

STATE OF NORTH CAROLINA
FORSYTH COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
22 CVS 929
22 CVS 683

VANDA THOMAS, STACY WHARTON,)
KAREN PRUDENCIO, ARCOLA LEWIS)
d/b/a PREMIER ONE SALON, and)
SHERMAN TRANSOU,)
Individually and On Behalf of All Others)
Similarly Situated,)
)
) Plaintiffs,)
)
) v.)
)
) WINSTON WEAVER Co. Inc.,)
)
) Defendant.)
)

**[PROPOSED]
ORDER GRANTING PLAINTIFFS'
MOTION FOR CLASS
CERTIFICATION**

THIS MATTER came on for hearing before the undersigned Superior Court Judge, specially assigned to this case pursuant to Rule 2.1 of the General Rules of Practice for the Superior and District Courts, on January 8, 2025, in Forsyth County, on Plaintiffs' Motion for Class Certification pursuant to Rule 23 of the North Carolina Rules of Civil Procedure. The Court, after considering the pleadings, discovery and other materials submitted by the parties, authorities cited by the parties, and arguments of counsel, determines that Plaintiffs' Motion should be granted and makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT and CONCLUSIONS OF LAW

1. There are five (5) named Plaintiffs in this action.
2. Each of the named Plaintiffs had a possessory interest in real estate in Winston-Salem at the time of the fire occurring at Defendant's fertilizer plant on or about January 31, 2022.

3. Plaintiffs contend that they were subject to an evacuation as a result of the fire which caused damages including loss of the use and enjoyment of their real property; lost wages and lost profits as a result of being delayed and/or prevented from entering their homes, schools, factories, and stores; evacuation expenses, mental anguish and inconvenience; as well as other incidental and consequential damages arising from the incident.
4. Plaintiffs further contend that these damages resulted from Defendant's negligence, negligence per se, gross negligence, private nuisance, and/or public nuisance which proximately caused the fire and subsequent evacuation.
5. The named Plaintiffs seek to represent as a class of all natural persons and entities that resided, lived, worked, or maintained a place of business or charitable organization within the one-mile evacuation zone of Defendant's facility on January 31, 2022, and sustained economic and/or nuisance-related damages caused by the fire and evacuation, excluding damages arising from personal injury.
6. A class exists as to the claims alleged in this action by the named Plaintiffs.
7. Issue of fact and/or law common to all Plaintiffs include: (1) whether Defendant was negligent in the ownership, operation, management, supervision, inspection, maintenance, repair, and/or control of its facility in the events leading up to January 31, 2022; (2) whether Defendant was negligent per se by failing to comply with applicable federal and state laws and regulatory standards governing the transportation, storage, processing, and distribution of hazardous chemicals; (3) whether Defendant was grossly negligent in the ownership, operation, management, supervision, inspection, maintenance, repair, and/or control of its facility; (4) whether Defendant's acts and/or

omissions constitute private nuisance; (5) whether Defendant's acts and/or omissions constitute public nuisance; (6) whether Defendant's negligence was a proximate cause of the evacuation of the Plaintiff class; and (7) liability for and quantification of punitive damages.

8. Each named Plaintiff and each member of the Class has a direct, compelling and genuine personal interest in the common issues of fact and/or law, which predominate over issues affecting individual members of the Class.
9. The named Plaintiffs, as representatives of the Class, can and will fairly and adequately represent the interests of all members of the Class.
10. There is no conflict of interest between the named representatives and the members of the Class.
11. The named Plaintiffs can adequately represent the interests of any members of the Class who reside outside of the jurisdiction.
12. Based on news articles following the fire on January 31, 2022, it is estimated that there are approximately 6,000 potential members of the Class, as defined below.
13. Due to the numerous members of the Class, it would be difficult or inconvenient to join all of the members of the Class.
14. Due to the numerous members of the Class, it would be impracticable to join all members of the Class.
15. The names and number of the Class are reasonably ascertainable using government records.
16. The type of relief sought by the named Plaintiffs for themselves and for the members of the class is the same.

17. It is judicially more efficient to resolve the issues of this action in a class action rather than individual actions.
18. Trial of individual actions for all of the named Plaintiffs and members of the Class has the potential to result in inconsistent adjudications.
19. The named Plaintiffs and members of the Class are represented by competent and established law firms with ample experience and expertise in class actions and complex civil litigation.
20. Adjudication of this matter as a class action will require administration including but not limited to notice to class members.
21. Counsel for the named Plaintiffs are willing and able to provide notice to the Class.

Based on the foregoing Findings of Fact and Conclusions of Law, it is therefore **ORDERED** that Plaintiffs' Motion for Class Certification be and is hereby **GRANTED** and the Court further decrees and orders as follows:

1. The Plaintiff Class shall consist of:

All natural persons and entities (whether business or charitable) that resided, lived, worked, or maintained a place of business or charitable organization of the Winston Weaver facility on January 31, 2022, and sustained economic and/or nuisance-related damages caused by the fire and evacuation, excluding damages arising from personal injury.

Excluded from the class are: any person relying solely on personal injury damages; Defendant, including any entity in which Defendant has a controlling interest, is a parent or subsidiary, or which is controlled by Defendant, as well as the officers, directors, employees, affiliates, legal representatives, heirs, predecessors, successors, and assigns of Defendant; judges and court personnel in this case and any members of

their immediate families; the attorneys who have made appearances for any of those parties; and any person or entity that opts out of this action.

2. The Court hereby appoints as Class Representatives Vanda Thomas, Stacy Wharton, Karen Prudencio, Arcola Lewis, and Sherman Transou.
3. The Court appoints as Lead Class Counsel herein Derek H. Potts, of the Potts Law Firm, LLP, 3737 Buffalo Speedway, Suite 1900, Houston, TX 77098 and Gary W. Jackson, of the Law Offices of James Scott Farrin, 555 S. Mangum Street, Suite 800, Durham, NC 27701.
4. The Court appoints as Class Administrators herein Derek H. Potts, of the Potts Law Firm, LLP, 3737 Buffalo Speedway, Suite 1900, Houston, TX 77098 and Gary W. Jackson, of the Law Offices of James Scott Farrin, 555 S. Mangum Street, Suite 800, Durham, NC 27701.
5. The members of the Class shall be given the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort of the parties.

This the 3 day of Feb, 2025.



Hon. Edwin G. Wilson, Jr.
Designated Superior Court Judge (Rule 2.1)

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FINDINGS OF FACT and CONCLUSIONS OF LAW

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3. Plaintiffs contend that they were subject to an evacuation as a result of the fire which caused damages including loss of the use and enjoyment of their real property; lost wages and lost profits as a result of being delayed and/or prevented from entering their homes, schools, factories, and stores; evacuation expenses, mental anguish and inconvenience; as well as other incidental and consequential damages arising from the incident.
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6. A class exists as to the claims alleged in this action by the named Plaintiffs.
7. Issue of fact and/or law common to all Plaintiffs include: (1) whether Defendant was negligent in the ownership, operation, management, supervision, inspection, maintenance, repair, and/or control of its facility in the events leading up to January 31, 2022; (2) whether Defendant was negligent per se by failing to comply with applicable federal and state laws and regulatory standards governing the transportation, storage, processing, and distribution of hazardous chemicals; (3) whether Defendant was grossly negligent in the ownership, operation, management, supervision, inspection, maintenance, repair, and/or control of its facility; (4) whether Defendant's acts and/or

omissions constitute private nuisance; (5) whether Defendant's acts and/or omissions constitute public nuisance; (6) whether Defendant's negligence was a proximate cause of the evacuation of the Plaintiff class; and (7) liability for and quantification of punitive damages.

8. Each named Plaintiff and each member of the Class has a direct, compelling and genuine personal interest in the common issues of fact and/or law, which predominate over issues affecting individual members of the Class.
9. The named Plaintiffs, as representatives of the Class, can and will fairly and adequately represent the interests of all members of the Class.
10. There is no conflict of interest between the named representatives and the members of the Class.
11. The named Plaintiffs can adequately represent the interests of any members of the Class who reside outside of the jurisdiction.
12. Based on news articles following the fire on January 31, 2022, it is estimated that there are approximately 6,000 potential members of the Class, as defined below.
13. Due to the numerous members of the Class, it would be difficult or inconvenient to join all of the members of the Class.
14. Due to the numerous members of the Class, it would be impracticable to join all members of the Class.
15. The names and number of the Class are reasonably ascertainable using government records.
16. The type of relief sought by the named Plaintiffs for themselves and for the members of the class is the same.

17. It is judicially more efficient to resolve the issues of this action in a class action rather than individual actions.
18. Trial of individual actions for all of the named Plaintiffs and members of the Class has the potential to result in inconsistent adjudications.
19. The named Plaintiffs and members of the Class are represented by competent and established law firms with ample experience and expertise in class actions and complex civil litigation.
20. Adjudication of this matter as a class action will require administration including but not limited to notice to class members.
21. Counsel for the named Plaintiffs are willing and able to provide notice to the Class.

Based on the foregoing Findings of Fact and Conclusions of Law, it is therefore **ORDERED** that Plaintiffs' Motion for Class Certification be and is hereby **GRANTED** and the Court further decrees and orders as follows:

1. The Plaintiff Class shall consist of:

All natural persons and entities (whether business or charitable) that resided, lived, worked, or maintained a place of business or charitable organization of the Winston Weaver facility on January 31, 2022, and sustained economic and/or nuisance-related damages caused by the fire and evacuation, excluding damages arising from personal injury.

Excluded from the class are: any person relying solely on personal injury damages; Defendant, including any entity in which Defendant has a controlling interest, is a parent or subsidiary, or which is controlled by Defendant, as well as the officers, directors, employees, affiliates, legal representatives, heirs, predecessors, successors, and assigns of Defendant; judges and court personnel in this case and any members of

their immediate families; the attorneys who have made appearances for any of those parties; and any person or entity that opts out of this action.

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5. The members of the Class shall be given the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort of the parties.

This the 3 day of Feb, 2025.



Hon. Edwin G. Wilson, Jr.
Designated Superior Court Judge (Rule 2.1)