

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA, IN AND FOR POLK COUNTY  
CIVIL DIVISION**

**NORMAN GUNDEL, WILLIAM MANN,  
and BRENDA N. TAYLOR**, individually  
and on behalf of all similarly situated persons,

Plaintiffs,

Case No.: 17-CA-001446

vs

Division: 11

**AVATAR PROPERTIES, INC.,**

Defendant,

\_\_\_\_\_ /

**ORDER FOLLOWING CASE MANAGEMENT CONFERENCE**

**THIS MATTER** came before this Court for a Case Management Conference on January 5, 2024, following entry of the “Final Judgment” against Defendant Avatar Properties, Inc. on November 2, 2021, and all appeals having now been exhausted with the Sixth District Court of Appeals issuing its mandate on November 7, 2023, the Court having heard from counsel of record, and being otherwise fully advised in the premises, it is therefore:

**ORDERED AND ADJUDGED THAT:**

1. As discussed on the record at the hearing, Class Counsel and the court appointed class administrator, A.B. Data, Ltd., established a custodial account with Raymond James Trust, N.A. for the benefit of the Class (the “Raymond James Account”), which has now received payment from Defendant in the total amount of \$64,665,695.72. That payment was made by Defendant on December 22, 2023, in response to a demand by Plaintiffs. The amount represents the total due and owing as of the date of the demand based on statutory interest rates in chapter 55, Florida Statutes, subject to the reservations of rights by the parties noted below. The parties agree that Avatar’s payment of prejudgment interest as part of this payment was made pursuant to Plaintiffs’ demand for payment and that that Avatar does not waive its right to appeal, if

needed, the result of the unresolved dispute regarding the rate of prejudgment interest. Defendant issued payment in accordance with the Final Judgment based on currently available accounting and financial records, with both parties' reservation of all of their rights and remedies with respect to the ongoing dispute over the applicable rate of prejudgment interest and conditioning receipt of payment on a final accounting, among other things. These funds have been placed in the Fidelity Treasury Portfolio Money Market Fund (currently yielding 5.26%, consisting of U.S. Treasury securities and repurchase agreements for U.S. Treasury securities), with all earned interest on these amounts to be maintained for the benefit of the Class, until such time as all accounting is completed and final distribution is approved by the Court following resolution of Plaintiffs' pending motions.

2. There are pending motions on behalf of the Class, the first is "Plaintiffs' Motion For Separate Final Judgment Awarding Prejudgment Interest" dated November 23, 2021 and the second is "Plaintiffs' Amended Motion For Trial and Appellate Attorneys' Fees, Taxable Costs (Including Class Administration Fees and Expenses, and Incentive Awards) and Interest" dated November 27, 2023.

3. Accordingly, the Court directs the parties to promptly schedule Plaintiffs' Motion For Separate Final Judgment Awarding Prejudgment Interest for a 1-hour hearing as soon as practicable, with a separate order being submitted by counsel for Plaintiffs with more specifics relating to the hearing.

4. The Court also directs the parties to schedule Plaintiffs' Amended Motion For Trial and Appellate Attorneys' Fees, Taxable Costs (Including Class Administration Fees and Expenses, and Incentive Awards) and Interest for a 2-day evidentiary hearing no earlier than July 2024, again with a separate order being submitted by counsel for Plaintiffs with more specifics relating to the hearing.

5. On December 29, 2023, the Class also filed a motion to commence proceedings supplementary under section 56.29, Florida Statutes, along with its supplemental complaint. The parties will schedule a 15-minute hearing as soon as practicable, with a separate order being submitted by counsel for Defendant with more specifics relating to the hearing.

6. The Court continues to reserve jurisdiction over this matter, including the administration and final distribution to the Class.

**ORDERED** in POLK County, Florida on Wednesday, January 17, 2024.

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Michael McDaniel, Circuit Judge  
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