

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

Michael Brinkley et al
Plaintiff/Petitioner(s)
VS.
Claridge Hotel LLC et al
Defendant/Respondent
(s)

No. 22CV008221

Date: 03/07/2025

Time: 3:21 PM

Dept: 21

Judge: Somnath Raj Chatterjee

ORDER re: Ruling on Submitted

Matter filed by Michael

Brinkley (Plaintiff) on

02/19/2025

The Motion for Class Certification filed by Michael Brinkley on 11/26/2024 is Granted in Part.

The Court, having taken the matter under submission on 03/04/2025, now rules as follows:

The Motion of plaintiff for class certification is GRANTED IN PART.

BACKGROUND

Defendants own and operate the Claridge, which is a residential hotel or single room occupancy hotel in Oakland. The Claridge allegedly has uninhabitable conditions, including bedbugs.

Plaintiffs seek to represent a class of former and current residents.

Plaintiffs seek class certification on the claims for (1) Unfair Competition Law, Bus. & Prof. Code § 17200 et seq. ("UCL"); (2) Bed Bug Infestations, Civ. Code § 1954.600 et seq.; (3) Tenant Harassment, Oakland Ordinance § 8.22.640 et seq.; (4) Breach of Contract; (5) Premises Liability; and (6) Unjust Enrichment. (Motion p1:9-12)

Regarding the relief requested, Plaintiffs seek only injunctive relief and abatement of rent. (Motion p1:15-16)

PRIOR ORDER

This is the second motion for class certification. On 9/30/24, the Court denied a motion for class certification. The Court stated: "The plaintiffs have not demonstrated how a class trial could be manageable. Although a class trial could address whether there was a bedbug infestation in the Claridge generally, there would need to be individual trials on whether each unit had bedbugs (and for what time frame) and what damages each member of the class suffered from both loss of

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habitability and personal injuries. The need for individual determinations for each member of the class would outweigh the benefits of class treatment regarding the alleged overall infestation.”

STANDARD FOR CLASS CERTIFICATION

The court considers the settled concerns on a motion for class certification. (*Brinker Rest. Corp. v. Superior Ct.* (2012) 53 Cal. 4th 1004, 1021.) The court considers numerosity, ascertainability, predominance of common questions, typicality, adequacy of representation, manageability, and superiority. (*Brinker*, 53 Cal.4th at 1021.)

The court also separately considers class certification for injunctive relief only. A plaintiff in a California court can define the claims and elect to seek declaratory and injunctive relief rather than damages and thereby focus the class certification analysis on policies and procedures, and alleged systemwide violations, rather than on the effects of those alleged systemwide violations on the individual member of the class. *Hefczyc v. Rady Children's Hospital-San Diego* (2017) 17 Cal.App.5th 518, 531, states, “trial courts [are] urged to exercise pragmatism and flexibility in dealing with class actions.”

In *Capitol People First v. State Dept. of Developmental Services* (2007) 155 Cal.App.4th 676, the Court of Appeal reversed the trial’s denial of class certification and directed the trial court to certify the class. In *Capitol People* the plaintiffs sought only declaratory and injunctive relief. (155 Cal.App.4th at 686.) The trial court denied class certification. The Court of Appeal found that the trial court failed to focus on the allegedly unlawful systemwide policies and practices and the theory of recovery in the commonality inquiry. (155 Cal.App.4th at 693.) The Court of Appeal held that the trial court had turned pattern and practice “upside down” by improperly focusing on the individualized effects of the alleged practice to determine whether there was a pattern rather than the common evidence that could be presented to demonstrate the existence of an alleged common practice or policy. (155 Cal.App.4th at 696.) The Court of Appeal held that the trial court failed to differentiate between classwide injunctive relief and the existing statutory fair hearing procedure that adjudicates individual claims and grievances (155 Cal.App.4th at 701-702).

Capitol People is noteworthy because it reversed a trial court decision and directed the trial court to certify the class. *Hefczyc v. Rady Children's Hospital-San Diego* (2017) 17 Cal.App.5th 518, and *Kendall v. Scripps Health* (2017) 16 Cal.App.5th 553, both considered classes seeking injunctive relief, but they provide less guidance because the appellate court affirmed trial court orders that denied class certification. Rather than standing for the proposition that a trial court must reach a particular conclusion, the court reads *Hefczyc* and *Kendall* collectively for the more modest proposition that trial courts are vested with discretion in evaluating whether to grant or deny class certification and that the Court of Appeal will affirm if there is no abuse of discretion. (*Kaldenbach v. Mutual of Omaha Mutual Life Ins. Co.* (2009) 178 Cal.App.4th 830, 844; *Cohen v. DirecTV* (2009) 178 Cal.App.4th 966, 981.)

In *Carter v. City of Los Angeles* (2014) 224 Cal.App.4th 808, the court discussed class certification in the context of whether it was appropriate to approve a class settlement. In that context, the court quoted *Wal-Mart Stores, Inc. v. Dukes* (2011) 564 U.S. 338, 362-363, for the proposition that “When a class seeks an indivisible injunction benefitting all its members at once,

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there is no reason to undertake a case-specific inquiry into whether class issues predominate or whether class action is a superior method of adjudicating the dispute. Predominance and superiority are self-evident.” (Carter, 224 Cal.App.4th at 824.)

NUMEROSITY.

Numerosity concerns whether there are so many class members that “it is impracticable to bring them all before the court.” (CCP 382.) There are over 400 former and current tenants in the relevant time period. The court finds that the proposed class is numerous.

ASCERTAINABILITY.

The class must be defined “in terms of objective characteristics and common transactional facts” that make “the ultimate identification of class members possible when that identification becomes necessary.” (Noel v. Thrifty Payless, Inc. (2019) 7 Cal.5th 955, 961, 967, 974.)

Plaintiffs proposed definition is: “All current or former residents of the Claridge Hotel since March 10, 2018 through the date of class certification.” The word “residents” is vague. The lease will identify who paid the rent, but residents could include family, close friends, and others. The use of “residents” appears to serve no purpose because the only monetary relief sought would be abatement of rent, which would be a payment to the person who signed the lease.

The class definition will be: “All persons who had lease agreements and paid rent at the Claridge Hotel located at the corner of Martin Luther King, Jr. Way and 15th Street in Oakland, CA, in the time period from March 10, 2018 through March 4, 2025.”

PREDOMINANCE

Predominance of common issues requires not merely that some common issues exist, but, rather, to place substantial evidence in the record that common issues predominate. (Lockheed Martin Corp. v. Superior Court (2003) 29 Cal. 4th 1096, 1108.) The determination of how much commonality is enough to warrant use of the class mechanism requires a fact specific evaluation of the claims, the common evidence, and the anticipated conduct of the trial.

Claridge Maintenance records from March of 2018 to 2023 show that during that five-year period 73% of the rental units in the Claridge have documented histories of bed bug treatments and inspections, with several units having multiple treatments. (Schreiber Dec Exhs 3, White Dec para 6.) Plaintiffs prepared a color model that compiled the data for the class period from March 2018 to December 2023. (White Dec para 8, Exh A.) The model shows data over a five-year period and does not shed light on whether there was a building-wide infestation at any given point in time. A unit might have had bedbugs for all of 2019, been fumigated, and been bug-free for the past five years. The model also shows that many of the units reported no bed bugs during the entire time period.

In March 2023, the parties inspected more than 80% of the Claridge units. Of those units, approximately 10-15% showed an active bedbug presence. (Schreiber Dec Exhs 1 and 3, White

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Dec para 4 [infestation rate of 13.26%].) The units differed in factors such as sanitation and clutter, which would affect bedbug infestation.

Plaintiffs have not demonstrated predominance. For each unit, the defendants will have the affirmative defense that a tenant failed “To keep that part of the premises which he occupies and uses clean and sanitary as the condition of the premises permits.” (Civil Code 1941.2(a)(1).) For each unit, the defendants will have the affirmative defense of comparative negligence. (Taylor v. John Crane (2003) 113 Cal.App.4th 1063, 1068.)

Regarding the claims for monetary relief, this case is similar to *Frieman v. San Rafael Rock Quarry, Inc.* (2004) 116 Cal.App.4th 29, where individuals who resided near a rock quarry moved for class certification in their action against quarry, alleging nuisance and violations of the UCL. The trial court denied class certification and the Court of Appeal affirmed. The Court of Appeal states: “For example, the residents of a house built on soil, behind a hill or on the waterfront may be completely unaware of the Quarry's activities and suffer no discomfort or annoyance. Neighboring residents in homes built on rock without barriers might suffer varying degrees of annoyance from vibration, noise, dust or other byproducts of the Quarry's business. The former residents cannot establish liability for maintaining a public nuisance. The latter have infinite variations in degree of impact.” (116 Cal.App.4th at 41-42.) The variation in habitability in the individual units of the Claridge is similar.

Regarding the claims for monetary relief, this case is also similar to *Wilson v. La Jolla Group* (2021) 61 Cal.App.5th 897, 913, where plaintiffs sought to certify a class of signature gatherers on behalf of political campaigns and political action committees. The trial court denied class certification and the court of appeal affirmed. The Court of appeal stated: “the record shows the work habits and practices of the signature gatherers vary widely. LJG does not tell signature gatherers where or how long to work. Some signature gatherers work long hours; others do not. Some work alone; others with partners. Many work other jobs. ... As the trial court noted, each signature gatherer's “story” is different, and the court could reasonably reject class certification on that basis.”

The court has considered *Peviani v. Arbors at California Oaks Property Owner, LLC* (2021) 62 Cal.App.5th 874, where the Court of Appeal held that the trial court abused its discretion in denying class certification of claims about the habitability of the common areas in an apartment complex. In *Peviani* the trial court mistakenly “believed the habitability cause of action pertained to problems in individual units, such as a flea infestation.” (62 Cal.App. at 893.) *Peviani* is distinguishable because in this case the plaintiffs are seeking class certification for claims related to the habitability of individual units.

Peviani is instructive because the condition of the entire building is similar to a common area in that the court could make a finding that the entire building was infested and order injunctive relief that would remedy the conditions in the entire building. *Peviani* also includes citations to other cases where courts certified classes on claims alleging breach of the warranty of habitability. (*Peviani*, 62 Cal.App.5th at 895-896.)

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Regarding the claims for monetary relief, plaintiffs have not demonstrated that common issues will predominate. Abatement of rent would still require the trier of fact to consider the condition of any rental unit and whether there should be abatement of some or all of the rent for any given time period. In this aspect, the claims for monetary relief are similar to the claims in *Frieman v. San Rafael Rock Quarry, Inc.* (2004) 116 Cal.App.4th 29, and in *Wilson v. La Jolla Group* (2021) 61 Cal.App.5th 897, 913.

Regarding the claims for injunctive relief, the court finds that plaintiff has demonstrated that common issues will predominate on whether the building was infested with bedbugs. Plaintiff can present common evidence from Defendant's PMK witness, from Pest Be Gone (which performed pest control services since 2022), maintenance persons who treated units for bed bugs, and other common evidence on the existence of bedbugs in multiple units in the building, the efforts of defendants to eradicate the bedbugs, and whether those efforts were successful. Plaintiffs and Defendants can also present a statistically significant representative sample of tenants. (*Duran v. U.S. Bank National Assn.* (2014) 59 Cal.4th 1.) The named plaintiffs might not be permitted to testify if their testimony would not be consistent with a representative sample of members of the class. (*Duran*, 59 Cal.4th at 45.)

Plaintiffs' theory of a "building-wide" infestation can be presented on a classwide basis and the court can order building-wide injunctive relief or other appropriate relief. In addition, findings and orders based on Plaintiffs' injunctive relief claims might have the benefit of later applying to any individual claims for damages, which could realize efficiencies in those cases if the use of the judgment in this case made it unnecessary for the parties to present evidence in later cases. (*Sarun v. Dignity Health* (2019) 41 Cal.App.5th 1119, 1136-1138.) (See also Evid Code 352.)

TYPICALITY

"The typicality requirement's purpose " 'is to assure that the interest of the named representative aligns with the interests of the class. ... The test of typicality is whether other members have the same or similar injury, whether the action is based on conduct which is not unique to the named plaintiffs, and whether other class members have been injured by the same course of conduct.'" (*Martinez v. Joe's Crab Shack Holdings* (2014) 231 Cal.App.4th 362, 375.) Plaintiffs have demonstrated that the named plaintiffs are typical of the members of the proposed class.

ADEQUACY

Adequacy concerns whether the class representatives are adequate: (1) to have no interests adverse to the class; (2) to protect the interests of the class, and (3) to select and monitor competent class counsel. (*J. P. Morgan & Co., Inc. v. Superior Court* (2003) 113 Cal.App.4th 195, 212 [no adverse interests]; *McGhee v. Bank of America* (1976) 60 Cal.App.3d 442, 450 ["whether the plaintiff's attorney is qualified to conduct the proposed litigation"]; *Sharp v. Next Entertainment, Inc.* (2008) 163 Cal.App.4th 410, 432 ["vigorously and tenaciously protecting the classmembers' interests"].) (See also *Wershba v. Apple Computer* (2001) 91 Cal. App. 4th 224, 238.)

Plaintiffs have demonstrated that the named plaintiffs are adequate and have retained competent

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counsel.

MANAGEABILITY

Manageability is a factor because the trial court is ultimately required to manage any class trial so that the trial provides due process to both the absent class members and to the defendant. (Kight v. CashCall (2014) 231 CalApp.4th 112, 127.)

Plaintiffs propose a trial plan that would proceed in three stages.

Stage I would determine on a classwide basis whether defendants are liable under the various claims. Common evidence would be (1) company documents (such as lease agreements, pest control records, and work orders); (2) testimony from Defendants regarding Defendants' policies, practices and conduct; (3) testimony from experts on pest control practices; and (4) testimony of the three named Plaintiffs.

Assuming liability, Stage II would focus on whether any given individual member of the class can demonstrate a claim for money relief. Plaintiffs' brief summarizes the facts about each of the ten plaintiffs, which demonstrates that they each resided in different units, presumably at different times, and had different conditions in their units. (Moving at 10-12.)

Assuming liability, Stage III would focus on injunctive relief. There would presumably be no need to consider restitution because any monetary relief would have been addressed in Phase II.

This does not change the concerns about manageability identified in the order of 9/30/24 that denied class certification. Although a class trial could address whether there was a bedbug infestation in the Claridge generally, there would need to be individual trials on whether each unit had bedbugs (and for what time frame) and what damages each member of the class suffered from both loss of habitability and personal injuries. The need for individual determinations for each member of the class would outweigh the benefits of class treatment regarding the alleged overall infestation.

SUPERIORITY

Superiority concerns whether there is any alternate procedure for handling the controversy. (Bradley v. Networkers Internat., LLC (2012) 211 Cal.App.4th 1129, 1142.) Regarding the claims for monetary relief, individual claims by individual persons about their individual units would be superior. Regarding the claims for injunctive relief, classwide relief is superior so that defendant would not be subject to inconsistent injunctions. In addition, a judgment on the class claim for injunctive relief could potentially be used as evidence in individual claims, thereby permitting shorter and more efficient trials. (Sarun v. Dignity Health (2019) 41 Cal.App.5th 1119, 1136-1138.) (See also Evid Code 352.)

CONCLUSION AND FURTHER PROCEEDINGS

The Motion of plaintiff for class certification is GRANTED IN PART. Plaintiffs may prosecute

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the following claims on a class basis seeking injunctive relief: (1) Unfair Competition Law, Bus. & Prof. Code § 17200 et seq. (“UCL”); (2) Bed Bug Infestations, Civ. Code § 1954.600 et seq.; (3) Tenant Harassment, Oakland Ordinance § 8.22.640 et seq.; and (4) Breach of Contract. Plaintiffs may not seek or obtain monetary relief on any of these claims in the class action.

Plaintiffs may not prosecute the following claims on a class basis because monetary relief is an essential component of the claims: (4) Breach of Contract; (5) Premises Liability; and (6) Unjust Enrichment.

The class is defined as: “All persons who had lease agreements and paid rent at the Claridge Hotel located at the corner of Martin Luther King, Jr. Way and 15th Street in Oakland, CA, in the time period from March 10, 2018 through March 4, 2025.”

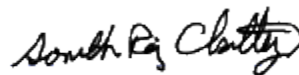
The court ORDERS that the parties meet and confer about class notice, including the content of class notice, the means of distribution, and the cost. (CRC 3.766.) The plaintiff generally pays the cost.

The court ORDERS that the class notice prominently inform members of the class that the class certification is granted for injunctive relief only and that class certification is denied for monetary relief. The court ORDERS that the class notice prominently inform members of the class that if they want to file claims for monetary relief then they must file their own claims. The prominent notice must be in the nature of a “Black Box” warning on drug products. (21 CFR 201.57(a)(4) and (c)(1).)

The court ORDERS the parties to meet and confer on a general timeline for the above and how to proceed to trial. Plaintiff filed this case on 3/10/22. The court anticipates the trial date will be in mid-2026.

Clerk is directed to serve copies of this order, with proof of service, to counsel and to self-represented parties of record.

Dated : 03/07/2025



Somnath Raj Chatterjee / Judge

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<p align="center">SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA</p>	<p align="center">Reserved for Clerk's File Stamp</p>
<p>COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612</p>	<p align="center">FILED Superior Court of California County of Alameda 03/07/2025</p>
<p>PLAINTIFF/PETITIONER: Michael Brinkley et al</p>	<p>Chad Finke, Executive Officer / Clerk of the Court By: <u>Nicole Hall</u> Deputy</p>
<p>DEFENDANT/RESPONDENT: Claridge Hotel LLC et al</p>	<p align="center">N. Hall</p>
<p align="center">CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6</p>	<p>CASE NUMBER: 22CV008221</p>

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Order re: Ruling on Submitted Matter filed by Michael Brinkley (Plaintiff) on 02/19/2025 entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

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Dated: 03/07/2025

Chad Finke, Executive Officer / Clerk of the Court

By:

Nicole Hall

N. Hall, Deputy Clerk

<p align="center">SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA</p>		<p align="center">Reserved for Clerk's File Stamp</p>
<p>COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612</p>		<p align="center">FILED Superior Court of California County of Alameda 03/07/2025 Chad Finke, Executive Officer / Clerk of the Court By: <u>Nicole Hall</u> Deputy N. Hall</p>
<p>PLAINTIFF/PETITIONER: Michael Brinkley et al</p>		
<p>DEFENDANT/RESPONDENT: Claridge Hotel LLC et al</p>		
<p align="center">CERTIFICATE OF MAILING</p>		<p>CASE NUMBER: 22CV008221</p>

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the attached document upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Oakland, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

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Chad Finke, Executive Officer / Clerk of the Court

Dated: 03/07/2025

By:

Nicole Hall

N. Hall, Deputy Clerk

CERTIFICATE OF MAILING