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Law Firm, Engineer Settle With Surfside Collapse Victims

By **Carolina Bolado**

Law360, Miami (February 23, 2022, 5:45 PM EST) -- Attorneys for the victims of the collapse of the Champlain Towers South condominium in Surfside, Florida, said Wednesday that they have reached deals to resolve claims against the condominium association's law firm Becker & Poliakoff PA and the engineering firm that had inspected the building in 2018.

In a hearing before Miami-Dade Circuit Judge Michael Hanzman, co-lead plaintiffs' counsel Rachel Furst of Grossman Roth Yaffa Cohen PA said both the victims and the condominium association had been able to resolve their negligence claims against Becker & Poliakoff and Morabito Consultants Inc. after a successful mediation.

Furst did not disclose any details about the settlements but said paperwork on the agreements would be submitted by next week.

Becker & Poliakoff said in a statement after the hearing that the firm "mourns those who have been lost, many of whom were friends" and said they were still in the process of finalizing the settlement details.

"We are pleased that this matter is coming to a close and that our insurance carriers decided to resolve the case in a manner that we hope will help bring closure to the victims and their families of this terrible tragedy," the firm said.

Morabito Consultants also issued a statement saying it performed its work on the building "consistent with the highest industry standards" and denies liability for the collapse.

"But we also firmly believe that the families who have suffered from this tragedy deserve compensation so that they may focus on healing," the company said. "We therefore applaud the settlement reached by our insurers to resolve these difficult issues fairly and expeditiously."

Mediation with NV5 Inc., a consultant connected with the newly built condominium next door, Eighty Seven Park, resulted in an impasse, Furst said.

Other members of the Eighty Seven Park team, including general contractors and engineers, are slated to go to mediation in the coming weeks over claims that destructive work done dangerously close to Champlain Towers during the construction of the neighboring tower, which was built between 2016 and 2018, destabilized Champlain Towers.

At the last hearing on Feb. 11, attorneys for the victims announced that they had a **tentative deal** that would allocate \$83 million to those who lost their units but escaped the collapse alive. That would allow them to exit the litigation, leaving only those plaintiffs who lost loved ones.

Attorneys are still hammering out the details of the agreement, but on Wednesday, Judge Hanzman said it appears to be a "heavily negotiated and facially fair and reasonable result" and that he is inclined to preliminarily approve it. He urged the parties to file the final agreement so he can schedule a fairness hearing at which objections can be heard.

Akerman LLP partner Michael Goldberg, who is serving as the court-appointed receiver for the association, said the settlement includes a bar order that would release unit owners from liability

under Florida Statute 718.119, which says unit owners in a condominium can be held liable for the acts and omissions of the condominium association in connection with use of the common areas. They can be held liable for up to the value of their units if the association is faced with judgments or damages above the amount of liability insurance.

In this case, the wrongful death claims from the families of the 98 people who died when the 12-story oceanfront building collapsed in the early morning hours of June 24 will dwarf the association's \$18 million in liability insurance.

Goldberg said unit owners who don't like the settlement will be able to opt out of the deal.

Goldberg also told the court that the expert testing and inspection of the materials from the collapse have proceeded smoothly with the cooperation of the National Institute of Standards and Technology, which is running the government's investigation. But they've run into an issue with dewatering the property, he said.

The subsurface of the property is porous, water-filled limestone rock that needs to be dried out so that experts can test the pilings on which the structure rested. But Goldberg said he began to have concerns about the process once experts began asking him to indemnify the dewatering contractor, which he said he would not do.

He said it is possible that dewatering the property — which involves pumping out 4,200 gallons of water per minute — could have adverse and potentially destabilizing impacts on neighboring structures.

Judge Hanzman tasked Goldberg to get more details on any potential risk to other buildings and said the receiver may have to forego that testing if it proves too risky.

"I'm not interested in another case, in another building collapse in Miami-Dade County," Judge Hanzman said.

The plaintiffs are represented by Harley Tropin and Javier Lopez of Kozyak Tropin & Throckmorton, Rachel Furst and Stuart Grossman of Grossman Roth Yaffa Cohen PA, Ricardo Martinez-Cid of Podhurst Orseck PA, Adam Moskowitz of The Moskowitz Law Firm, MaryBeth LippSmith of LippSmith LLP, John Ruiz of MSP Recovery Law Firm, Brad Sohn of The Brad Sohn Law Firm PLLC, John Scarola of Searcy Denney Scarola Barnhart & Shipley PA, Robert Mongeluzzi of Saltz Mongeluzzi & Bendesky PC, Shannon Del Prado of Pita Weber & Del Prado, Gonzalo Dorta of Dorta Law, Judd Rosen of Goldberg & Rosen PA, Luis Suarez of Heise Suarez Melville PA, Jorge Silva of Silva & Silva PA and Willie Gary of Gary Williams Parenti Watson & Gary PLLC.

Goldberg is represented by Paul Singerman and Jordi Guso of Berger Singerman LLP, and Andrew P. Gold, Christopher Carver and Brenda Radmacher of Akerman LLP.

Nonparty Miami-Dade County is represented by Assistant County Attorney Anita Viciano.

Defendant Becker & Poliakoff PA is represented by Edward R. Blumberg of Deutsch Blumberg & Caballero PA, and Robert M. Klein and Mark Sullivan of Klein Park & Lowe PL.

Defendant Morabito Consultants Inc. is represented by Aron Raskas of Gunster.

Defendants 8701 Collins Development LLC, Terra Group and Terra World Investments are represented by Christopher L. Barnett, Michael J. Thomas, David B. Weinstein and Ryan Hopper of Greenberg Traurig LLP, and Paul J. Schwiep and Scott A. Hiaasen of Coffey Burlington PL.

Defendant John Moriarty & Associates of Florida Inc. is represented by Jonathan E. Kanov and Matthew J. Wildner of Marshall Dennehey Warner Coleman & Goggin, and Seth Schimmel and Michael S. Hooker of Phelps Dunbar LLP.

Defendant DeSimone Consulting is represented by Michael K. De Chiara, Jaimee Nardiello, Rachel C. John and Ryan Waton of Zetlin & De Chiara LLP.

Defendant NV5 is represented by Ryan M. Charlson and George R. Truitt of Cole Scott & Kissane PA.

The case is In Re: Champlain Towers South Collapse Litigation, case number 2021-015089-CA, in the Eleventh Judicial Circuit Court of the State of Florida.

--Editing by Steven Edelstone.

Update: This story has been updated with comments from Becker & Poliakoff and Morabito Consultants.

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