

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: _____

KAREN SANTIAGO, individually and on
behalf of all others similarly situated,

Plaintiff,

CLASS ACTION

vs.

HONEYWELL INTERNATIONAL, INC.,
a Delaware corporation,

Defendants.

_____ /

CLASS ACTION COMPLAINT

Plaintiff, Karen Santiago, individually and on behalf of all others similarly situated, bring this action against defendant, Honeywell International, Inc. As grounds for this action, Plaintiff alleges:

The Parties

1. Without Class Members' consent, Defendant removed analog electric meters at millions of Florida residences and replaced them with digital electric meters ("Smart Meter") for Florida Power & Light Company ("FPL"). Due to improper training, supervision, and inspection prior to and during installation the Smart Meters, Plaintiff and the putative class she represents, who are Florida persons and entities who had a Smart Meter installed on their property by the Defendant, are at high risk of suffering damage as a result of the improper installation. The damage has already included for many consumers and has a high likelihood of including for Class members damage requiring repair or replacement, which, in turn, typically requires consumers to incur additional costs of updating components of their property to current code. The restitution sought

by Plaintiff and the putative class is new and thorough inspections of their Smart Meter installation.

2. Plaintiff, Karen Santiago, is a citizen of Florida who had a Smart Meter installed on her home. Defendant entered Plaintiff's property without Plaintiff's or the then property owner's knowledge to install the Smart Meter, hence Defendant knows the exact date of installation but Plaintiff does not.

3. Defendant's improper installation of the Smart Meter, resulting from inadequate, training, supervision and inspection, is the only reason Plaintiff and every putative class member is at risk of suffering damages to their property.

4. Defendant, Honeywell International, Inc. ("Honeywell"), is a Delaware corporation with its principal place of business in Delaware that is conducting and is registered to do business in the State of Florida.

Jurisdiction and Venue

5. Original jurisdiction of this Court exists by virtue of 28 U.S.C. § 1332(d)(2) and the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1711, *et. seq.* The Plaintiff and Honeywell are citizens of different states and the amount in controversy in this action exceeds five million dollars (\$5,000,000.00) exclusive of interest and costs

6. At all times material to the allegations in this Complaint:
- a. Honeywell, personally or through an agent, operated, conducted, engaged in and carried on a business venture in the Southern District of Florida; and/or
 - b. Honeywell, personally or through an agent, had an office or agency in the Southern District of Florida; and/or

- c. Honeywell, personally or through an agent, engaged in substantial activity within this district; and/or
- d. Honeywell's acts and tortious conduct set out in this Complaint occurred in whole or in part within this district.

7. Venue is proper in this district pursuant to 28 U.S.C. § 1391 (a), (b), and (c) in that a substantial part of the events giving rise to these claims occurred in the Southern District of Florida; Honeywell was doing business in Florida; or Honeywell is otherwise subject to personal jurisdiction in this judicial district.

General Allegations

8. Plaintiff has an electric meter receptacle (“meter can”) located on her property. The meter can is the specialized receptacle into which an electric meter (“meter”) is installed that tracks the electricity usage in the premises.

9. The meter inserted into the meter can is property of FPL. FPL maintains the meter, while the meter can is the homeowner’s property which the homeowner must maintain.

10. The meter connects to the home via “male” metal prongs called “blades” that insert into “female” receptors called "jaws" inside the meter can. Before the advent of Smart Meters, “jaws” of various dimensions and design were used and present for meter connection on customers property. In concert, there were a variety of analog meter designs in place which matched the variety of meter can types and dimensions before the installation of Smart Meters. The analog meters designs varied by dimensions of blades jaws of meter cans, but the meters installed prior to Smart Meters appropriately matched blades with jaws. Licensed electricians commonly kept and keep old meter parts to properly and safely maintain the compatibility of components of the various analog meters and companion meter cans.

11. In 2009, FPL began the process to have digital Smart Meters installed throughout Florida in place of the older analog meters. The plan to replace these meters in Plaintiff and the class' homes was not due to obsolescence or wear.

12. In formulating the deployment and installation plan, FPL contracted the installation of the Smart Meters to independent contractor Honeywell

13. Neither FPL nor Honeywell warned Plaintiff or the putative class that improper installation of a Smart Meter may cause damage requiring substantial costs to repair and permitting and inspection fees which Plaintiff and the putative class must incur. Neither advised Plaintiff that improper installation was possible or how to detect improper installation prior to damage occurring as a result of improper installation.

14. The agreement between FPL and Honeywell provided payment by FPL to Honeywell for each Smart Meter installed.

15. Pursuant to their agreement with FPL, Honeywell was required and obligated to report and coordinate the repair of any damage or dangerous condition it observed

16. Pursuant to their agreement with FPL, Honeywell is identified as an independent contractor, not a subcontractor, agent or employee of FPL.

17. Pursuant to their agreement with FPL, Honeywell had the full power and authority to select the methods, means and manner of performing their work.

18. Pursuant to FPL's agreement with Honeywell, FPL did not retain the right of control or direction, nor did FPL exercise actual control or direction over the details, manner or methods of Honeywell's Smart Meter actual installation activities.

19. FPL's Electric Service Standards, which are a recognized and established standards for new construction, are inapplicable to Honeywell's to the Smart Meter installations. Rather,

Pursuant to their agreement with FPL, Honeywell was required to follow FPL's Smart Meter installation procedures, including 1.11 Meter Exchange Process of FPL's Advanced Metering Infrastructure Deployment Statement of Work: Meter Installation Services, which requires the following:

- a. Carefully remove the analog meter seal ring and meter enclosure lid to avoid damage to the meter can;
- b. Visually examine the meter enclosure, meter jaws and wiring for damage and suitability of installation;
- c. Identify and report current diversion condition found;
- d. Remove the existing meter and capture removal reading;
- e. Re-examine and inspect the analog meter after it had been removed from the meter can for the tell-tale signs of defects including "hot sockets," arcing overheating, burned component or other damage or indications of damage;
- f. Re-examine and inspect the Smart Meter components to determine whether the existing "female" receptor or "jaw", which was located in the meter can portion of the connection, for sign of corrosion, loss of contact, size differences, metal fatigue and damage to determine whether it was in an appropriate condition to install the new "male" connector or "blade" on the Smart Meter;
- g. Re-examine and inspect the "male" connectors or "blades" by which the Smart Meters are connected for defects in the "mating" of the components for sign of corrosion, loss of contact, size differences, metal fatigue and damage;
- h. Re-examine and inspect the removed analog meter for signs of "hot sockets," arcing overheating, burned component or other damage or indications of damage. "Hot

sockets” are a dangerous condition which occurs when there exists a poor connection between the “male” connectors or “blades” of the Smart Meter and the “female” receptor or “jaws” in the meter can;

- i. Inspect for proper alignment and fitting of Smart Meter blades to meter can jaws;
- j. Replace meter can hardware if necessary to ensure compatibility with Smart Meter;
- k. Install Smart Meter;
- l. Test Smart Meter installation for indications of problems; and
- m. Replace or re-seal the meter enclosure lid and reset seal ring locking device.

20. [There is evidence that Honeywell failed to follow these procedures and such failure was a result of Honeywell providing little or no training to the employees or agents who installed the Smart Meters or oversight of the installations.

21. In the overwhelming majority of installations, Honeywell’s employees or agents charged with the installation of these Smart Meters were not trained or licensed electricians, but were, instead, lay people directed only to remove old meters and install Smart Meters.

22. Honeywell’s employees or agents failed to perform or perform adequately necessary inspections, chief among them being the failure to inspect the analog meter after it had been removed from the meter can for the tell-tale signs of defects including “hot sockets.”

23. Honeywell’s employees or agents also did not adequately inspect or test the Smart Meter components to determine whether the existing “female” receptor or “jaw”, which was located in the meter can portion of the connection, was in an appropriate condition to install the new “male” connector or “blade” on the Smart Meter.

24. Honeywell’s employees or agents also failed to inspect the “male” connectors or “blades” by which the Smart Meters are connected. Defects in the “mating” of the components

include: corrosion, loss of contact, size differences, metal fatigue, and damage during improper installation.

25. Honeywell's employees or agents were not trained to inspect and determine whether the Smart Meter's "male" connectors or "blades" are of different sizes and dimensions so as to interfere with safe connection of the component parts.

26. Honeywell hired and ostensibly "trained" non-licensed, non-electrician installers. The supervisors of these installers, who not only supervised the work performed but also conducted the training, likewise were not licensed electricians.

27. The fact that the installers are not licensed electricians was not disclosed to the customers at whose homes these installers performed the meter exchange and installation.

28. Honeywell's installers had 15-20 seconds to visually inspect the meter can; the span between removing the old analog meter and installing the new Smart Meter. This is insufficient to check the meter blocks and the component parts inside the meter can after removal of the analog meter to make sure they were and remained undamaged and that they were of a type that adequately matched the male "blades" with which the Smart Meters were equipped. Honeywell's installers did not check and verify that the "blades" on the Smart Meter were compatible with the "jaws" in the meter can or to simply tighten any of the connections inside the meter can. According, to Honeywell's corporate representative, nothing was done to examine the "[e]ffects of age, current flow over time, micro arcing [or] metal fatigue." And the back of the removed analog meters – where evidence of micro arcing events would be manifest – were not checked at all. Honeywell's corporate representative conceded that an improper install could cause micro arcing events causing damages over a period of time.

29. Honeywell disposed of the analog meters, destroying the evidence of its shoddy work.

30. Honeywell's failure to adequately train installers to correctly inspect and install was driven by a compensation arrangement with FPL which rewarded speedy installation but failed to penalize improper installation. The FPL Honeywell compensation scheme increased Honeywell profits based on speed and volume of installations. Honeywell was paid a fee per Smart Meter installed, so Honeywell had an economic incentive to complete the installations as quickly as possible without regard to potential problems from improper installation. According to internal Honeywell emails, Honeywell consistently emphasized meeting and exceeding production numbers throughout the Smart Meter project, pressing its crews to "[k]eep grinding," "[k]eep your eye on the ball and we will meet and exceed production requirements," "stress the importance of production to your team," and "focus on production is the key." The acceptable production numbers grew by the thousands as the project went on. For example, on February 3, 2010, the target was 3,000 installs per day. On February 8, 2010, Honeywell observed that it had "only three weeks to hit 120k installations which does not include the ~10k we are behind." On February 10, 2010, the target number ballooned to 5,000 daily installs, which required "[o]pening a 55 gallon of whoop ass!!!!" The next day the crews were praised for having two days over 4,500, exhorted that "5k a day is getting closer!" and advised that after 3,100 more installs the following day "all installs go to the bank!!!!" By February 8, 2011, Honeywell allocated over 7,000 meters for deployment for installation per day so it should "[c]ontinue to pressure on the inventory as much as possible."

31. Honeywell completed this monumental residential deployment project an astounding nine months ahead of schedule. In order to accomplish the installation of the approximately 4.3 million residential Smart Meters ahead of time.

32. The systematic rush resulted in inadequate inspection, improper installation and/ or ill-fitting or damaged connections between the Smart Meter itself and the property owners' meter cans. The improper installations resulted in repairs required of customers -- repairs that should have been performed prior to Smart Meter installation. In addition, the improper installation has caused system-wide arcing, overheating, power-surges, burning of meter enclosure components, and other damage to affected owners' property. This would have and should have been avoided if Honeywell had performed the proper inspection and made the appropriate repairs prior to Smart Meter installation.

33. Consumers were harmed by these improper installations by virtue of being at high risk of damage to their property's electrical infrastructure, electrical appliances and property structure. The cost to Class Members of the improper Smart Meter installation can be expenses associated with repairing or replacing the damaged meter enclosure and its components. These expenses were and are borne by the customer without any reimbursement by either FPL or Honeywell. The repair typically required the expense of hiring a licensed electrician who had to not only repair the damage caused by Honeywell's faulty installation of the Smart Meter, but because the electrician had to pull a permit to perform the repairs (at the customer's expense), mandated the additional expense of updating components of the property to current code and obtaining inspections by the local code authorities.

34. These types of damages were certainly not a result of an unexpected or bizarre phenomenon. Rather, these very types of damages were explicitly contemplated by Honeywell in

their training materials but were ignored. They are the aforementioned “hot sockets” – the dangerous condition which occurs when there exists a poor connection between the “male” connectors or “blades” of the Smart Meter and the “female” receptor or “jaws” in the meter can. Honeywell knew that the most effective method to identify existing hot sockets was to examine the meter removed from the socket and look for the tell-tale signs. Honeywell did not perform this examination.

35. According to Honeywell internal memorandum, Honeywell knew that loose, corroded or contaminated meter jaws and faulty or loose wiring would cause the very damages suffered by the plaintiff and the putative class. Honeywell installers performed these installations on houses that were even 30-50 years old, where it should not have installed a Smart Meter. Despite knowing this, Honeywell’s corporate representative conceded that it did not train its installers on the different sizes of jaws versus blades that they would encounter in the field and what is an allowable jaw gap.

36. According to Honeywell internal memorandum, Honeywell knew that the solution to the dangerous condition of “hot sockets” is to replace all of the jaws, even if just one of the jaws is suspected to be bad, and to tighten all loose connections. Since Honeywell was obligated to make these repairs when installing the Smart Meter, it shirked this obligation by simply disregarding it and passing it along as a post-installation issue. To ensure that this lurking problem remained hidden neither Honeywell nor FPL warned the customers that their meter was being changed or of these dangers.

37. According to Honeywell internal emails, FPL called Honeywell “asking if we are hurrying too much and cutting corners to maximize productivity.”

38. Honeywell's pressure to complete the Smart Meter installs, and get paid, at the unreasonable pace Honeywell set had the inevitable consequence. By going so fast, the installations were damaging the customer's property. According to Honeywell internal emails, Honeywell heard "all the time" that customers were experiencing problems that they did not experience before the Smart Meters were installed. Since Honeywell's agreement with FPL only required it to repair pre-existing conditions that are encountered or as they occur during installation attempts, Honeywell had a huge financial incentive to disregard those conditions requiring repair. Honeywell acknowledged to itself, but kept secret from the consumers, that "there is a fairly substantial risk for an increase in repairs and also customer being notified that the condition found is a direct result of the installation...." Honeywell had no regard for fixing the problems caused or slowing down to alleviate the problems caused, both of which would negatively impact Honeywell financially; its sole concern was that it was "opening up a can of worms."

39. That can of worms did open; according to Honeywell internal emails, Honeywell experienced repair at a rate that was "way more than [they] expected." Instead of figuring out how to fix the damage Honeywell's sole concern was that it "had to place additional resources on the service repair work" and "[t]he existing 5% management fee is not covering the additional expenses that Honeywell is incurring." As Honeywell acknowledged, if FPL and Honeywell "were proactive v reactive [they all] would not be in the situation."

40. While Honeywell was hiding this from the customers whose residence it was destroying, according to public records, FPL was telling Florida's Public Service Commission "that standard meter enclosures housing the traditional electromechanical meters found throughout the FPL system are clearly not obsolete ... as evidenced by the fact that prior to the change-out, those meter enclosures were functional and would likely have remained so for any number of years

into the future, but for the act of [Honeywell] pulling out the old electromechanical meter to install the new smart meter.” FPL explained that it “encounters situations where meter enclosures are functional prior the removal of the existing electromechanical meter and may have continued to function without any problem for many years to come, but during the course of the change-out the existing meter enclosure needs to be repaired or replaced in order to safely and efficiently install the new smart meter in a manner that will help to assure safe and reliable service to the customer.”

The need to repair or replace the affected meter enclosures occurs in two distinct situations: First, during the course of the meter change-out, the existing meter enclosure is damaged and must be repaired or replaced in order to safely and efficiently install the new smart meter in a manner that will help to assure safe and reliable service to the customer into the future. In the second scenario, [FPL] cannot say with certainty that the existing functional meter enclosure is clearly damaged by the removal of the existing meter or the installation of the new smart meter. However, as a result of the meter change-out, there is enough doubt about the continued viability of the existing meter enclosure that [FPL] exercises its judgment and errs on the side of repairing or replacing the meter enclosure.

41. During the deployment of the Smart Meters, Honeywell performed random post-installation “quality assurance checks” of the Smart Meter installations. Honeywell’s “quality assurance checks” resulted in the determination that 4.1% of those installations failed inspection. At the end of the residential Smart Meter deployment, Honeywell performed “quality assurance checks” which revealed an “improved” rate of improper installations to 1.9%. Based upon Honeywell’s own investigation, between 1.9 - 4.1% of the Smart Meters installed failed these “quality assurance checks.”

42. (The recitation from the reports and PUC proceedings can be shorted considerably – highlight the most relevant passages.) On June 6, 2013, FPL filed a petition with the PUC which reveals improper Smart Meter installations led to micro-arcing events for a massive percentage of homeowners. The petition described a statistical tool used by FPL to analyze Smart Meter data

for likelihood of Smart Meter damage. The FPL analysis found that “78 percent (as opposed to the 70% identified in the initial analysis that led to this study), were found to have some level of damage or degradation that required repair.”

Document No. 06788-14, filed Dec. 18, 2014, by FPL to FPSC

43. 46% of the 78% requiring repair “required major repairs to multiple components within the enclosure or, in a few cases, complete replacement of the enclosure.” Additionally, “in nearly 60% of all cases where FPL determined that there was a need for meter enclosure repairs, local permitting authorities required the customers to perform additional work to bring the customer’s electrical system up to current electrical codes.” FPL concluded, “[b]ased on the results of the study, FPL currently expects that it will identify approximately 1,800 - 2,200 customer-owned meter enclosures annually through the use of the predictive tool, with 78 percent (+/- 5 percent) of the enclosures identified having some level of damage or deterioration of components requiring repair in order for the enclosure to be in proper operating condition.” Implicit in FPL’s findings from its study is that those consumers who will require repairs will not be identified for years.

44. Despite the results of the FPL analysis, FPL did not order immediate inspections of those Smart Meters exhibiting the data reports correlated with Smart Meter installation damage. Rather, FPL is slowly and incompletely identifying only a fraction of the number homes in need of repair.

45. The implications of this submission by FPL to the Commission are frightening: 78% of homeowners from the sample size whose Smart Meter displayed **one** “specific communications pattern” – **just one!** – “required repairs to be in proper operating condition before those [potential problems within the customer’s meter enclosure] caused further damages

to the customer's enclosure and potentially surrounding property which could cause power quality conditions and probable damages to the meter itself." And not only is this just one specific communications pattern among untold possible patterns, but FPL concedes that the data only "**might** serve as the basis to develop a useful tool that could help identify [those] potential problems]." While the results "confirmed" FPL's "**belie[f]**" that this one data pattern proved "indicative of [the] problems," FPL merely "**hope[s]** to validate and **potentially** increase the predictive capabilities of the tool" after "comprehensive use of the tool has been refined and fully implemented."

46. In the meantime, customers who have been victimized by Honeywell's conduct remain at risk.

47. The predictive tool is not accurate enough to provide any level of confidence for the Plaintiff and the putative class. During the Smart Meter rollout between 2010 and 2014 between 4.1 – 1.9% of the installations did not pass Honeywell's internal quality control tests. Electricians statewide were being called to repair the meter can enclosures at the customers' expense at an increasing and alarming rate following the Smart Meter roll out. Honeywell and/or FPL hired a service contractor, Ferran Services, from August 2011 – March 2014, to respond to 3,754 service for either pre- or post- Smart Meter installation repairs. Honeywell and/or FPL hired another service contractor, Kilowatt Electric Company, who responded to and made 6,000 post-installation repair. The predicative tool identifying only 1,800 - 2,200 customer-owned meter enclosures annually with **one** "specific communications pattern" is not adequately identifying the customers in potential danger.

48. Electricity is inherently dangerous and neither Plaintiff nor the putative class requested to be placed in a risk of harm caused by the installation of Smart Meters. There is simply no other way to alleviate Plaintiff and the putative class' fear other than a proper inspection.

49. The failure to train installers to check the back of the analog meters – where evidence of micro arcing events and wear and tear would be manifest – resulted the installation of meter enclosures which were incompatible with the Smart Meter and thus dangerous.

50. FPL had previously unequivocally stated that these meters “are not being repaired or replaced due to obsolescence or wear, but as a result of FPL’s implementation of its system-wide smart meter program.” Accordingly, FPL sought and obtained an acknowledgment “that individual customers whose meter enclosures must be repaired or replaced in conjunction with the installation of the smart meters should not individually bear the expenses associated with that repair or replacement....” Neither section 2.5 nor 2.7 of FPL’s Tariff – i.e., Florida Power & Light Company’s General Rules and Regulations for Electrical Service (D.E. 18-3) –exempts Honeywell from this lawsuit.

51. Neither section 2.5 nor 2.7 of FPL’s Tariff – i.e., Florida Power & Light Company’s General Rules and Regulations for Electrical Service (D.E. 18-3) –exempts Honeywell from this lawsuit.

52. Section 2.5 of FPL’s Tariff provides:

Continuity of Service. The Company will use reasonable diligence at all times to provide continuous service at the agreed nominal voltage, and shall not be liable to the Customer for complete or partial failure or interruption of service, or for fluctuations in voltage, resulting from causes beyond its control or through the ordinary negligence of its employees, servants or agents. The Company shall not be liable for any act or omission caused directly or indirectly by strikes, labor troubles, accident, litigation, shutdowns for repairs or adjustments, interference by Federal, State or Municipal governments, acts of God or other causes beyond its control.

This section does not apply because:

- a. Tariffs are strictly construed.
- b. Plaintiffs and the class are not suing for complete or partial failure or interruption of service, or for fluctuations in voltage,
- c. The section only applies to “the Company,” which is defined in section 10.1 as not to include anyone but FPL. It does not say anything about contractors.
- d. No rate increase would be triggered by a suit against these Defendants.
- e. It is against public policy for a Tariff to provide exemption for suit for property damage caused by gross negligence.

53. Section 2.7 of FPL’s Tariff provides:

Indemnity to Company. The Customer shall indemnify, hold harmless and defend the Company from and against any and all liability, proceedings, suits, cost or expense for loss, damage or injury to persons or property, in any manner directly or indirectly connected with, or growing out of the transmission and use of electricity on the Customer’s side of the point of delivery.

This section does not apply because:

- a. Tariffs are strictly construed.
- b. Meters and associate equipment are excluded from the appurtenances constituting the “Customer’s side of point of delivery.”
- c. The section only applies indemnification to, and holding harmless and defending, “the Company,” which is defined in section 10.1 as not to include anyone but FPL. It does not say anything about indemnification to, and holding harmless and defending, contractors.
- d. No rate increase would be triggered by a suit against these Defendants.
- e. It is against public policy for a Tariff to provide an exemption from suit for property damage caused by gross negligence.

Class Action Allegations

54. Pursuant to Fed. R.Civ. P. 23(b)(2), and S.D. Fla. L.R. 23.1, Plaintiff brings this action on behalf of herself and all others similarly situated (the “Class”).

55. The Class is defined as follows:

All residential property owners throughout the State of Florida who had an analog meter removed and Smart Meter installed by Honeywell for FPL. This Class would exclude the approximately 17,964 residential properties between 2009 and 2014 that Honeywell and FPL previously facilitated repairs for.

Plaintiff reserves the right to amend the Class definition if discovery and further investigation reveal that any of the classes should be expanded, limited, or otherwise modified.

Commonality

56. Plaintiff and the Class are FPL customers received an installation of a Smart Meter. The Smart Meters were installed by Honeywell by Honeywell-trained installers who were instructed in, and expected to follow, the same standard operating procedures as every other installer. They also were subject to the same production requirements and standards of conduct. It is this systematic failure to properly train, supervise, inspect and thereafter install Smart Meters that caused these systematic problems.

57. Plaintiff and the Class are at risk of suffering damage to their meter enclosure and meter components caused by, among other things, arcing, deterioration to the metal jaws or meter blocks in the meter can caused by arcing, overheating and burning within their meter enclosure which, in turn, necessitate repair and its associated expense. Plaintiff and the Class are at risk of suffering the same or similar injury – namely, damage to their meter can and homes due to actions taken during installation, and resulting damage.

58. There are questions of law and fact that are common to the claims of the Plaintiff and the entire Class. Among these common questions are the following:

- a. Whether Honeywell knew or should have known that improper installation of Smart Meters would cause arcing in the meter cans.
- b. Whether Honeywell knew or should have known to check the connections on the back of the analog meter and in the meter can after removal for signs of “hot sockets” or other damage.
- c. Whether Honeywell knew or should have known that the “male” connectors or “blades” on the Smart Meters were of different size than the “female” receptors or “jaws” on the customer’s meter cans which needed to be checked for compatibility.
- d. Whether Honeywell negligently or grossly negligently failed to repair damaged meter cans or components before installing a new Smart Meter.
- e. Whether Honeywell negligently or grossly negligently trained its employees or agents.
- f. Whether Honeywell negligently supervised its employees or agents to assure proper installation of the Smart Meter and removal of the original analog meter.
- g. Whether Honeywell employees or agents negligently or grossly negligently inspected meter can connectors or connections.
- h. Whether Honeywell employees or agents negligently or grossly negligently tested meter cans connectors or connections.
- i. Whether Honeywell employees or agents negligently or grossly negligently removed the old meter and caused damage to the meter can’s parts.
- j. Whether Honeywell employees or agents negligently or grossly negligently installed the new Smart Meters.

- k. Whether Honeywell employees or agents negligently or grossly negligently failed to repair damage existing at the time the Smart Meter was installed or caused by the Smart Meter installation.

Numerosity

59. The members of the Class are so numerous and geographically dispersed throughout the State of Florida that joinder of all Class members is impracticable. Honeywell has installed approximately 4.3 million Smart Meters.

60. The precise number of Class members can only be obtained through discovery. Honeywell and FPL have documents reflecting who got Smart Meters and repairs. The exact number of individuals would be easily identifiable in that the meters would not be repairable without FPL's knowledge and approval. Plaintiff does not anticipate any difficulties in the management of the action as a class action.

61. Honeywell installed approximately 4.3 million Smart Meters during the deployment of the Smart Meters. Honeywell and FPL facilitated repairs for approximately 17,964 homes between 2009 and 2014. FPL is not presently identifying the homes in need of repair based on its own studies fast enough.

Typicality

62. Plaintiff's claims are typical of claims of the Class in that each class member is claiming that they are at risk of damage caused by the improper installation of the Smart Meter.

63. The core issues which predominate over all other issues in this litigation involve Honeywell's failure to properly train staff to install the Smart Meters; supervise the installation of the Smart Meters; remove the old meter; inspect the old analog meter and the meter can; repair any damage before installing the Smart Meter; and install the new Smart Meter in a manner that

does not cause further damage. Furthermore, Honeywell failed to warn Plaintiff and the Class of the danger and potential loss that could result from the improper installation of the Smart Meter. These actions, in concert or individually, will cause the people and entities constituting the Class to suffer property damage and consequential financial loss.

64. This Court declined to rule on certification of this type of 23(b)(2) class in the prior related action filed by undersigned counsel.

Adequacy of Representation

65. Plaintiff is an adequate representative of the Class and will fairly and adequately protect the interests of the Class. Plaintiff represents the Class as a whole, as persons who have or are at risk of incurring consequential expense as a result of the damage caused by the improper installation of the Smart Meter. Plaintiff is committed to the vigorous prosecution of this action and has retained competent counsel, experienced in litigation of this nature, to represent her. There is no hostility between Plaintiff and the unnamed Class members. Plaintiff anticipates no difficulty in the management of this litigation as a Class action.

66. To prosecute this case, Plaintiff has chosen the law firms of Brill & Rinaldi, The Law firm, The McKee Law Group, and Lewis Legal Group to prosecute this case. Together, these law firms have substantial experience in handling class action litigation. The firms have the financial and legal resources to meet the substantial costs and legal issues associated with this type of litigation.

Requirements of Fed. R. Civ. P. 23(b)(2)

67. Honeywell has acted on grounds that apply generally to the Class in that failure to properly train its installers; supervise its installers; inspect the old analog meter and the meter can and repair any damage; install the Smart Meters in a competent, safe and reasonable manner; and

warn of any risks associated with the improper installation of the Smart Meters was common to the entire Class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the Class as a whole.

Count I - Negligence

68. Plaintiff adopt and incorporate by reference paragraphs 1-59 above, as if more fully set forth herein and further alleges:

69. Honeywell had a duty to ensure that its employees and agents were properly trained; install the Smart Meters in a competent, safe and reasonable manner; and warn of any risks associated with the improper installation of the Smart Meters.

70. Honeywell breached these duties by:

- a. Failing to warn of any risks associated with the improper installation of the Smart Meters.
- b. Failing to hire or assign competently trained employees or agents capable of properly and safely installing the Smart Meters.
- c. Failing to inspect the back of the removed analog meters.
- d. Failing to inspect and test the “female” receptors or “jaws” and the Smart Meter “male” connectors or “blades” for proper fit and that they were adequately safe for its use.
- e. Failure to inspect the meter can to ensure that it is in suitable condition for installation of a Smart Meter and, if not, to repair the meter can prior to installing the Smart Meter.
- f. Failing to train its employees or agents on proper and safe inspection, testing and installation of the Smart Meters and removal of the pre-existing meters.

- g. Failing to supervise its employees or agents to ascertain that they are properly and safely installing the Smart Meters.
- h. Failing to inspect the work of its employees or agents to ensure that the Smart Meters were installed properly.
- i. Failing to remove the old meters in a manner which did not damage the “female” receptors or "jaws" in the meter can.
- j. Failing to install the Smart Meter in a safe and reasonable manner.
- k. Failing to lubricate the “male” prongs or “blades” before inserting into the “female” receptors or “jaws.”

71. The Plaintiff and the Class would not be at risk of suffering damage in the absence of Honeywell’s negligence.

72. As a direct and proximate result of the negligence of Honeywell, Plaintiff and the class are at risk of suffering damage, to wit: damage in the meter can; cost of repair work by an electrician; damage to property inside of the home; costs to bring the premises to current code; and costs of obtaining permits and inspections.

73. All conditions precedent to this action have been performed, waived or have occurred.

Count II– Gross Negligence

74. Plaintiffs adopt and incorporate by reference paragraphs 1-59 above, as if more fully set forth herein and further alleges:

75. Honeywell had a duty to ensure its employees and agents were properly trained; install the Smart Meters in a competent, safe and reasonable manner; and warn of any risks associated with the improper installation of the Smart Meters.

76. The foregoing process of installing a Smart Meter poses an imminent or clear and present danger amounting to more than the normal and usual peril.

77. Honeywell knew of these risks to the Class; that adequate training and protocols for Smart Meter installation were needed to avoid risk of loss to the Plaintiff's and the Class' property; and that appropriate warnings of the risks associates with improper Smart Meter installation was needed.

78. Honeywell breached these duties grossly negligently or by engaging in a course of conduct such that the likelihood of injury to other persons or property is known by Honeywell to be imminent or clear and present which constitutes a conscious disregard of the consequences, to wit:

- a. Failing to warn of any risks associated with the improper installation of the Smart Meters.
- b. Failing to hire or assign competently trained employees or agents capable of properly and safely installing the Smart Meters.
- c. Failing to inspect the back of the removed analog meters.
- d. Failing to inspect and test the "female" receptors or "jaws" and the Smart Meter "male" connectors or "blades" for proper fit and that they were adequately safe for its use.
- e. Failure to inspect the meter can to ensure that it is in suitable condition for installation of a Smart Meter and, if not, to repair the meter can prior to installing the Smart Meter.
- f. Failing to train its employees or agents on proper and safe inspection, testing and installation of the Smart Meters and removal of the pre-existing meters.

- g. Failing to supervise its employees or agents to ascertain that they are properly and safely installing the Smart Meters.
- h. Failing to inspect the work of its employees or agents to ensure that the Smart Meters were installed properly.
- i. Failing to remove the old meters in a manner which did not damage the “female” receptors or “jaws” in the meter can.
- j. Failing to install the Smart Meter in a safe and reasonable manner.
- k. Failing to lubricate the “male” prongs or “blades” before inserting into the “female” receptors or “jaws.”

79. The Plaintiff and the Class would not have suffered or be at risk of suffering damage in the absence of Honeywell’s gross negligence.

80. The meter can was not damaged as a result of obsolescence or wear. The meter can was operational and in working order prior to Honeywell’s installation of the Smart Meter.

81. As a direct and proximate result of Honeywell’s gross negligence, Plaintiff and the Class suffered or may suffer damage, to wit: damage in the meter can; cost of repair work by an electrician; damage to property inside of the home; costs to bring the premises to current code; and costs of obtaining permits and inspections.

82. All conditions precedent to this action have been performed, waived, or have occurred.

Relief Requested

WHEREFORE, Plaintiff, on his own behalf and on behalf of the Class, respectfully requests that this Court:

- (i) Certify this action as a class action under Federal Rule of Civil Procedure 23(b)(2).

- (ii) Determine that Honeywell negligently and grossly negligently failed to warn Plaintiff and the Class of the risks associated with changing the pre-existing meters to a replacement Smart Meter.
- (iii) Compel Honeywell to remove each Class Member's Smart Meter Honeywell installed and utilize a licensed electrician to adequately inspect the meter and the meter can to determine if the Smart Meter installation has caused any damage (including, without limitation, to the "male" connectors or "blades" or the "female" receptors or "jaws", to the wiring or any sign of arching or "Hot Sockets"), photograph the meter and meter can, provide an inspection report and the photographs to the customer; and
- (iv) Enjoin Honeywell from installing future Smart Meters without first properly training its employees and agents, inspecting the Smart Meter and the meter can to determine if there is any damage (including, without limitation, to the "male" connectors or "blades" or the "female" receptors or "jaws", to the wiring or any sign of arching or "Hot Sockets"); and
- (v) Award Plaintiff and the Class their attorneys' fees, costs and expenses.
- (vi) Award Plaintiff and the Class such further relief as is appropriate in the interests of justice.

Demand for a Jury Trial

Plaintiff requests a jury trial on any and all counts for which a trial by jury is permitted.

Respectfully submitted this 28th of December, 2016.

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