

Kolter Reaches Settlement in Case So Big It Couldn't Fit in Courtroom

Samantha Joseph

September 30, 2016



San Matero condo association's Jackie Durham holds an image of the the condition of the walls at a building there with attorney David Haber.

West Palm Beach-based builder Kolter Signature Homes, and its subcontractors, reached a \$22.5 million settlement Thursday with a condo association board in a construction defect case that grew so large it required court administration to build a new venue.

The companies and insurers settled with homeowners at San Matera, a 30-building luxury development near the Gardens Mall in Palm Beach County.

During six years of litigation, the case ballooned to 18 defendants, including 15 subcontractors and two Kolter firms that served as developer and contractor, more than 34 attorneys and numerous insurance carriers and interested parties.

Multiple subcontractors settled with the association during that time. But countersuits, insurance lawsuits for declaratory relief in federal court, and hundreds of pretrial motions suggested the case would drag on for years.

Even jury selection appeared likely to be onerous. Before reaching the settlement, attorneys on Tuesday sifted through a panel of 100 potential jurors, and were set to examine another 100 Thursday.

No courtroom in Palm Beach County could accommodate the crowd of litigants and a jury pool of hundreds, so court administrators did a buildout in Delray Beach for the hearing before Palm Beach

Circuit Judge Jack Cox. The effort gained praise from both sides of the dispute.

"The prior trial judge, chief administrative judge and current trial judge put in tremendous effort," said San Matera The Gardens Condominium Association attorney David Haber, of Haber Slade in Miami. "It was very important that the court was able to provide us with the courtroom and extra jurors, so we could get inside that courthouse to get justice for San Matera."

The San Matera association initially sought \$42 million in a construction defect suit against a Kolter affiliate, the Grande at Palm Beach Gardens Inc. The litigation later became a legal battle of countersuits. It claimed Kolter created the Grande at Palm Beach Gardens to develop and run San Matera, then contract with other single-purpose affiliates to distribute profits upstream to a parent company allegedly skirting responsibility for shoddy work.

Kolter's attorney, Richard Chaves of Ciklin Lubitz Martens and O'Connell in West Palm Beach, called the allegation "pure speculation" barred by the judge and excluded from discussion before the jury. "We were thankful that we were able to reach an amicable and agreed settlement without any admission of liability," Chaves said.

Unit owners claimed the companies delivered more than 670 condos with a litany of defects, including leaking roofs, damaged windows and lighting flaws.

"We're grateful to the court system. The judges and the administrative judge bent over backward to get this thing to work," said Jackie Durham, president of the San Matera board of directors. "It's cost a tremendous amount of money to litigate this. Now we have to fix the place, and start to heal." Durham estimates the association spent "multiple millions" on the case, and has years of repairs ahead.

"This was a very courageous board of directors who were willing to stay the course to get the money necessary to complete their project," said Haber, who teamed with Joy Spillis Lundeen of Stearns Weaver Miller Weissler Alhadeff & Sitterson in Miami to represent the association. "They couldn't afford the appeals that insurance carriers and developers could."