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IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF MARION

LOREN HATHAWAY, on behalf of himself and all others similarly situated within the state of Oregon; and **GENNISE HATHAWAY**, on behalf of herself and all others similarly situated within the state of Oregon; and **HEATHER NOBLE**, on behalf of herself and all others similarly situated within the state of Oregon.

Case No. 13C14321

Plaintiffs,

ORDER ON CLAIM FORM OBJECTIONS

v.

B. & J. PROPERTY INVESTMENTS, INC., an Oregon corporation; **BETTER BUSINESS MANAGEMENT, INC.**, an Oregon Corporation doing business as Salem RV Park; **WILLIAM J. BERMAN**, an individual,

Defendants.

This matter came before the Court on November 20, 2017, in accordance with the Parties' Joint Memorandum of Proposed Scheduling, Approach to Claim Forms and Trial, filed with this Court on September 7, 2017, the Stipulated Scheduling Order, filed on September 21, 2017, and Defendants' Memorandum in Support of Claim Objections, filed with this Court on November 20, 2017. Plaintiffs appeared through their counsel, Mr. Brady Mertz and Mr. Rick Klingbeil. Defendants appeared through their counsel Mr. Hunter Emerick and Ms. Jennifer Paul. Mr. Berman was present in the courtroom during part of the proceedings.

Having reviewed Defendants' Memorandum in Support of Claim Objections, and further having heard testimony of claimants, listened to argument from counsel and being fully advised in the premises, this Court, now hereby FINDS AND ORDERS THE FOLLOWING:

- 1.) With respect to claims for damages based on electricity payments made outside the

1 time period defined in the Order Certifying Class, the portion of the claims outside of
2 the class period are HEREBY DENIED. These claims consist of the following:

- 3 a. Bernice Appleby (Excluded time 1/4/03- 1/7/03)
- 4 b. Latricia Armstrong (Excluded time 1/2/03 – 4/12/03)
- 5 c. Daniel Bird (Excluded time 2/11/03 – 4/12/03)
- 6 d. Lindy Brooks (Excluded time 1/5/03 – 4/12/03)
- 7 e. Angel Castelan (Excluded time 9/22/00 – 4/12/03)
- 8 f. Robert Comstock (Excluded time 1/9/03 – 4/12/03)
- 9 g. Yoshifumi Daikuko (Excluded time 9/1/97 – 4/12/03)
- 10 h. Janet Engle (Excluded time 1/4/03 – 4/12/03)
- 11 i. Richard Garrison (Excluded time 2/3/03 – 4/12/03)
- 12 j. Aaron Gibson (Excluded time 4/5/03 – 4/12/03)
- 13 k. Robin Hahn (Excluded time 7/5/02 – 4/12/03)
- 14 l. Lillian Hamilton (Excluded time 1/2/03 – 4/12/03)
- 15 m. Melvin Harlow (Excluded time 3/4/03 – 4/12/03)
- 16 n. Carl Headrick (Excluded time 1/1/03 – 4/12/03)
- 17 o. Robert Jenson (Excluded time 1/14/03 – 4/12/03)
- 18 p. Joseph Kurtz (Excluded time 1/12/03 – 4/12/03)
- 19 q. Rachelle Lagerway (Excluded time 1/15/03 – 4/12/03)
- 20 r. Tabitha Leaf (Excluded time 1/2/03 – 4/12/03)
- 21 s. Frank Matriano (Excluded time 1/27/03 – 4/12/03)
- 22 t. Dale McAllister (Excluded time 1/4/03 – 4/12/03)
- 23 u. Ronald McDowell (Excluded time 1/1/03 – 4/12/03)
- 24 v. Kirk Miller (Excluded time 1/24/03 – 4/12/03)
- 25 w. Gary Morris (Excluded time 1/26/03 – 4/12/03)
- 26 x. Peggy and Charles Payton (Excluded time 1/3/03 – 4/7/03)

- 1 y. Gordon Prentiss (Excluded time 1/5/03 – 4/12/03)
- 2 z. Gary Rizzotto (Excluded time 8/15/96 – 4/12/03)
- 3 aa. Jim and Cindy Shellenberger (Excluded time 1/14/03 – 4/12/03)
- 4 bb. Lonny Simmons (Excluded time 1/2/03 – 1/2/03)
- 5 cc. Larry Smith (Excluded time 1/26/03 – 4/12/03)
- 6 dd. Krysten St. Arnold (Excluded time 3/2/03 – 4/12/03)
- 7 ee. Dennis Tedesco (Excluded time 1/10/99 – 4/12/03)
- 8 ff. Arlene Trujillo (Excluded time 9/15/00 – 4/12/03)
- 9 gg. Arland Williams (Excluded 1/2/03 – 4/12/03)
- 10 hh. Sara Wilson (Excluded time 2/1/03 – 4/12/03)

11 2.) With respect to claims made on behalf of deceased tenants, in which the claimant
12 was not the personal representative or affiant of the decedent's estate, these claims
13 are HEREBY DENIED. These claims consist of the following:

- 14 a. Allan Bates (for Richard Bates)
- 15 b. Randy Bryan (for Don Bryan)
- 16 c. Heather Buley (for Jacob Buley)
- 17 d. Sandra M. Christensen (for Ace Cummings)
- 18 e. Daniel Roberts (for Patrick Inman)
- 19 f. Dena Jennings (for Donald Jennings)
- 20 g. Rebecca Karnes (for Steven Karnes)
- 21 h. Robert Karnes (for Steven Karnes)
- 22 i. Dawn McDowell (for Ron McDowell)
- 23 j. Donn Guest (for Ron McDowell)
- 24 k. Gary Nolan (for Cheryl Nolan)
- 25 l. Christopher Nolan (for Cheryl Nolan)
- 26 m. Jennifer Moretz (for Virginia Sowa)

1 n. Terrie Streeter (for Kenneth Streeter)

2 o. Susan Tedesco (for Dennis Tedesco)

3 p. Barbara DuChene (for Patricia Veach)

4 q. Annette Ernst (for Gordon and Lahoma Wolfe)

5 3.) With respect to separate claims by two individuals for electricity damages for the
6 same space and time, (duplicative claims) these claims shall be limited to one claim
7 which must be shared by the respective claimants. These claims consist of:

8 a. Heather Doan/ Jim Thacker

9 b. Robert and Evelyn Jenson

10 c. Heather Noble/ Heather Williamson/ Roger Williamson – Ms. Noble, formerly
11 known as Ms. Williamson, will be removed from Mr. Williamson’s claim.

12 4.) With respect to claimants who untimely submitted claim forms, these claims are
13 HEREBY DENIED. These claims consist of:

14 a. Kyle Jensen

15 b. Judy and Kenneth Stepp

16 5.) With respect to claims submitted without signature or which presented a noticeably
17 questionable signature when compared to subsequent submissions, these claims are
18 HEREBY DENIED. These claims consist of:

19 a. Ashley Carter

20 b. Anne Deller

21 c. Annie Goodson

22 d. Heather Palmer

23 e. Burt Leroy Search’s revised claim form is denied. Mr. Search’s original claim
24 form is advanced.

25 6.) During the proceeding on November 20, 2017, the following claims were withdrawn
26 by counsel for Plaintiff, and are therefore DENIED:

- 1 a. Marie Christensen
- 2 b. Beverly and George O'Brien
- 3 c. Gera Davis
- 4 d. Marsha Marshall

5 7.) With respect to claimants presenting questions as to whether the claimant lived at
6 SRVP and/or paid electricity charges or meter reading fees to SRVP during the claim
7 period, the following claims are HEREBY DENIED:

- 8 a. Birdie Strickland
- 9 b. Heather Buley

10 8.) With respect to claimants who do not meet the class definition due to period of
11 residency, move in date, or based on occupancy solely for vacation purposes, as
12 further identified in the self-exclusion categories contained within the claim form,
13 these claims are HEREBY DENIED. These claims consist of the following:

- 14 a. Bernice Appleby
- 15 b. Charity and Joseph Aruajo
- 16 c. Dalton Bedient
- 17 d. Eugene Clampitt
- 18 e. Steven Clark
- 19 f. Patty Cunningham
- 20 g. Craig Elmore
- 21 h. Arnulfo Gonzalez
- 22 i. Karin Lally
- 23 j. Rocky Moxley

24 9.) With respect to any claimant whose self-reported data is internally inconsistent or
25 is inconsistent with the data established by Salem Recreational Vehicle Park's DOS
26 data records, the Court awards the lesser of the damages claimed as reflected in

1 the tenant claim form or the damages established by the DOS database. This ruling
2 is consistent with the parties' stipulation, as reflected in the Joint Memorandum of
3 Proposed Scheduling, Approach to Claim Forms and Trial, filed with this Court on
4 September 7, 2017. No tenants appeared at the claim form hearing on November
5 20, 2017, to present evidence in support of their claimed damages sums.

6 10.) Defendants objected to claim forms submitted by and on behalf of one individual
7 regarding a certain space and period of residency, where more than one individual
8 signed the corresponding lease, as Defendants alleged that such circumstances
9 raised factual issues as to which tenant actually paid for electricity and/or the
10 meter reading fee (which triggers the right to damages). Having reviewed briefing
11 and heard oral argument on this issue, this Court allows such claims to advance.
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18 **Submitted By:**

19 SAALFELD GRIGGS PC
20 HUNTER B. EMERICK, OSB 841361
21 Email: hemerick@sglaw.com
22 JENNIFER C. PAUL, OSB 104791
23 Email: jpaul@sglaw.com
24 Attorneys for Defendants
25 250 Church Street SE, Suite 200
26 Salem, OR 97308-0470
Phone: (503) 399-1070
Fax: (503) 371-2927

CERTIFICATE OF READINESS

I hereby certify, pursuant to UTCR 5.100 as of the 9th day of January, 2018, that:

All service requirements for service of the ORDER ON CLAIM FORM OBJECTIONS were satisfied because:

- Service on opposing counsel occurred not less than three (3) days prior to submission to this Court;
- Copy was served by mailing to a self-represented part at the party's last known address not less than seven (7) days prior to submission to the Court;
- The Order or Judgment is being presented in open court with all parties present; is being presented ex parte by law or rule; is being submitted as part of a default motion pursuant to ORCP 69; or as otherwise provided in UTCR 5.100(3).

The proposed Order is ready for judicial signature because:

- Each opposing party affected by this Order or Judgment has approved the Order or Judgment, as shown by signature on the documents being submitted or by written confirmation of approval sent to me;
- I have served a copy of this Order or Judgment on all parties entitled to service and:
 - No objections have been served on me;
 - I received objections that I could not resolve with the opposing party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved; or
 - After conferring about objections, (role and name of opposing party) agreed to independently file any remaining objection.

SAALFELD GRIGGS PC

By s/ Hunter B. Emerick
 HUNTER B. EMERICK, OSB 841361
 Email: hemerick@sglaw.com
 JENNIFER C. PAUL, OSB 104791
 Email: jpaul@sglaw.com
 Trial Attorney: Hunter B. Emerick
 Phone: (503) 399-1070
 Fax: (503) 371-2927
 Of Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on December 21, 2017, I served PROPOSED ORDER ON CLAIM FORM OBJECTIONS on:

Brady Mertz
Brady Mertz PC
345 Lincoln Street SE
Salem, OR 97302
Email: brady@bradymertz.com

by **mailing** a true and correct copy to the last known address of each person listed. It was contained in a sealed envelope, with postage paid, addressed as stated above, and deposited with the US Postal Service in Salem, Oregon, and

by **emailing** a true and correct copy to the last known email address of each person listed, with confirmation of delivery.

And upon:

Rick Klingbeil
Rick Klingbeil PC
1826 NE Broadway
Portland, OR 97232
Email: rick@klingbeil-law.com

by **emailing** a true and correct copy to the last known email address of each person listed, with confirmation of delivery.

SAALFELD GRIGGS PC

By s/ Hunter B. Emerick
HUNTER B. EMERICK, OSB 841361
Email: hemerick@sglaw.com
JENNIFER C. PAUL, OSB 104791
Email: jpaul@sglaw.com
Trial Attorney: Hunter B. Emerick
Phone: (503) 399-1070
Fax: (503) 371-2927
Of Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on January 9, 2018, I served ORDER ON CLAIM FORM OBJECTIONS on:

Brady Mertz
Brady Mertz PC
345 Lincoln Street SE
Salem, OR 97302
Email: brady@bradymertz.com

by **mailing** a true and correct copy to the last known address of each person listed. It was contained in a sealed envelope, with postage paid, addressed as stated above, and deposited with the US Postal Service in Salem, Oregon, and

by **emailing** a true and correct copy to the last known email address of each person listed, with confirmation of delivery.

And upon:

Rick Klingbeil
Rick Klingbeil PC
1826 NE Broadway
Portland, OR 97232
Email: rick@klingbeil-law.com

by **emailing** a true and correct copy to the last known email address of each person listed, with confirmation of delivery.

SAALFELD GRIGGS PC

By s/ Hunter B. Emerick
HUNTER B. EMERICK, OSB 841361
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