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Mediator To Help Surfside Victims Agree On Splitting Funds

By **Carolina Bolado**

Law360, Miami (October 6, 2021, 4:07 PM EDT) -- The Florida judge overseeing litigation over the Champlain Towers South condominium collapse in Surfside agreed Wednesday to appoint a mediator to help attorneys representing victims with property loss and wrongful death claims hammer out an agreement on how to split any funds that come to the condominium association's estate.

Eleventh Judicial Circuit Judge Michael Hanzman in Miami said he would sign off on a proposal by plaintiffs' counsel to have a mediator handle how to split proceeds of the upcoming sale of the property, insurance money and any other funds that attorneys are able to get from lawsuits against third parties.

Mediation now can help avoid litigation down the road, which would delay any payouts, the judge said. Otherwise, he said he would likely have to await the conclusion of the case and make a single allocation decision at the end, which would likely be appealed.

"It could be years before any of these victims see any recovery," Judge Hanzman said. "I hope and implore you all together with your clients to try to work out a solution."

At the suggestion of plaintiffs' counsel, Judge Hanzman said he would reach out to Miami attorney and mediator Bruce Greer to see if he would be available to take on the case, which the judge said will be "time-consuming and difficult."

"I've seen him settle cases in my division that were unseizable," Judge Hanzman said. "If there's any shot of getting a resolution that will be palatable, I believe he's the person that can do it."

The judge had brought up this issue at **last week's status conference hearing**, asking the attorneys to brief him on whether the law would allow proceeds from the sale of the property — which has a stalking horse bid of \$120 million — and from property insurance policies to be used not just to compensate unit owners for the value of their condominiums but also to compensate victims in the personal injury track of the proposed class suit.

Rachel Furst of Grossman Roth Yaffa Cohen PA, who is co-lead counsel for the plaintiffs, instead suggested mediation to resolve this issue and keep the focus on the main litigation on pursuing claims against third parties who could potentially be at fault for the catastrophic collapse.

In addition to funds coming from the sale, insurance policies and third-party claims, attorney Manny Kadre told the court Wednesday that he and lobbyist Rodney Barreto have met with U.S. Sen. Marco Rubio, R-Fla., and U.S. Rep. Debbie Wasserman Schultz, D-Fla., who are ready to move forward on mortgage forgiveness for unit owners but appear to be waiting to see how much is recovered in the litigation before beginning to think of a legislative victims' fund.

But Judge Hanzman told Kadre to let the lawmakers know they should work under the assumption that there will not be enough money.

"I think you can tell them with relative confidence that the value of these claims will greatly exceed any likely recovery," the judge said. "Any relief we can get from government sources is going to be extremely helpful."

The partial collapse on June 24 of the tower in Surfside claimed the lives of 98 people. The section of the 12-story building that remained upright was demolished a few days later.

The condominium association's estate has already inked a \$120 million deal with Dubai-based Damac Properties PJSC, one of the Middle East's largest real estate developers, for the 1.88-acre oceanfront site. An auction is expected in the next few months.

At the hearing Wednesday, Akerman LLP partner Michael Goldberg, who is serving as the court-appointed receiver for the condominium association, told the judge that the stalking horse bidder had agreed to change the terms of the deal to address some concerns voiced in last week's hearing.

The contract now gives Judge Hanzman's court exclusive jurisdiction over any issues that arise under the contract, waives the right to a jury trial and includes a liquidated damages provision in case the deal falls through that will not tie up the property and prevent other bids.

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, the receiver, is represented by Paul Singerman and Jordi Guso of Berger Singerman LLP.

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 Robert Rudinger.

Update: This story has been updated to include additional plaintiffs' counsel.