

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that although the requested elements for both Article 591 (B)(1) and (B)(3) classes are satisfied, both the classes herein are certified and maintained pursuant to Article 591 (B)(1).

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the class involving Sherry Watters et. al. be certified and defined as:

All present or past individuals employed by the State who worked in Plaza Towers at any time from 1996 to present, who have exposed to toxic substances and all individuals assigned after the day of filing of this petition.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the following named plaintiffs and individuals are appointed as Class Representatives:

Sherry Watters  
Frances M. Breyne  
Gina Recasner  
Gretchen Wiltz  
Wendy Lomicux

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the class involving Mary Johnson et. al. be certified herein and defined as:

All present or past "contract foster-parents" of the Department of Social Services who were required by the terms of their contractual duties to occupy the "Plaza Tower" office building from 1995 to the date of their departure from the building who were exposed to fungal substances such as mold and mold spores which were growing on building materials and the by-products of the mold and mold spores that were released into the air.

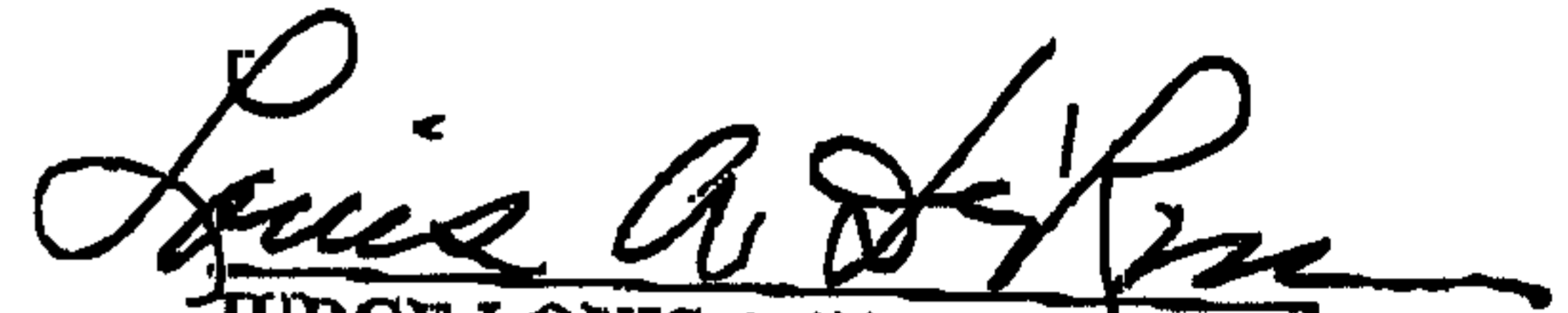
**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the following named plaintiffs and individuals are appointed as Class Representatives:


Mary Johnson  
Sharon Chenear  
Bernard Singleton  
Valerie Eddington  
Marion Van Buren  
Mary Williams  
Carolyn Reeves-Davis  
Richard Eddington  
Clara Reeves  
Diane Trim  
Frances Sowell

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the majority of the both plaintiffs class are located within New Orleans, Orleans Parish, Louisiana.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that in both classes,  
Robert G. Creely, Mickey P. Landry and Craig B. Mitchell are hereby designated as Class  
Counsel, with Robert G. Creely being designated as Lead Counsel in each Class.

JUDGMENT, READ, RENDERED AND SIGNED on this the 15<sup>th</sup> Day of  
July 2004.

  
JUDGE LOUIS A. DIROSA

A TRUE COPY  
  
DEPUTY CLERK OF SUPERIOR COURT  
STATE OF FLORIDA

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 01-17755

DIVISION "J"

SHERRY WATTERS, ET. AL.  
VS.  
DEPARTMENT OF SOCIAL SERVICES, ET. AL.

01-18355

Consolidated With

DIVISION "C"

KRISTEN M. RHODES, ET. AL.  
VS.  
BG READ ESTATE SERVICES, INC., ET. AL.

02-14043

Consolidated With

DIVISION "N"

MARY JOHNSON, ET. AL.  
VS.  
DEPARTMENT OF SOCIAL SERVICES, ET. AL.

JUDGMENT

Petitioners Sherry Watters, et. al. and Mary Johnson, et. al. submitted their Motions to this Court for Certification as Class Actions for decisions on May 20<sup>th</sup>, 2004.

After considering the pleadings, memoranda, the written discovery and transcripts of the deposition testimony of the class representatives and the oral testimony as well as the entire record of this proceeding and for written reasons assigned this day;

IT IS ORDERED, ADJUDGED AND DECREED that there be judgment herein in favor of plaintiffs in both class actions and against defendants, The State of Louisiana, Department of Health and Hospitals, Department of Social Services and Department of Administration as well as Security National Insurance Company (formerly Calvert Insurance Company) for the years covered by their policy, granting the Motions for Certification as Class Actions pursuant to Article 591 of the Louisiana Code of Civil Procedure in that all the elements mandated for such certification set forth in Article 591 are clearly satisfied.

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS  
STATE OF LOUISIANA

NO. 01-17775

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SHERRY WATTERS, ET. AL.  
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Consolidated With

01- 18355

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REASONS FOR JUDGMENT

In the case of Sherry Watters, et. al. Vs. Department of Social Services, et. al., case # 2001-17775, plaintiff, Sherry Watters and four others have filed suit to be made class representatives in a class certification motion seeking to certify a class, to wit:

"Any employee of the State of Louisiana who worked in Plaza Towers at any time from 1996 to the present, who have been exposed to toxic substances and all individuals assigned after the date of the filing of these proceedings."

In a related, similar and consolidated matter entitled Mary Johnson, et. al. Vs. Department of Social Services, et. al., # 2002-14043, plaintiff's, Mary Johnson and nine others filed suit to be made class representatives in a class certification motion seeking to certify their class, to wit:

"All past or present 'contract foster-parents' of the Department of Social Services who were required by contract to occupy the 'Plaza Tower' office building from 1995 to the date of their departure who were exposed to fungal substances such as mold and mold spores which were growing on building materials and the by-product of the mold and mold spores that were released into the air."

The plaintiffs maintain that as a result of repeated complaints, Mr. Kenneth Lanier of the Department of Health's Environmental and Toxicology office visited the Plaza Towers office building in 1997 and again twice in 2001 and found that the conditions there were having adverse health effects on the occupants. These included headaches, respiratory infections, sore throats, aching, flu like symptoms, itching and increase in allergy reactions. That these symptoms were the result of toilets overflowing, roof and ceiling leakage and wet carpets on a continual basis. He met with over one hundred people who had similar complaints; however, he did not test for mold until October 12, 2001 at which time it was found in sampling. He recommended that if the problems could not be corrected that all occupants of the Plaza Tower office Building should move out of the facility. He stated his findings in 2001 were the same as he found in 1997.

The problems began as soon as employees began occupying the building. Within weeks water pipes burst and people were ankle deep in water. Letters and memos were circulated questioning why employees were sick with nose burning, breathing difficulties and upper respiratory problems. Numerous complaints were made to the building managers and to state supervisory personnel complaining about water leaks, ceiling leaks, dampness and buckling and wet ceiling tiles. In a letter report of October 12, 2001, Mr. Kenneth Lanier further observed a water soaked building with visible mold growth, uncleaned air conditioning coils and air quality in floors 17 and 27 that is known to produce potent mycotoxins and mold spores. These are the floors visited on a regular basis by the class comprising the plaintiffs in the Mary Johnson et. al. vs. Department of Social Services et. al. lawsuit.

The problems were so widespread and verbal complaints so fruitless in correcting the problem that on January 8, 1997, Florence L. Wicker, Medical Administration of the Department of Health and Hospitals of the State of Louisiana wrote to the management of the Plaza Towers:

"There have been several leaks from the ceiling on the 9<sup>th</sup> and 10<sup>th</sup> floors during the past episodes, the ceiling tiles have disintegrated and fallen on desks. A section of the ceiling tile in the corner office of the 10<sup>th</sup> floor (your room no. 1025) is now wet.....when there was a heavy rain during the recent weekend, water poured into an office from the balcony outside. Whatever caused this problem needs to be corrected. There is now mildew on the wall and an unpleasant order in this office (your room #925-our room #907)".

These complaints continued through the entire lease and include bills for monetary losses from leaks and floods to the management of the building from the State for damages to documents and equipment into the thousands of dollars.

The situation was so horrendous that Steve Mayer, one of the lead attorneys in Baton Rouge, had an environmental study done "on his own" which revealed "bacteria that causes neurological damage". Such bacteria is mold, mold spores and the by-product of mold and mold spores.

The State of Louisiana through the Division of Administration is responsible for the placement of state employees into various office spaces and placed employees of the Department of Health and Hospitals and the Department of Social Services into the Plaza Tower office building. From 1995 until the State of Louisiana finally vacated the building, state employees were intentionally left in a facility containing deplorable conditions that were injurious to the health of its occupants. They had no choice save jeopardizing their jobs.

Despite constant complaints by its employees the Division of Administration allowed approximately 680 state employees to be housed in a deplorable building that the state paid in excess of 1.9 million dollars per year to rent. Additionally they were well informed of the human health effects of mold, mold spores and the by-products of mold and mold spores in chronic water damaged buildings and did not properly protect its employees nor other occupants of the building such as "contract foster-parents". Likewise the problems related to mold were not made known to the employees and occupants of the Plaza Towers Office Building until the year 2001 when the State of Louisiana Environmental Epidemiology and Toxicology Office of Public Health issued its report.

The plaintiff's experts to wit: Dr. Chin S. Young, Dr. Michael R. Gray and other technically environmental experts all acknowledged the adverse health effects of mold and mold spores and the exacerbation of these problems when widespread water damage, as here, is evident; they further testified by deposition that mold in the quantities present at Plaza Towers should not exist in an indoor environment. Many photographs were introduced into evidence that documented the testimony of these experts and of the class representatives who viewed and lived with the phenomena of mold and mold spores.

The State of Louisiana (through the Department of Health and Hospitals, Department of Social Services and the Division of Administration) were aware of and reviewed hundreds of complaints of the condition of the building and the adverse health consequences to its employees and for years, since original occupancy, did not adequately protect its unsuspecting staff from the consequences stated herein.

The Court allowed the State to have the live testimony of Dr. Bruce Kolman, an expert in the field of toxicology. He testified that there was not enough mold spores to cause the five class representatives that he examined to be ill. He alluded to other reasons why they may have reactions and allergies not related to the Plaza Towers. He did agree that, while he is not a microbiologist, that a byproduct of mold spores is microtoxins and continued exposure could be lethal. That minor exposure to microtoxins damages can have no effect, but that more continuous dosage can have far greater effect. He referred to spore counts made in 2001 and ignored the fact that defendants had altered a previously scheduled court examination, by putting bleach etc. in duct work and cleanup procedures for which they were held in contempt of court. This contempt occurred prior to those spore counts being made.

Despite his negative view of the effects of mold, he did admit that mold in an indoor environment should be cleaned and is bad and that water damage in a building can confirm mold growth. The Court did not believe that this testimony altered the arguments of plaintiffs in both class action certifications, concerning the detrimental effects present in this particular building.

Finally, this Court has allowed all parties to do extensive discovery regarding class certification issues. The parties have conducted written discovery and Defendant deposed plaintiffs sought to be made class representatives. The court has reviewed the pleadings, memoranda, the written discovery and transcripts of the deposition testimony of the class representatives as well as the entire record of these proceeding all contained in four large boxes, and is satisfied that the elements provided for by Articles 591 of the Louisiana Code of Civil Procedure are clearly satisfied. The Court intends to maintain both class actions as pursuant to Article 591 (B) (1).

With respect to Article 591 (A), the court finds:


- (1) The potential classes are numerous enough, there being many hundred of members of class.
- (2) Common issues of facts and law exist, primarily the existence of mold, spores and microtoxins and their detrimental effect on class representatives. Also the lack of recognition and correction by State Offices.
- (3) The named class representatives claims are typical of the classes. Those claims arise out of the same alleged conduct of Defendants and rely on the same legal theories.
- (4) There has been presented no reason as to why the named class representatives or proposed class counsel are inadequate to represent the class and none appear from the record.
- (5) The class is objectively defined because it consists of an objectively identifiable group. With respect to Article 591 (B)(1), the court finds:

As pointed out above, common issues of fact and law exist. There is evidence that absent certification of a class herein individual lawsuits will be brought. Certainly individuals prosecuting separated actions on their own behalf under the facts and law at issue could conceivably result in varying interpretations. Such differing results have the effect not only of establishing different standards of conduct with respect to Defendant's alleged actions, but will almost inevitable affect the interests of other class members and impede their ability to protect those interest.

Based on the following, the requisite elements are met for certification of this action as a class pursuant to Article 591 (B)(1).

Considering the analysis of the record made by this Court, some of which is detailed above, the Court shall define the classes as previously referred to at the beginning of those reasons.

NEW ORLEANS, LOUISIANA this the 15<sup>th</sup> day of July 2004.

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DEPUTY CLERK FROM DISTRICT COURT  
STATE OF LA

  
JUDGE LOUIS A. DI ROSA