

IN THE CIRCUIT COURT OF
THE 15TH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH
COUNTY, FLORIDA

ANTHONY STAMPONE, on behalf of
himself and all others similarly situated,

Plaintiffs,

-against-

FLORIDA POWER & LIGHT
COMPANY, a Florida Corporation,

Defendant.

CLASS REPRESENTATION

Case No.: 2010 (CA) _____ (A)

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AQ

SHARON F. BOCK, CLERK
PALM BEACH COUNTY
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FILED

CLASS ACTION COMPLAINT

The Class Plaintiff, ANTHONY STAMPONE, on behalf of himself and all others similarly situated, by and through undersigned counsel, hereby sues the Defendant, FLORIDA POWER & LIGHT COMPANY ("FP&L"), and in support thereof, states as follows:

NATURE OF THE ACTION

1. This is a class action brought pursuant to Florida Rule of Civil Procedure 1.220 seeking damages attributable to the failure of FP&L's equipment to handle the energy load imposed upon it during the weekend of January 9, 2010 and January 10, 2010.

2. The systemic failure of FP&L's equipment, including the wholesale failure of transformers, power lines and other equipment across FP&L's power

grid in Palm Beach and Broward Counties left in excess of 17,000 homes without power in Palm Beach County and in excess of 8,500 homes without power in Broward County.

3. Throughout the affected area, old, undersized, or otherwise inadequate FP&L transformers were incapable of handling the energy load imposed upon them and scores of transformers shut down, or burned out altogether, leaving more than 25,000 Palm Beach and Broward County homeowners without heat and power in near-freezing conditions.

4. The resultant power outages were by no means short term, lasting largely for hours, even days, at a time when the need for FP&L's service was at its most desperate.

5. The weather conditions during this January weekend, while unusual, were by no means unforeseeable, and were within the extremes of temperature within which FP&L equipment should have been able to; indeed, must have been able to, continue to function.

6. Moreover, Defendant FP&L's attempts to address the wholesale outages were insufficient, "band-aid" approaches -- such as merely restarting shut-down transformers or replacing fuses in transformers with larger fuses -- rather than replacing the transformers altogether.

7. Further compounding matters is the fact that certain of FP&L's power grids were incorrectly mapped -- rendering FP&L incapable of correctly identifying which damaged transformers were affecting which homeowners.

8. Because of FP&L's negligent failure to replace antiquated, undersized, or otherwise inadequate transformers and equipment, and otherwise ensure

that its power grid was capable of persevering through the weather conditions of January 9, 2010 and January 10, 2010, tens of thousands of Palm Beach County and Broward County homeowners needlessly endured prolonged inconvenience and damage to their property.

PARTIES, JURISDICTION & VENUE

9. This is an action for monetary damages in excess of \$15,000.00, exclusive of interest, costs and attorney's fees, and this Court otherwise has jurisdiction over the subject matter hereof.

10. Class Plaintiff Anthony Stampone is a resident of the State of Florida, residing at 6870 N.W. 116th Avenue, Parkland, Florida 33076, and is otherwise *sui juris*.

11. The Defendant, FP&L, is a corporation organized and existing under the laws of the State of Florida, with its principal place of business located at 700 Universe Blvd., Juno Beach, Florida 33408.

12. At all times mentioned herein, FP&L was the singular public utility responsible for the delivery of electricity to all homeowners residing in Palm Beach and Broward County Florida.

13. The Class Plaintiff's residence is located in Broward County.

14. Venue is proper in Palm Beach County, Florida since Palm Beach County is: (a) the domicile of the Defendant; and (b) the situs of certain of the real property at issue and among the locations of the Defendant's wrongful conduct.

15. All conditions precedent to the filing of this action have occurred or have otherwise been waived.

**FACTUAL ALLEGATIONS COMMON
TO ALL CLAIMS FOR RELIEF**

16. This action seeks damages attributable to the failure of FP&L's equipment to handle the energy load imposed upon it during the weekend of January 9, 2010 and January 10, 2010.

17. FP&L's equipment experienced a systemic failure on this weekend, including the wholesale failure of transformers, power lines and other equipment across FP&L's power grid in Palm Beach and Broward Counties.

18. Upon information and belief, in excess of 17,000 homes lost power in Palm Beach County and in excess of 8,500 homes lost power in Broward County.

19. Throughout the affected area, old, undersized, or otherwise inadequate FP&L transformers were incapable of handling the energy load imposed upon them and scores of transformers shut down, or burned out altogether, leaving more than 25,000 Palm Beach and Broward County homeowners without heat and power in near-freezing conditions.

20. The resultant power outages were by no means short term, lasting largely for hours, even days, at a time when the need for FP&L's service was at its most desperate.

21. The weather conditions during this January weekend, while unusual, were by no means unforeseeable.

22. Indeed, the weather was within the extremes of temperature within which FP&L equipment should have been able to; indeed, must have been able to, continue to function.

23. Moreover, Defendant FP&L's attempts to address the wholesale outages were insufficient, "band-aid" approaches -- such as merely restarting shut-down transformers or replacing fuses in transformers with larger fuses -- rather than replacing the transformers altogether. This action failed when transformers routinely shut down again in a matter of hours or even minutes.

24. Further compounding matters is the fact that certain of FP&L's power grids were incorrectly mapped -- rendering FP&L incapable of correctly identifying which damaged transformers were affecting which homeowners.

25. Because of FP&L's negligent failure to replace antiquated, undersized, or otherwise inadequate transformers and equipment, and otherwise ensure that its power grid was capable of persevering through the weather conditions of January 9, 2010 and January 10, 2010, tens of thousands of Palm Beach County and Broward County homeowners needlessly endured prolonged inconvenience and damage to their property.

CLASS REPRESENTATION ALLEGATIONS

26. This Action is brought on behalf of a class. The class consists of all homeowners in Palm Beach and Broward County who endured a power outage during the weekend of January 9, 2010 and January 10, 2010.

27. The class is believed to consist of over 25,000 members and is therefore so numerous that joinder of all members is impractical.

28. Plaintiff's claims are typical of those of the class members. All claims are based on the same factual and legal theories.

29. The Class Plaintiff will fairly and adequately represent the class members. Plaintiff is a successful, sophisticated business person who has retained counsel experienced in bringing class actions.

30. This action should be maintained as a class action pursuant to Florida Rule of Civil Procedure 1.220(b)(1)(B) in that the prosecution of separate claims would create a risk of inconsistent adjudications affecting class members in the identical situations which the Defendant would contend are dispositive of the interests of other class members or would substantially impair the ability of other, non-party potential class members to protect their interests.

31. Alternatively, this action should be maintained as a class pursuant to Florida Rule of Civil Procedure 1.220(b)(3). There are questions of law and fact common to the class, which questions predominate over any questions affecting only individual class members.

32. The only individual, as opposed to common, issue is the identification of the locations of all power outages during the operative time period.

33. A class action is superior for the fair and efficient adjudication of the class members' claims. The class members' rights will not likely be vindicated in the absence of a class action.

COUNT I.

NEGLIGENCE

34. Class Plaintiff repeats and realleges the allegations of Paragraphs 1-33 as if fully set forth herein.

35. An electric company rendering a public service such as FP&L is under a duty to continue to do so in a reasonably adequate manner.

36. A public utility that has knowledge of the electrical needs of its customers is under a duty to continue to furnish the necessary electricity if, by reasonable and practicable diligence and care under the circumstances, it can do so.

37. Defendant breached their duty of due care to the Class Plaintiffs by (1) failing to replace antiquated, undersized, or otherwise inadequate transformers and equipment, and otherwise ensure that its power grid was capable of persevering through the weather conditions of January 9, 2010 and January 10, 2010; (2) undertaking an insufficient, "band-aid" approach to the problem -- such as merely restarting shut-down transformers or replacing fuses in transformers with larger fuses -- rather than replacing the transformers altogether; and (3) incorrectly mapping certain of FP&L's power grids -- rendering FP&L incapable of correctly identifying which damaged transformers were affecting which homeowners.

38. The preceding breaches of duty demonstrated that FP&L performed the work they were duty-bound to perform in a faulty and negligent manner; performed their duties in a manner which fell below accepted standards in their area of practice; and performed work which was inadequate and inappropriate for the purposes for which it was intended.

39. The above recital is not exhaustive. Class Plaintiff is continuing his investigation. Additional negligent acts may exist and Class Plaintiff will amend this Complaint at such time as additional negligent acts become known.

40. As a direct and proximate result of the aforementioned acts of commission and omission on the part of the Defendant FP&L, Class Plaintiff has been damaged in an amount to be determined at trial, which amount includes, but is not limited to, damages to the Plaintiffs' home, damages to the Plaintiffs' personal property, loss of use of the Plaintiffs' residence, loss of enjoyment of life, and inconvenience.

WHEREFORE, Class Plaintiff ANTHONY STAMPONE respectfully requests that this honorable Court enter a judgment against Defendant FLORIDA POWER & LIGHT COMPANY for damages, Court costs, and such further and additional relief as the Court deems just, fair and proper.

COUNT II.

PRELIMINARY AND PERMANENT INJUNCTION

41. Class Plaintiff repeats and realleges the allegations of Paragraphs 1-33 as if fully set forth herein.

42. An electric company rendering a public service such as FP&L is under a duty to continue to do so in a reasonably adequate manner.

43. An interruption of electric service by an electric company may cause irreparable injury to consumers; thus, consumers may seek an appropriate remedy in a court of equity to restore power caused by such an interruption and to prevent such an interruption in the future.

44. Absent the issuance of a preliminary and permanent injunction by this Court requiring FP&L to ensure that its power grid in South Florida can sustain weather conditions of the type and duration during the weekend of January 9, 2010 and January 10, 2010 without the wholesale outages that transpired, there is a substantial likelihood that the Class Plaintiff(s) will suffer irreparable harm.

45. Class Plaintiff(s) have no adequate remedy at law.

46. Such an injunction will overwhelmingly serve the public interest.

47. Accordingly, Class Plaintiff(s) are entitled to a preliminary and permanent injunction affirmatively requiring FP&L to ensure that its power grid in South Florida can sustain weather conditions of the type and duration during the weekend of January 9, 2010 and January 10, 2010 without the wholesale outages that transpired during this empirical timeframe.

WHEREFORE, Class Plaintiff ANTHONY STAMPONE respectfully requests that this honorable Court enter a judgment against Defendant FLORIDA POWER & LIGHT COMPANY for injunctive relief, and such further and additional relief as the Court deems just, fair and proper.

COUNT III.

PRELIMINARY AND PERMANENT INJUNCTION

48. Class Plaintiff repeats and realleges the allegations of Paragraphs 1-33 as if fully set forth herein.

49. An electric company rendering a public service such as FP&L is under a duty to continue to do so in a reasonably adequate manner.

50. An interruption of electric service by an electric company may cause irreparable injury to consumers; thus, consumers may seek an appropriate remedy in a court of equity to restore power caused by such an interruption and to prevent such an interruption in the future.

51. Absent the issuance of a preliminary and permanent injunction by this Court requiring FP&L to restore power to the Class Plaintiff's residence and all those similarly affected, there is a substantial likelihood that the Class Plaintiff(s) will suffer irreparable harm.

52. Class Plaintiff(s) have no adequate remedy at law.

53. Such an injunction will overwhelmingly serve the public interest.

54. Accordingly, Class Plaintiff(s) are entitled to a preliminary and permanent injunction affirmatively requiring FP&L to restore power to the Class Plaintiff's residence and all those similarly affected.


WHEREFORE, Class Plaintiff ANTHONY STAMPONE respectfully requests that this honorable Court enter a judgment against Defendant FLORIDA POWER & LIGHT COMPANY for injunctive relief, and such further and additional relief as the Court deems just, fair and proper.

JURY TRIAL DEMAND

Class Plaintiff(s) hereby demand trial by jury on all claims and issues triable by jury in this Action.

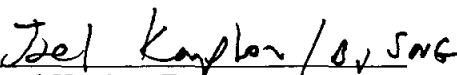
DATED this 11th day of January, 2010.

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