

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. PAUL A. GOETZ PART 47

Justice

-----X

CAROL SPIEGEL,

Plaintiff,

- v -

85TH ESTATES COMPANY,

Defendant.

-----X

INDEX NO. 162020/2019

MOTION DATE 04/26/2024

MOTION SEQ. NO. 007

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 007) 205, 206, 207, 208, 209, 211

were read on this motion to/for MISCELLANEOUS.

Plaintiff Carol Spiegel on behalf of herself and the class, by her counsel, and defendant 85th Estates Company having applied pursuant to CPLR §§ 907 and 908 for: (a) an order preliminarily approving the proposed settlement of this action; (b) a determination of certain matters in connection with the proposed settlement; and (c) for dismissal, with prejudice, of the putative amended class action complaint dated October 18, 2021, filed by plaintiffs in this action, in accordance with the terms and conditions of the stipulation and agreement of settlement entered into by the parties dated April 25, 2024 (the stipulation). The court having read and considered the stipulation and accompanying affirmations and exhibits, and the parties having consented to the entry of this preliminary approval order, it is hereby

ORDERED that the motion is granted, and the stipulation is preliminarily approved and the declaratory relief set forth therein as being fair, reasonable, adequate, and consistent with the RSL and RSC and in the best interests of the class, subject to final determination at the fairness hearing; and it is further

ORDERED that the fairness hearing shall be held on May 1, 2025 at 2:15 p.m., in the Supreme Court of the State of New York, County of New York, Part 47, 111 Centre Street, Room 1021, New York, New York 10013 to:

- a. determine whether the settlement should be finally approved by the court as fair, reasonable, adequate and in the best interests of the class;
- b. determine whether an order and final judgment should be entered pursuant to the stipulation in the form attached as Exhibit C to the stipulation;
- c. consider plaintiff's application for an award of attorneys' fees and expenses and for the class representative incentive award; and
- d. rule on such other matters as the court may deem appropriate.

And it is further

ORDERED that within twenty (20) days after the date of entry of this order, the lead counsel shall cause a notice of the fairness hearing in substantially the form annexed as to the stipulation (the notice) to be mailed and, to the extent possible, emailed to all class members. To the extent such information is known and reasonably available as of the date of this order, defendant shall supply to lead counsel, in a confidential manner, each class member's current or last known residential address, and current or last known email address (to facilitate locating and providing the notice to former tenant class members who may have changed residences multiple times and to representatives of class members who may be incapacitated or deceased), which information the lead counsel shall destroy after all of its duties under this stipulation are fulfilled. Lead counsel shall, at least ten (10) days before the fairness hearing, file with the court an appropriate affidavit with respect to the preparation, mailing and publication of the notice; and it is further

ORDERED that form and method of notice herein is the best notice practicable and constitutes due and sufficient notice of the fairness hearing to all persons entitled to receive such a notice; and it is further

ORDERED that all proceedings in the action, other than such proceedings as may be necessary to carry out the terms and conditions of the settlement are hereby stayed and suspended until further order of the court. Pending final determination of whether the settlement should be approved, plaintiff, and all class members, are barred and enjoined from commencing, prosecuting, instigating or in any way participating in the commencement or prosecution of any action asserting any claims asserted in the action, either directly, representatively, derivatively, or in any other capacity, against defendant or any of the parties released in the stipulation; and it is further

ORDERED that any class member who objects to the settlement, the order and final judgment to be entered in the action, and/or lead counsel's application for attorneys' fees, or who otherwise wishes to be heard, may appear in person or by such class member's attorney at the fairness hearing and present evidence or argument that may be proper and relevant; provided, however, that, except for good cause shown, no person shall be heard and no papers, briefs, pleadings or other documents submitted by any person shall be considered by the court unless not later than April 21, 2025 such person files with the court and serves upon all counsel listed below: (a) a written notice of intention to appear containing a notarized statement attesting to the fact that such person is a member of the class, and setting forth the unit(s) in the building in which the member resides or resided and the dates of said residence; (b) a detailed statement of such person's specific position with respect to the matters to be considered at the fairness hearing

and the grounds therefore; and (c) copies of any papers such person intends the court to consider.

Such filings shall be served by first class mail upon the following counsel:

Roger A. Sachar Jr., Esq.
NEWMAN FERRARA LLP
1250 Broadway, 27th Floor
New York, NY 10001
rsachar@nflp.com

Matthew S. Brett, Esq.
BELKIN BURDEN GOLDMAN, LLP
60 East 42nd Street, 16th Floor
New York, New York 10165
mbrett@bbgllp.com

and then filed with the clerk of the court; and if no objections are received by April 21, 2025, no appearance on May 1, 2025 is required; and it is further

ORDERED that unless the court otherwise directs, no person shall be entitled to object to the approval of the settlement, any judgment entered thereon, the adequacy of the representation of the class by plaintiff and lead counsel, any award of attorneys' fees, or otherwise be heard, except by serving and filing a written objection and supporting papers and documents as described above. Any person so objecting shall submit themselves to the personal jurisdiction of this court for discovery purposes pursuant to the CPLR upon three days' written notice, including, without limitation, submitting to a sworn deposition at a place to be determined by lead counsel, interrogatories and other written questions, and requests for production of documents, regarding the objector's standing to object and the basis for such objection. Any person who fails to object in the manner described above shall be deemed to have waived the right to object (including any right of appeal) and shall be forever barred from raising such objection in this or any other action or proceeding; and it is further

ORDERED that if the settlement, including any amendment made in accordance with the stipulation, is not approved by the court or shall not become effective for any reason whatsoever, the settlement (including any modification thereof made with the consent of the parties as provided for in the stipulation), and any actions taken or to be taken in connection therewith

(including this order and any judgment entered herein) shall be terminated and shall become void and of no further force or effect. In that event, neither the stipulation, nor any provision contained in the stipulation, nor any action undertaken pursuant thereto, nor the negotiation thereof by any party shall be deemed an admission or received as evidence in this or any other action or proceeding.


20250128151000PGOETZ1268672FABCE45AF9D8001E444675B18

01/28/2025
DATE

PAUL A. GOETZ, J.S.C.

CHECK ONE:

<input type="checkbox"/>	CASE DISPOSED	
<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/> DENIED

<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/> OTHER

APPLICATION:

<input type="checkbox"/>	SETTLE ORDER
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN

<input type="checkbox"/>	SUBMIT ORDER
<input type="checkbox"/>	FIDUCIARY APPOINTMENT
<input type="checkbox"/>	REFERENCE

CHECK IF APPROPRIATE: