

Construction Group Of The Year: Greenberg Traurig

By **Chuck Slothower**

Law360 (January 24, 2023, 4:32 PM EST) -- Perhaps no construction settlement last year rivaled the impact of Greenberg Traurig LLP's skillful and speedy work involving multiple defendants and insurance companies to settle claims from the June 2021 collapse of a condo tower in Surfside, Florida, which killed 98 people and garnered national headlines, earning the firm a spot among Law360's 2022 Construction Groups of the Year.

The Miami-based firm represented three defendants in the case. Attorneys essentially assumed the role of defense liaison counsel, drafting settlement documentation and leading the parties to a successful resolution, Greenberg Traurig leaders said.

"I do think that's very unusual to have a case of that size resolved in less than a year," Michael Thomas, co-chair of Greenberg Traurig's construction practice, who is based in Miami, told Law360.

"For us to be able to shepherd everybody through that process and come in for a landing, was very, very difficult," he said.

The case stemming from the partial collapse of Champlain Towers South was settled in the Eleventh Circuit for \$1.02 billion on June 23, with no class members opting out or rejecting the deal.

Keeping the defendants on the same page, even when some had differing interests, was a major task. "Sometimes in the Zoom calls on the defense side, we'd end up with in excess of 100 people, easily," Thomas said.

Lawyers camped out in a conference room on the 44th floor of Greenberg Traurig's Miami office building, sometimes working deep into the night.

"To bring some closure to the families of the victims was pretty remarkable and was obviously something that we're quite proud of," Thomas said. "At bottom, that was a construction case, and I don't know whether there will be another one like it. It really was a testament to the lawyers at our firm."

Greenberg Traurig is notable for its emphasis on construction law. That focus dates to the firm's



founders, Mel Greenberg, Larry J. Hoffman and Robert Traurig, who had experience in land use and real estate.

Greenberg Traurig's construction practice consists of at least 50 lawyers globally, including at least 44 in the U.S., according to the firm. Access to lawyers in other practice areas gives the firm the ability to better serve clients, the co-chairs said.

That deep bench came in handy in one ongoing case involving "novel bankruptcy issues," said Mark Ferrario, co-chair of the construction practice, who is based in Las Vegas.

"I picked up the phone and in five minutes had my bankruptcy partner involved," Ferrario said. "That's what makes Greenberg different."

The firm is leaning on its deep experience in ongoing construction litigation in its representation of Monarch Casino & Resorts Inc. in a complex lawsuit related to the \$440 million expansion of Black Hawk Casino Resort Spa, a 23-story project west of Denver.

"It involves any issue that you think might arise in a construction case — scheduling, nonconforming work issues, contract issues, novel legal issues," Ferrario said. "You name it, and it's in the case."

The firm won an important recusal in the case when it presented a brief with a featured witness who had once been a client of the Colorado state judge, Marie Moses. "The judge concluded she could not truly be impartial, and I think appropriately recused herself," Ferrario said.

The case is now with Judge Andrew Luxen.

In August 2022, Greenberg won a ruling in New Jersey state court that found that the state's Prompt Payment Act does not apply when a contractor breaches a construction contract. That litigation, on behalf of Triple Five Group, allowed the developer of the \$5 billion American Dream project in New Jersey to escape a \$24 million summary judgment claim from the general contractor. The decision establishes a defense in New Jersey against contractors' nonpayment claims, the firm said.

But not all Greenberg Traurig's wins happen in the courtroom. The firm often represents high-stakes development projects long before an excavator starts digging. This behind-the-scenes work includes development agreements, preconstruction contracts, bonds and negotiations with local municipalities.

Greenberg Traurig was engaged early on for projects including The Park on Fifth, a 48-story condo tower planned for Miami Beach; Related's planned 2-million-square-foot 444 Brickell Complex, which includes an 877-foot condo tower; and 1420 S. Miami Ave., a \$450 million, three-tower mixed-use development from an affiliate of Mast Capital.

"This distinguishes [Greenberg Traurig] from our competitors is that we have this robust construction practice that is basically cradle to grave for our clients," Thomas said. "When we get involved on a project, our involvement may last 10 years, maybe more."

--Editing by Gemma Horowitz.