Final Order and Judgment implementing this Agreement and dismissing with prejudice the claims of the Plaintiff and Class Members as set forth herein;

WHEREAS, the Parties and their counsel agree to recommend approval of this Agreement to the Court; and

WHEREAS, the Parties agree to undertake all steps necessary to effectuate the terms and purposes of this Agreement, and to secure the Court's approval of this settlement.

WHEREFORE, in consideration of the promises, representations, and warranties set forth, the Parties stipulate and agree as follows:

1. DEFINITIONS - The following definitions shall apply to this Agreement:

A. "Class Member(s)" or "Class" shall collectively mean the two classes outlined in this Paragraph below:

All persons in the State of Florida who (a) leased a dwelling unit in a property managed by BH Management, (b) did not receive a Fla. Stat. §83.49(3)(a) compliant notice letter, (c) had any portion of their security deposit retained, and (d) do not owe an alleged balance to BH or the property owner.

The "Security Deposit Class." There are 5,207 members of the Security Deposit Class.

All persons in the State of Florida who (a) leased a dwelling unit in a property managed by BH Management, (b) did not receive a Fla. Stat. §83.49(3)(a) compliant notice letter, and (c) had any portion of their security deposit retained, and (d) do owe an alleged balance to BH or the property owner.

The "Security Deposit Balance Class." There are 827 members of the Security Deposit Balance Class

B. "Effective Date" shall mean the first calendar day after "Final Judgment Date" (as defined below).

C. "Final Order and Judgment" shall mean a final order from the Court presiding over Lawsuit that (1) approves this Agreement as fair, reasonable, and adequate, and (2) dismisses with prejudice the claims alleged by Plaintiff and the Settlement Class in the Lawsuit.

D. "Final Judgment Date" shall mean the day upon which the Court enters the Final Order and Judgment becomes "Final." If the Final Order and Judgment is objected to or appealed, the Judgment will become final upon the expiration of thirty (30) days after the final

disposition of any such appeal, which final disposition affirms the Court's Final Order and Judgment and orders the consummation of the settlement in accordance with the terms and provisions of this Agreement.

E. "Released Parties" shall include Plaintiffs, all Class Members, and BH Management Services, LLC, any entity having an ownership interest in the list or properties attached to this Agreement as **Exhibit A** and each of their affiliate, predecessors, successors, assigns, past or present directors, officers, employees, and agents (collectively, "BH Entities").

F. "Released Claims" shall mean any and all claims, causes of action, suits, obligations, debts, demands, agreements, promises, liabilities, damages, losses, controversies, costs, expenses, and attorney's fees of any nature whatsoever, whether based on any federal law, state law, common law, or of any other type or form (whether in contract, or otherwise, including statutory, common law, property, and equitable claims), which Plaintiff or any settlement Class Member has or may have arising out of their apartment rental at a BH Entities property or their apartment lease with any of the BH Entities, or which any BH Entities have or may have against Plaintiff or any settlement Class Member(s) relating to the amounts returned or debts released arising out of their apartment rental at a BH Entities property pursuant to this Settlement Agreement.

2. CLASS CERTIFICATION - Concurrent with seeking preliminary approval of the Settlement, counsel for the Plaintiff shall seek certification for settlement purposes of the Class defined herein pursuant to Federal Rule of Civil Procedure 23.

3. REPRESENTATIVE AND CLASS COUNSEL APPOINTMENT - For settlement purposes, and subject to Court approval, Plaintiff, Douglas Chiodini, shall be appointed as the Class Representatives and Jeffrey Newsome, Brian Warwick, Christopher Brochu, Janet Varnell,

and Pamela Levinson of Varnell & Warwick, P.A. shall be appointed to act as counsel for the Settlement Class (hereinafter referred to as “Class Counsel”).

4. ORDER OF PRELIMINARY APPROVAL - The Parties agree that they shall have until December __, 2024 to submit the Settlement Agreement and Motion for Preliminary Approval to the Court and to request a Preliminary Approval Hearing in January 2025, or as soon as the Court and the parties are available. Defendant shall join in the relief sought in the Motion for Preliminary Approval.

5. FINAL ORDER AND JUDGMENT - If the Court preliminarily approves the settlement, and all other conditions precedent to the settlement are satisfied, and notice has been issued to the Class, counsel for the Parties shall jointly file a Motion for Final Order and Judgment.

6. ADMINISTRATION AND CLASS NOTICE PROCESS - Defendant shall separately fund the reasonable cost of a third-party administrator to run skip-trace searches on each former tenant. Defendant shall provide the Class Member’s (1) name, (2) date of birth, (3) last known address, (4) phone number, and (5) email address.

A. Written Notice – Within 30 days of the entry of the Court’s Preliminary Approval Order, the Defendant shall send via U.S. mail a written notice of the proposed class action settlement to be approved by the Parties and submitted to the Court with the Memorandum of Law in Support of Preliminary Approval.

B. Address Updating/Mail Returns - Before sending the written notice required by the previous subparagraph, the Defendant shall update all Class Member addresses through the standard methodology that the administrator regularly uses to update mailing addresses. Defendant will forward any notices that are returned with a forwarding address and shall update the Class Member address list with all forwarding addresses.

7. REQUESTS FOR EXCLUSION AND OBJECTIONS - Defendant shall receive, collect and administer any and all requests for exclusion, and promptly send a copy of all exclusion requests to Class Counsel for the parties for appropriate docketing. At the conclusion of the Notice Period and in preparation for Final Approval, the Defendant shall provide a declaration detailing compliance with the Notice plan and receipt of any opt out or objections.

A. Any Class Member who desires to be excluded from the class must send a written request for exclusion to the Defendant with a postmark date no later than 30 days after mailing of the Class Notice. The Defendant shall promptly provide a list of each Class Member who submitted a timely exclusion to Class Counsel. A copy of this list will be filed with the Court, along with the Plaintiff's Motion for Final Approval of Class Action Settlement.

B. In the written request for exclusion, the Class Member must set forth his or her full name and address along with a statement that he or she wishes to be excluded.

C. Any Class Member who submits a valid and timely request for exclusion shall not be bound by the terms of this Agreement.

D. Any Class Member who intends to object to the fairness of this settlement must file a written objection with the Clerk of the Court, and Counsel for Defendants and Class Counsel within 30 days after the mailing of the Notice. In the written objection, the Class Member must state: his or her full name, address, telephone number, and email address (if available); the reasons for his or her objection; and, whether he or she intends to appear at the fairness hearing on his or her own behalf or through counsel.

E. Any Class Member who does not file a valid and timely objection to the settlement shall be barred from objecting to the settlement.

F. BH Entities reserve all of their rights and defenses with respect to any potential opt-out Class Member.

8. RELEASES - As of the Effective Date, Plaintiff and the Class Members shall discharge the Released Parties from the Released Claims.

9. SETTLEMENT CONSIDERATION - In consideration for the foregoing releases, the Parties agree to the following:

A. Monetary Relief – Subject to approval of the Court, BH shall create a class fund with an amount of \$572,851.66 payable within thirty (30) days of final approval (the “Settlement Amount”).

- a. Each Security Deposit Class Member who does not seek to exclude him/herself from the settlement will automatically receive a Settlement Payment equal to the amount of 50% of each Security Deposit Class Member’s security deposit, totaling \$541,528.00, as shown in Exhibit B. By way of example, if a Security Deposit Class Member “X” had a \$400 security deposit withheld by BH, X would receive \$200 cash refund and a release from BH stating that BH will not pursue X for the \$200 that was returned.
- b. Security Deposit Balance Class Members that do not seek to exclude themselves will be eligible for up to 50% of the security deposit amount withheld. However, the Security Deposit Balance Class will first exercise their relief as balance debt relief applied to the balance owed equal to 3x the cash relief available. Only if the Security Deposit Balance Class member fails to exercise their full debt relief will they be able to receive cash pro rata for the debt relief they did not exercise. BH will also waive the right to pursue amounts

returned or debts released. The Security Deposit Balance Class will receive \$31,323.66 of cash relief and \$419,178.47 of balance debt relief.

By way of example, if a Security Deposit Balance Class Member “Y” had a \$500 security deposit withheld and a \$250 balance then Y would be eligible for up to \$250 in cash (50% of the deposit). However, that \$250 cash must first be applied to Y’s debt balance, with up to \$750 of debt relief available (3x the cash relief). When applying the \$750 of debt relief to the balance \$250, Y only exercised 33.3% of their debt relief available. Therefore, Y would receive \$167.50 in cash refund, \$250 of balance debt relief, and a release from BH stating that BH will not pursue Y for the \$167.50 returned nor the \$250 balance that was forgiven.

- c. Any portion of the Settlement Amount remaining after the time for cashing checks has expired shall be paid to Legal Services of Greater Miami, as *cy pres* recipient.

The Parties will jointly calculate the total refund payment due under this Settlement for each Class Member based upon **Exhibit B**, the final Settlement Amount will be based on this calculation, accounting for any Class members that exclude themselves, and Defendant will issue refunds accordingly.

A check for the total Settlement Refund Payment due, and a brief description thereof, shall be issued within thirty (30) days of final approval. These benefits will be distributed automatically and do not require any action be taken by the Class Member. In other words, this is not a “Claims Made” type settlement.

BH's obligations per this paragraph will be considered fulfilled upon the mailing of the Settlement Refund Payment checks, regardless of whether any settlement check is received, returned, or cashed, *except* that the Defendant will be obligated to forward all settlement checks returned with a forwarding address to such forwarding addresses. Each settlement check will be negotiable for a period of 90 days after it is mailed, and the checks shall prominently so state.

B. Non-Monetary Relief – Although Florida's Residential Landlord Tenant Act requires security deposits to be returned if the statutory notice requirements are not satisfied before making a claim against security deposit funds, it further provides that the landlord "may file an action for damages after return of the deposit." Fla. Stat. § 83.49(3).

In exchange for Plaintiff and the Class releasing all claims against it, BH Entities have agreed to release and forego the collection of any amounts refunded or any debt waived pursuant to paragraph 9.A. for alleged damage or other fees imposed by BH Entities in connection with Plaintiff and any Class member leasing an apartment unit from any of the BH Entities (including past due rent, damage done to the unit, late fees, pet fees, cleaning fees, etc.). In total, the Security Deposit Balance Class will receive non-monetary benefits of \$419,178.47. Pursuant to this Agreement, BH will waive these disputed amounts as though never owed. BH retains the right to pursue any amount of the outstanding balance that has not been waived pursuant to this Settlement Agreement.

C. Cy Pres Award - Any residual settlement funds (*e.g.*, funds from settlement checks un-cashed (because Class Members cannot be located, or checks not cashed 90 days after the check date, etc.) shall be awarded to Legal Services of Greater Miami for use in consumer representation and advocacy.

D. Class Representative Service Award and Settlement – Within thirty (30) days of final approval, Defendants shall pay Plaintiff Douglas Chiodini a total of \$10,000.00 for his actual damages and for his service as Class Representative. This payment to the Class Representative is separate and apart from any settlement payment to be distributed to all Settlement Class Members.

10. ATTORNEY' S FEES, COSTS, AND EXPENSES – BH agrees to pay Class Counsel's attorney fees in the amount of \$396,148.34 and litigation costs in the amount of \$21,000. Class Counsel's application for approval to the Court shall not exceed this amount. Within thirty (30) days of final approval, BH shall pay Class Counsel the attorney's fees and costs approved by the Court, which covers all attorney's fees and all expenses arising out of the Lawsuit. Defendant shall not oppose Class Counsel's application for, and agrees to pay, separate from the Settlement Amount, the amount awarded up to \$417,148.34 no later than thirty (30) days after the Final Judgment Date. Defendant shall have no further obligation with respect to Class Counsel's fees, costs, and expenses, or the fees, costs, or expenses of any other attorney on behalf of Plaintiff or any Class Member.

11. TERMINATION - After completing good faith negotiations, Plaintiff and Defendants shall each have the right, in their sole discretion, to terminate this Agreement by providing written notice to the other within seven (7) days of:

- A. The Court's refusal to enter an order preliminarily approving this Class Action Settlement;
- B. The Court's refusal to approve the settlement Agreement following notice to the Class Members and the fairness hearing; or.
- C. The Court's refusal to enter a Final Order and Judgment.

If Plaintiff or Defendant terminate this Agreement as provided herein, the Agreement shall be of no further force or effect, and the Parties' rights and defenses shall be restored, without prejudice to their respective positions as if this Agreement had never been executed.

12. MISCELLANEOUS PROVISIONS

A. This Agreement is for settlement purposes only. The Parties acknowledge that this Agreement is not an admission of wrongdoing, negligence, or liability by BH or Released Parties. This Agreement shall not be offered or be admissible against Defendants, or cited or referred to in any action or proceeding, except in an action or proceeding brought to enforce its terms.

B. No representations, warranties, or inducements have been made to any of the Parties, other than those representations, warranties, and covenants contained in this Agreement.

C. This Agreement contains the entire agreement between the Parties and supersedes any and all other agreements between the Parties, including any and all other mediation and settlement agreements. The terms of this Agreement are contractual.

D. This Agreement shall be interpreted in accordance with Florida law.

E. Any dispute, challenge, or question relating to this Agreement shall be heard by this Court.

F. The Parties shall request that the Court retain continuing and exclusive jurisdiction over the Parties to this Agreement, including the Plaintiff and all Class Members, and over the administration and enforcement of this Agreement.

G. This Agreement shall be binding upon and inure to the benefit of the Parties and their representatives, heirs, successors, and assigns.

H. In the event that any of the provisions of this Agreement is determined to be invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect other provisions of this Agreement if Defendant and Plaintiff mutually elect to proceed as if the invalid or unenforceable provision had never been included in the Agreement.

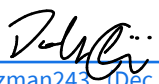
I. This Agreement shall be deemed to have been drafted jointly by the Parties and, in construing and interpreting this Agreement, no provision of this Agreement shall be construed or interpreted against any party because such provision, or this Agreement as a whole, was purportedly prepared or requested by such party.

J. This Agreement may be signed in counterparts. The separate signature pages executed by the Parties and their counsel may be combined to create a document binding on all of the Parties and together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have caused the Agreement to be executed, by their duly authorized attorneys.

Dated: 12/16/2024, 2024

Individually and as Class Representatives


wizman243. (Dec 16, 2024 09:46 EST)






Douglas Chiodini

Signed by:

11181AF888B404...
BH Management Services, LLC

Created:	2024-12-16
By:	Varnell & Warwick PA (info@vandwlaw.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAOk7z4HYccVYwBPO8WrcN52M4OJeoHWve

"Chiodini" History

-  Document created by Varnell & Warwick PA (info@vandwlaw.com)
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-  Document emailed to wizman243 . (douglaschiodini121@gmail.com) for signature
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-  Document e-signed by wizman243 . (douglaschiodini121@gmail.com)
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