TENAE SMITH, et al.,	*	**IN THE**
Plaintiffs,	*	**CIRCUIT COURT**
v.	*	**FOR**
WESTMINSTER MANAGEMENT, LLC, et al.,	*	**BALTIMORE CITY**
	*	**Case No.: 24-C-17-004797**
Defendants.	*	

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MEMORANDUM OPINION AND ORDER FOR PARTIAL SUMMARY JUDGMENT

This matter came before the court on June 24, 2026, for hearing on: (1) Westminster's Motion to Decertify the Class Action (the "Motion to Decertify"), filed on April 9, 2026, to which Plaintiffs filed an Opposition on April 24, 2026, and Westminster filed a Reply on June 3, 2026; and (2) Plaintiffs' Motion for Summary Judgment (the "Motion for Summary Judgment" or "MSJ"),[1] filed on April 9, 2026, to which Defendants filed an Opposition on April 30, 2026, and Plaintiffs filed a Reply on May 22, 2026.

Discussion

On the case's trip through appellate review, our appellate courts affectively resolved the liability issues on Plaintiffs' allegations made in the Third Amended Class Action Complaint (the

[1] Plaintiff's Third Amended Class Action Complaint identifies six (6) counts. The Motion for Summary Judgment seeks judgment on liability only as to Count One (Violations of Maryland Real Property Article § 8-208), Count Four (Breach of Contract), Count Five (Breach of Contract), and Count Six (Declaratory and Injunctive Relief), and as to damages. As to Count Four, the Third Amended Complaint acknowledges in footnote 2 that Count Four—which had been Count Five to the Amended Class Action Complaint filed on April 13, 2018—was dismissed; the dismissal was by Order dated July 23, 2018. This court's review of the extensive procedural history of this case reveals that the dismissal of Count Five to the Amended Class Action Complaint has never been reconsidered, reversed, or revised. Regardless, what is now Count Four appears not to allege a breach of contract; rather, it alleges, similar to Count One, that Westminster charged fees as "rent" in violation of RP § 8-208(d)(3)(i).

"Third Amended Complaint") that Defendant Westminster Management, LLC and Defendant JK2 Westminster, LLC (together, "Westminster") engaged in a course of practice that violated both Md. Code Ann., Real Prop. ("RP") § 8-208(d)(3)(i), and applicable provisions of tenant leases, when: (1) Westminster charged a tenant, upon the tenant being late on payment of rent, a $10 "agent fee" and a "summons fee" of $20 to $30 that were in addition to a 5% penalty for late payment; and (2) upon filing a failure to pay rent action under RP § 8-401, Westminster charged a $12 "agent fee" and a "writ fee" in excess of the amount charged by the court (together, the "Disputed Fees").[2] *See Westminster Mgmt., LLC v. Smith*, 486 Md. 616, 661 (2024) (holding that RP § 8-208(d)(3)(i) "precludes a landlord from [charging] late penalties or fees greater than 5% of the rent due for the period at issue" and prohibits the landlord from charging "additional fees triggered by late payment"); *Smith v. Westminster Mgmt., LLC*, 257 Md. App. 336, 394-99, 419 (2023). There is no genuine dispute of fact that from September 27, 2014, until August 12, 2021—which is the date Westminster ceased managing properties in Maryland—Westminster charged Disputed Fees to thousands of tenants at 17 properties that they managed in Maryland, and that the Disputed Fees violated: (1) RP § 8-208(d)(3)(i); and (2) with respect to the $12 "agent fee" and "writ fee" in excess of the amount charged by a court, provisions of the applicable tenant leases that permitted Westminster to charge a tenant for "reasonable costs incurred by

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[Westminster] in utilizing the services of [an] Agent" to "institute proceedings for rent and/or repossession of the [leased premises] for nonpayment of any installment of rent[.]"[3] The issue in the case is, now, one of damages.

a. Proof of Damages

On March 7, 2025, upon remand from the Supreme Court, this court issued an Order under Md. Rule 2-231 certifying a class action with a class consisting of:

> all persons who (1) are or were tenants at Westminster-managed properties in Maryland, (2) have been charged fees related to the alleged late payment of rent since September 27, 2014, and (3) have paid those fees [(the "Certified Class").]

This language identifying the Certified Class was included, word-for-word, on the Notice of Class Action Lawsuit submitted to the court on July 17, 2025.[4] Ex. 1A, Plaintiff's Decertification Exhibits.

Following class certification, the parties engaged in additional discovery relevant to damages through which Westminster produced to Plaintiffs the account ledgers for over 16,000 tenants who had been charged Disputed Fees on or after September 27, 2014. *See, e.g.*, Ex. 21A to MSJ, Report of Edward T. Schneider at 1. There is no dispute that these ledgers "truly and

[3] As noted by the Supreme Court, in 2018, Westminster ceased charging the $12 "agent fee" and the "writ fee" in excess of the amount charged by the court, and gave credit to some tenants who had previously been assessed these fees. *Westminster Mgmt.*, 486 Md. at 632-33.

[4] Westminster contend that the Certified Class includes four categories of "exclusions" stated in paragraph 82 of the Third Amended Complaint. Westminster is incorrect. Without rehashing the extensive and complex procedural history of this case, it is apparent that in May 2019, when Plaintiffs presented their Second Motion to Certify a Class (the "Second Motion"), Plaintiffs specifically contemplated excluding from the class the four populations of individuals identified in paragraph 82. However, years later, and after the Supreme Court reversed and remanded the denial of the Second Motion, Plaintiffs filed a Supplemental Brief in Support of Second Motion to Certify Class in which—after noting that the appellate courts had examined the proposed class definition and addressed concerns related to the need to avoid "mini-trials"—Plaintiffs stated that the proposed class "now includes[,]" without exclusions, the definition ultimately adopted by the court. That definition includes no exclusions.

accurately reflect" amounts and dates of charges assessed to and payments made by tenants at the properties management by Westminster. Ex. 4 to MSJ, Joint Stipulation ¶3. Plaintiffs' accounting expert, Edward T. Schneider, reviewed each ledger produced by Westminster by employing a "first-in-first-out" ("FIFO") accounting methodology to identify all Disputed Fees that were both charged to a tenant and subsequently paid by the tenant. Ex. 21A to MSJ, Report of Edward T. Schneider at 5-6. Using this methodology, Mr. Schneider identified from Westminster's "Yardi" data $4,003,389.41, and from Westminster's "Jenark" data $317,337.39,[5] in Disputed Fees that were charged by Westminster on tenant accounts on or after September 27, 2014, that were in fact paid by the charged tenants. Ex. 21 to MSJ, Declaration of Edward T. Schneider. He extrapolated an additional $51,678.10 in damages for a period of time in 2014-15 for which Westminster was unable, for one of its properties, Highland Village, to produce tenant data. *Id.*; Ex. 21A to MSJ, Report of Edward T. Schneider at 7-8. Based upon his total calculation for Disputed Fees charged and paid of $4,372,404.90, Mr. Schneider calculated simple interest at 6.00% through June 30, 2026, of $2,348,290.43, for total damages through June 30, 2026, of $6,720,695.33, and a per diem amount of interest thereafter of $718.75. Ex. 21 to MSJ, Declaration of Edward T. Schneider.

In response to Mr. Schneider's analysis, Westminster produced the accounting analysis of Leslie Martin who, like Mr. Schneider, used the FIFO methodology to determine, from the tenant ledgers, those Disputed Fees that tenants were charged and paid. Ex. 8 to Motion to Decertify, Report of Leslie Martin at 3. Ms. Martin calculated from the Yardi data $3,911,899.35, and from the Jenark data $333,695.93, in Disputed Fees charged and paid. Ex. 10 to Motion to Decertify. The difference of $91,409.06 between Mr. Schneider's and Ms. Martin's calculation on the Yardi

[5] "Yardi" and "Jenark" are references to the third-party software systems utilized by Westminster to manage its tenant accounts. The Jenark system was in place and utilized at all 17 properties in September 2014. In 2015, on a rolling basis, all 17 properties transitioned to Yardi.

data is, according to Mr. Schneider, attributable to three errors he contends were made by Ms. Martin: (1) errors in calculating "writ fees" paid that, at least in part, Mr. Schneider describes as "potentially incorrect[;]" (2) Ms. Martin's failure to reconcile certain charges that may have been coded incorrectly; and (3) Ms. Martin's failure to properly account for security deposit credits when calculating fees "paid" by tenants. Ex. 21B to MSJ, Rebuttal Report of Edward T. Schneider at 4-9. Drawing all inferences in a light most favorable to Westminster with respect to the differences between Mr. Schneider's and Ms. Martin's damages calculations, the court finds a dispute of fact with respect to $91,409.06 in damages calculated by Mr. Schneider based on the Yardi data. There is no dispute as to: (1) $3,911,899.35 in damages calculated by Mr. Schneider based on the Yardi data; or (2) $317,337.39 in damages calculated by Mr. Schneider based on the Jenark data inasmuch as Ms. Martin's calculation on the Jenark data exceeds Mr. Schneider's. Given the disputes of fact as to the total amount of Disputed Fees charged and paid, there is also a dispute of fact as to Mr. Schneider's prejudgment interest calculations.

From her FIFO calculation of Disputed Fees charged and paid of $4,245,595.28—her total from the Yardi and Jenark data—Ms. Martin excluded from damages three categories of "amounts returned to tenants or otherwise offset": (1) amounts that a property manager "wrote off" of a tenant ledger; (2) amounts a tenant received from a prior "settlement payment;" and (3) amounts described by Ms. Martin as not exceeding the "late fee capacity." Ex. 8 to Motion to Decertify, Report of Leslie Martin at 3-4. She calculated $1,625,853.71 as a "Write-Off Offset[,]" $1,024,655.32 as a "Settlement Offset[,]" and $287,728.50 as a "Late Fee Capacity Offset[.]" Ex. 10 to Motion to Decertify.

Taking these in reverse order, this court finds that the "Late Fee Capacity Offset" is premised upon an incorrect application of RP § 8-208(d)(3)(i). Westminster contends that, as the

statute was written during the applicable period, the 5% cap on a late penalty applied to the entirety of a period's rent, not on the amount of rent that remained due for the period at the time the penalty was assessed. Therefore, as argued by Westminster, for those instances when it charged a fee of 5% against only that portion of a period's rent that remained due at the time the fee was charged, additional charges against the account for "agent fee" and "summons fee" were not illegal so long as, taken together, the charges did not exceed 5% of the rent for the period. During the entirety of the time period at issue, RP § 8-208(d)(3)(i) read that a landlord was prohibited from charging a "penalty for the late payment of rent in excess of 5% of the amount of rent *due* for the rental period for which the payment was delinquent." (Emphasis added). As the Supreme Court explained in *Westminster Mgmt.*, "rent" is the "fixed, periodic payments a tenant owes for use or occupancy of a rented premises." 486 Md. at 649. "[R]ent due[,]" as used in the statute, must therefore mean the amount of rent that remains due for the rental period at the time of the penalty, not the "rent" for the rental period. In this regard, the General Assembly, in 2025, merely clarified the meaning when it amended the statute to read, "5% of the amount of *unpaid* rent due for the rental period[.]"[6] (Emphasis added). This court finds no basis in law or fact to "offset" damages predicated upon Ms. Martin's calculation of "late fee capacity."

The offsets claimed by Westminster for settlement payments are grounded in amounts refunded to tenants in furtherance of a settlement Westminster entered into with the Attorney

[6] *See* 2025 Md. Laws, ch. 580. House Bill 273 was sponsored by Delegate Nick Allen who testified before the Senate Judicial Proceedings Committee that, at the time, the "best practice" for landlords was to charge a late fee only on the unpaid portion of late rent, not on the rent amount, but that he introduced the bill to deal with problems of certain "unscrupulous" landlords who were not abiding by best practice. S. Judicial Proceedings Comm., Testimony of Nick Allen (Mar. 19, 2025) (https://mgaleg.maryland.gov/mgawebsite/Committees/Media/false?cmte=jpr&ys=2025RS&clip=JPR_3_19_2025_meeting_1&billNumber=hb0273). *See also* MD 90 Day Rep., 2025 Sess., Part F at 10 (noting that House Bill 273 "*clarifies* that the 5% maximum is based on the amount of unpaid rent for the rental period, not the total amount of rent due for the rental period" (emphasis added)).

General to resolve a consumer protection complaint filed with the Consumer Protection Division of the Office of the Attorney General under Md. Code Ann., Com. Law § 13-401. While related in substance to the Disputed Fees, the record before this court reflects that the Attorney General settlement: (1) resulted in payments to tenants for certain fees charged to a tenant but not necessarily paid by the tenant; (2) was, at least in part, for fees assessed prior to September 27, 2014; and (3) may have included payment for fees that were in addition to, and not included within, the Disputed Fees. Further, much of the settlement payment was retained by the Attorney General—and not distributed to individual tenants charged the fees by Westminster—because the Attorney General was unable to locate a considerable number of tenants. Regardless, the fact that a tenant may have been reimbursed through the Attorney General settlement for Disputed Fees paid in years past by the tenant does not mean that the tenant did not, in fact, "pay" the Disputed Fees for purposes of calculating damages. The tenants' causes of action here are separate and apart from the action taken by the Attorney General, and release, as a defense under Md. Rule 2-323(g)(12), must be affirmatively proven by Westminster. *See Bd. of Trs., Cmty. Coll. of Baltimore Cty. v. Patient First Corp.*, 444 Md. 452, 470 (2015) ("When a defendant asserts an affirmative defense, the defendant has taken the affirmative of an issue and therefore assumes the burden of production and the burden of persuasion as to the elements of that defense.") (citing *Crowther v. Hirschmann*, 174 Md. 100 (1938)). There is no evidence before this court, or reasonable inference from the evidence, that in accepting a portion of the Attorney General settlement any tenant released Westminster from liability.

Westminster's contention that they are entitled to an offset against damages for tenant balances that Westminster wrote-off has no basis in fact. As commonly understood in accounting parlance, a "write-off" is taken when a creditor removes an asset from a balance sheet that the

creditor deems uncollectible or worthless. Stated simply, it is the removal from a balance sheet of an amount owed. This, by definition, means that an amount written off by a creditor must not have been "paid" by the debtor. The facts here align with the common understanding. Using Westminster's coding system, both Mr. Schneider's and Ms. Martin's application of FIFO captured only Disputed Fees that were charged and paid. Write-offs on the ledgers were reflected as a tenant credit using a code—"worent" or "woother"—unassociated with any of the Disputed Fees. It is undisputed that these write-off credits did not reflect payments made by tenants; rather, the credits corresponded only with the removal from an account of an amount owed. Mr. Schneider explained during his deposition that his damages calculation accounted for amounts that showed as a credit to a tenant only if the amount represented funds actually refunded to a tenant by Westminster. Ex. 32 to MSJ, Depo. of Edward T. Schneider at 85-86. Defendants point this court to no instance where tenant credit shown as a write-off on a ledger in fact accounted for a refund to a tenant of a Disputed Fee previously paid.

b. Class Certification

The court's decision to certify the class was predicated upon a finding, based upon evidence presented at the time, that "[a] review of Westminster's [tenant] ledgers constitutes objective criteria for determining" damages without need for extensive and individualized fact-finding or mini-trials. This followed the Supreme Court's assessment with respect to class certification that certification would be appropriate if a "review of the corporate records would produce an objective answer [on damages] . . . without the need to test the evidence extensively or resolve complex disputes." *Westminster Mgmt.,* 486 Md. at 672-73 (citations omitted). Westminster now contends that discovery undertaken since March 2025 has revealed that class member damages—the Disputes Fees "paid" by a class member—"cannot be determined through an objective, mechanical

review of . . . tenant ledgers" and that, consequently, assessment of damages will necessitate individualized evidence testing.

Under Md. Rule 2-231(d), an order certifying a class may be "altered or amended before the decision on the merits." A revision to an order on class certification must be based upon finding of a "material change in circumstances" related to the appropriateness of the class certification predicated, for instance, upon "new evidence obtained through discovery" or changes to the legal landscape of, or law that applies to, the case. *Westminster Mgmt.*, 486 Md. at 670-71 (citing, *inter alia*, *In re Initial Pub. Offering Sec. Litig.*, 482 F.3d 70, 73 (2d Cir. 2007)).

Here, Westminster fails to establish that evidence developed through discovery undertaken since certification of the Certified Class in March 2025 calls into question the original factual premise for certification: that a mechanical review of Westminster's records will provide an objective assessment of class member damages. Westminster makes various arguments that use of FIFO as applied to tenant ledgers by both experts does not accurately capture, in all instances, fees that a class member actually paid. They contend, for instance, that: (1) depending on user inputs tenant payments and refunds were not always applied to charges on a FIFO basis; (2) the categories of fees includable in damages were not uniformly coded across all ledgers; and (3) Westminster write-offs of tenant balances call into question the FIFO methodology.

Westminster, however, was unable to point this court to a single instance across assessment of over 16,000 tenant ledgers where application of FIFO by either expert resulted in inclusion of a charged fee in the damages calculation that was a fee not in fact paid by a tenant. It is undisputed that Westminster did, as a general business practice, use FIFO in applying payments to charges. Ex. 20 to MSJ, Depo. of Peter Febo at 86. While there is evidence that Westminster's property managers and tenants may not have, in some instances, adhered to FIFO when applying tenant

payments and refunds to tenant charges, Westminster points to no specific instance where it is shown that this occurred, much less that it made a difference in either identifying membership in the Certified Class or in the damage calculation. *See, e.g.*, Ex. 1 to Motion to Decertify at 9 ("Westminster *may have*, from time to time" not adhered to a specific accounting method; "[t]he specific accounting method [used] *could* vary depending on a variety of circumstances.") (emphasis added); Ex. 17 to MSJ, Depo. of Leslie Martin at 50-51 (acknowledging that without going "ledger by ledger" she had not identified errors in Mr. Schneider's FIFO calculation and stating that the two were "close enough" in their calculations that "it wasn't a concern"); Ex. 3 to Motion to Decertify, Depo. of Peter Febo at 172-73; Ex. 13 to Motion to Decertify, Depo. of Theresa Webb at 214-16, 277-78.

Regarding fee coding, Mr. Schneider's damages calculation specifically identified, accounted for, and reconciled disparate coding issues. *See* Ex. 16 to MSJ, Depo. of Edward T. Schneider at 72-75, 110-11; Ex. 21A to MSJ, Expert Report of Edward T. Schneider at 3-5. While Westminster speculates that instances of non-uniform coding may have resulted in errors in identifying Disputed Fees paid by a tenant, they point to no specific instance where it can be shown that this occurred. *See, e.g.*, Ex. 2 to MSJ, Depo. of Catherine Miller at 173-74, 183-84; Ex. 13 to Motion to Decertify, Depo. of Theresa Webb at 82-83. And, as for the issues raised by Westminster with respect to tenant balances written-off, as discussed above, this court fails to see how Westminster's use of write-offs calls into question membership within the Certified Class or the damages calculations.

Findings

For the foregoing reasons, the court makes the following findings:

1. Westminster has not established a material change in circumstance that might warrant decertification of the Certified Class.

2. There is no genuine dispute of material fact that Westminster violated RP § 8-208(d)(3)(i) when, between September 27, 2014, and August 12, 2021, Westminster charged Disputed Fees to tenants at the 17 properties managed by Westminster in Maryland.

3. There is no genuine dispute of material fact that Westminster breached tenant leases when, between September 27, 2014, and August 12, 2021, Westminster charged fees, upon initiating in court failure to pay rent cases, that Westminster did not in fact incur.

4. There is no genuine dispute of material fact as to: (1) $3,854,914.85 in damages calculated based upon the Yardi data; and (2) $317,337.39 in damages calculated by Mr. Schneider based upon the Jenark data.

5. There are genuine disputes of fact on: (1) the damages calculable, if at all, for the missing data from Highland Village, extrapolated by Mr. Schneider as $51,678.10; and (2) the difference of $91,409.06 between Mr. Schneider's and Ms. Martin's calculation of damages based upon the Yardi data.

6. Prejudgment interest at the legal rate of 6.00% is warranted and justified and shall be assessed. However, given the disputes of fact identified in paragraph 5 of these Findings, there is a genuine dispute of fact as to Mr. Schneider's calculation of prejudgment interest.

In is therefore this 7th day of July, 2026:

ORDERED that the Motion to Decertify is **DENIED**; and it is further

ORDERED that the Motion for Summary Judgment is **GRANTED** in part; and it is further

DECLARED and ADJUDGED that Westminster violated RP § 8-208(d)(3)(i) when, between September 27, 2014, and August 12, 2021, Westminster charged Disputed Fees to tenants at the 17 properties Westminster managed in Maryland; and it is further

DECLARED and ADJUDGED that Westminster breached tenant leases when, between September 27, 2014, and August 12, 2021, Westminster charged fees, upon initiating in court failure to pay rent cases, that Westminster did not in fact incur; and it is further

ORDERED that, to the extent that (1) Westminster currently holds an account of a tenant from any of the 17 properties managed by Westminster in Maryland and (2) there exists on the account a Disputed Fee that has not be paid by or refunded to the tenant, Westminster is **ENJOINED and PROHIBITED** from collecting or attempting to collect the Disputed Fee; and it is further

ORDERED that judgment on liability on Count One and Count Five of the Third Amended Complaint is entered in favor of Plaintiffs and against Defendant Westminster Management, LLC and Defendant JK2 Westminster, LLC; and it is further

ORDERED that judgment is entered in favor of Plaintiffs and against Defendant Westminster Management, LLC and Defendant JK2 Westminster, LLC, jointly and severally, in the amount of $4,172,252.24; and it is further

ORDERED that damages owed Plaintiffs by Defendant Westminster Management, LLC and Defendant JK2 Westminster, LLC, for the time period for which there is missing data from the Highland Village property shall be determined at trial; and it is further

ORDERED that prejudgment interest at the legal rate of 6.00% shall be assessed in an amount to be determined at trial; and it is further

ORDERED that Plaintiff shall propose a methodology for allocation and distribution of the judgment to the Certified Class (including any special allocation to the Named Plaintiff) and for any award from the judgment to Plaintiffs' counsel; the proposal shall include and specify or describe those to whom notice under Md. Rule 2-231(f) was provided who did not request exclusion, *see* Md. Rule 2-231(j); and it is further

NOTED that the court will consider an award to Plaintiffs of reasonable attorneys' fees upon filing by Plaintiffs of an appropriate motion or application for attorneys' fees made under Md. Rule 2-703; and it is further

ORDERED that the parties shall contact Civil Assignments by not later than **July 24, 2026**, to clear pretrial conference and trial dates.

07/07/2026 3:04:59 PM

Paul J. Cucuzzella, Associate Judge
Circuit Court for Baltimore City, Part 7

Entered: Clerk, Circuit Court for
Baltimore City, MD
July 7, 2026