

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

-----	X	
JEREMIAH HARDY, ERIC SCHLABS AND	:	
JAMES NUGENT, on behalf of themselves and all	:	Index No. 151732/2022
others similarly situated,	:	
	:	
Plaintiffs,	:	<u>STIPULATION</u>
-v-	:	
	:	
595 BALTIC ASSET LLC,	:	
	:	
Defendant.	:	
-----	X	

WHEREAS, pursuant to the So-Ordered Stipulation dated April 6, 2023, plaintiffs Jeremiah Hardy, Eric Schlabs, and James Nugent (collectively, “Plaintiffs”) and defendant 595 Baltic Asset LLC agreed to enter a stipulation setting forth terms relating to the proposed Notification of Class Action Lawsuit.

NOW, THEREFORE, IT IS HEREBY STIPULATED, CONSENTED TO, AND AGREED, by and between the undersigned attorneys for Plaintiffs and Defendant (the “Parties”), as follows:

1. The Parties have agreed on a proposed Notification of Class Action Lawsuit (the “Notice”), a copy of which is annexed hereto as Exhibit “A”.
2. The cost of disseminating the Notice shall be borne by Plaintiffs’ counsel, without prejudice to Plaintiffs’ right to seek reimbursement at later date under CPLR Article 9.
3. Within sixty (60) days of the Notice being approved by the Court, Defendant shall provide Plaintiffs’ counsel with the names and addresses and/or last known forwarding addresses for all members of the Class (defined in the Notice) in its possession, redacting “confidential personal information,” as such term is defined in section 202.5(e) of the

Uniform Civil Rules for the Supreme Court and County Court. Defendant and its agents shall make reasonable efforts to search its records to gather such information.

4. All documents to be exchanged between the Parties pursuant to this stipulation shall be made by email transmission to their respective email addresses set forth below, or via other electronic means.

5. Plaintiffs agree to produce a copy of any opt out notices received by Plaintiffs, together with such date the opt out notice was received, to Defendants at their request.

6. This Stipulation may be executed in counterparts by facsimile or electronic signatures, and the execution in said fashion shall have the same full force and effect as a single, originally-executed document.

Dated: New York, New York
April 20, 2023

NEWMAN FERRARA LLP
Attorneys for Plaintiffs

ROSENBERG & ESTIS, P.C.
Attorneys for Defendant

Roger Sachar

By: _____
Roger A. Sachar Jr., Esq.
1250 Broadway, 27th Floor
New York, New York 10001
(212) 619-4500
rsachar@nflp.com

By: */s/ Elizabeth M. Brown* _____
Elizabeth M. Brown, Esq.
733 Third Avenue
New York, New York 10017
(212) 867-6000
ebrown@rosenbergestis.com



Hon. Lori S. Sattler

June 5, 2024

EXHIBIT “A”

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

JEREMIAH HARDY, ERIC SCHLABS, and
JAMES NUGENT, on behalf of themselves
and all others similarly situated

Index No.: 151732/2022

Plaintiffs,

-v-

595 BALTIC ASSET LLC

Defendant.

IMPORTANT NOTICE

TO: EVERY CURRENT AND FORMER TENANT OF THE BUILDING LOCATED AT 595 BALTIC STREET, BROOKLYN, NEW YORK 11217 (THE “BUILDING”), WHO LIVED IN THEIR APARTMENT AT ANY TIME AFTER FEBRUARY 27, 2018; AND

This Notice has been authorized by the Supreme Court of the State of New York, County of New York

This Notice affects your rights – please read it carefully.

You are not being sued. This is not a solicitation from a lawyer.

You are receiving this Notice, pursuant to Rule 904 of the New York Civil Practice Law, because records indicate that you may be a member of a plaintiff class in a lawsuit against the owner of the Building, 595 Baltic Asset LLC (“Defendant”), which is currently pending in the New York Supreme Court, New York County.

The purpose of this notice is to explain to you:

1. What the lawsuit is about;
2. The certified Class, and your rights as a member;
3. Your right to request exclusion from the Class (as defined below); and
4. How to get more information.

DESCRIPTION OF THE LAWSUIT

A class action is a lawsuit where one or more persons sue not only on their own behalf, but also on behalf of other people who have similar claims. These other people are known as Class Members. In a class action, one court resolves the issues for all Class Members.

The Plaintiffs here asserts that Defendant received 421-a tax benefits at the Building. Under New York State law, these benefits were only available if all the apartments at the Building were subject to the rent-stabilization laws. The 421-a Program requires that the first rents for apartments participating in that program are to be set utilizing the amounts the unit's first occupant was "charged and paid." The Plaintiffs assert that Defendant violated the law by failing to take into account rent concessions, received by the initial tenants at the Building, when registering the first rents for the units. Additionally, the Plaintiffs assert that Defendant utilized concessions on subsequent tenancies, which were not taken into account when setting preferential rents at the Building. The Plaintiffs assert that, as a result, tenants at the Building were charged more than the maximum legal rent for their apartments, and/or were denied the other benefits of rent-stabilization, such as mandatory lease renewals at amounts allowed under New York State law.

The Plaintiffs seek to recover alleged rent overcharges from Defendant for both themselves and the class. Plaintiffs also seek to have the Court determine the correct legal regulated rents for the apartments at the Building. The Plaintiffs also seek an order that any Class Member residing in an apartment at the Building be offered proper lease renewals at regulated rents established as required by the rent stabilization laws.

Plaintiffs are not seeking on behalf of himself, or the members of the Class, the treble damages penalty provided for in the rent stabilization laws and regulations for willful rent overcharges.¹ In seeking class certification, and unless the law changes, Plaintiffs have agreed to waive that penalty on behalf of themselves and the Class, are requesting only injunctive relief and compensatory damages for the actual amounts of the overcharges, plus interest. If you are a Class Member, and wish to pursue the statutory penalty, you may do so. But to ensure your ability to pursue treble damages *you must exclude* yourself from the Class and commence your own action pursuant to the procedures described below. You should note that any claims that you may be able to pursue individually are governed by a statute of limitations.

The Defendant has denied the allegations made by Plaintiffs and has asserted affirmative defenses.

¹In the usual course, if a court or an administrative agency were to find that the landlord's conduct was "willful," a penalty of treble (three times) the amount of the overcharge would be assessed for any excess funds collected by the landlord for the period immediately preceding the filing of the complaint. Penalties, such as treble damages, may NOT be sought in a class action, and by participating in this case you would be waiving that right.

CLASS CERTIFICATION AND COMPOSITION OF THE CLASS

On _____, the Court certified the lawsuit to proceed as a class action on behalf of: All tenants at the Building living, or who had lived, in apartments on or after February 27, 2018 (the “Class”).

Further, the Court certified a subclass of all current residential tenants of the Building seeking injunctive relief.

The Court named Plaintiffs Jeremiah Hardy, Eric Schlabs, and James Nugent as Lead Plaintiffs for the Class.

The Court named the law firm of Newman Ferrara LLP as counsel for the Class. Newman Ferrara LLP attorneys will represent you, as part of the Class, unless you request to be excluded as described below, in which case, you will have the opportunity to hire your own attorney, at your own expense.

This notice is being given to you in the belief that you may be a Class Member whose rights might be affected by this lawsuit. It should not be understood to be an expression of any opinion by the Court concerning the merits of the claims and defenses in this action. The notice is merely to advise you of the pendency of the action and your rights with respect thereto.

As described below, Class Members have the opportunity to exclude themselves from the damages aspect of the Class by filing an opt-out form with the Court. Apart from this opportunity to opt-out, Class Members will be bound by the Court’s determination of the Class’ claims.

HOW TO EXCLUDE YOURSELF FROM THE CLASS

If you wish to be excluded from the Class, you must fill out the Exclusion Form attached to this notice. Letters requesting exclusion should be mailed first class and postmarked on or before _____ to:

Newman Ferrara LLP
1250 Broadway, 27th Floor
New York, NY 10001

For your convenience, a self-addressed stamped envelope has also been provided for your use.

If you do not request exclusion from the Class, or if your letter of exclusion is not postmarked on or before _____,² and the Court determines that you are a Class Member, you will be included in the Class, and bound by any judgment ordered by the Court. In the event such

² The date here will be sixty (60) days from the date notice is sent out.

judgment results from a settlement by the parties, you will have the right to object to the terms of the settlement, to participate in the settlement, or to exclude yourself from the settlement. If the case proceeds to judgment absent a settlement, and you are a Class Member, you will be bound by the judgment without any further opportunity to exclude yourself or to object.

If you exclude yourself, you will not be bound by the Court's determination of the Class' claims – whether positive or negative to the Class – and you will remain free to pursue your own claim for damages, independently.

NO RETALIATION PERMITTED

State law prohibits Defendant from terminating your lease if you are a current tenant or retaliating against you in any fashion because you have joined and/or participated in this lawsuit. The law also provides for additional monetary damages and penalties for retaliation.

GETTING MORE INFORMATION

This notice summarizes this class action lawsuit. You can obtain more information by contacting Class Counsel (Newman Ferrara LLP) by calling (212) 619-5400, or emailing Roger Sachar at rsachar@nflfp.com.

All communications and discussions with Newman Ferrara LLP, other than requests to opt-out of the lawsuit, are confidential, and will not be disclosed without your consent.

Please do not contact the Court with questions involving this lawsuit.

Dated: _____, 2023
New York, New York

REQUEST FOR EXCLUSION FROM CLASS

Hardy et al. v 595 Baltic Asset LLC
New York County Supreme Court, Case No. 151732/2022

**YOU MUST COMPLETE THIS FORM IF YOU DO NOT WISH TO BE PART OF THE
595 BALTIC CLASS ACTION**

By signing and returning this form, I confirm that I do not want to be included as a class member in the class action referenced above.

I understand that by opting out, I am giving up my right to receive any payment, in the event that the action proceeds to a settlement, or a favorable judgment for Plaintiffs.

By opting out, I understand that I retain the right to file my own individual action (which may include treble damages)³ against 595 Baltic Asset LLC, the Defendant in this action.

By providing the following information, I affirm that I want to opt-out of this class.

Full Name: _____

Dates of Occupancy at 595 Baltic: _____

Full Address at the 595 Baltic: _____

Current Mailing Address: _____

Email Address: _____

Signature

Date

³ In the usual course, if a court or an administrative agency were to find that the landlord’s conduct was “willful,” a penalty of treble (three times) the amount of the overcharge would be assessed for any excess funds collected by the landlord for the period immediately preceding the filing of the complaint. Penalties, such as treble damages, may NOT be sought in a class action, and by opting out, you are retaining that right.