

Environmental Group Of The Year: Greenberg Traurig

By Tom Lotshaw

Law360 (February 7, 2023, 2:02 PM EST) -- Greenberg Traurig LLP helped negotiate a billion-dollar settlement after a deadly Florida condo collapse, defended a major New York redevelopment project and helped win a significant U.S. Supreme Court case for North Dakota, earning it a place among Law360's Environmental Groups of the Year.

The early morning, June 2021 collapse of the Champlain Towers South condominium in Surfside, Florida, killed 98 people and triggered a wave of litigation that some feared could drag on for a decade. But Greenberg Traurig attorneys helped the parties reach a global \$1.02 billion settlement within one year.

David B. Weinstein, a chair of Greenberg Traurig's environmental and toxic tort practice and managing shareholder of its Tampa office, said it and the firm's construction practice had worked together with engineering and other experts to defend several clients who developed a luxury tower built next door to Champlain Towers South five years earlier.

After persuading the judge that an approaching September 2022 trial date would be essentially impossible to meet, Weinstein said, Greenberg Traurig attorneys helped facilitate settlement talks among the numerous defendants in the case, spearheaded negotiations with plaintiffs' counsel and drafted a settlement agreement that ultimately was approved the day before the anniversary of the collapse.

It was the second-largest class action settlement in Florida history, according to Greenberg Traurig, and a mediator credited its attorneys' work on the negotiations, noting that settling the defense side of the litigation was like "a Rubik's cube."

"We maintained an ongoing productive relationship with insurance carriers and their coverage counsel and played an important role in working with both defense and plaintiffs' counsel to reach a historic, billion-dollar settlement, and in record time," Weinstein said.

"And while we and our experts remain convinced that our clients neither caused nor contributed to the collapse, we are proud to have helped them put this tragedy behind them with a settlement



contribution that was less than 3% of the total settlement fund and funded entirely by insurance," Weinstein added.

In New York state courts, Greenberg Traurig attorneys representing Empire State Development successfully defended two challenges of government approvals for a \$1.3 billion redevelopment of Belmont Park on Long Island. The project includes the New York Islanders' new hockey arena, a 350,000-square-foot retail and entertainment complex, and a 250-room hotel.

Greenberg Traurig said it handled environmental review and permitting for the project, got both lawsuits dismissed in May 2020, and continued to assist until the arena opened in November 2021.

Kerri Barsh, a co-chair of the environmental practice, said the wins illustrate Greenberg Traurig's deep roots in land use and environmental law and its expertise in brownfields, infrastructure and transactions.

Greenberg Traurig attorney Paul Seby helped represent North Dakota in one of several cases the U.S. Supreme Court consolidated with *West Virginia et al. v. EPA*. In a 6-3 ruling in June 2022, the justices invoked the "major questions" doctrine to rein in EPA's authority to reduce greenhouse gas emissions from existing power plants under the Clean Air Act.

The ruling ended about seven years of litigation for Seby, who also works as a special assistant attorney general for North Dakota.

Seby said North Dakota had previously helped secure a stay of the EPA's Clean Power Plan from the Supreme Court in 2016, arguing its emission cuts and power generation shifting would devastate the state's coal-based power sector and economy.

While the state did not participate in oral arguments, its briefs argued that the EPA had acted beyond the scope of its authority under Section 111(d) of the Clean Air Act and a cooperative federalism framework that gives states the role of setting performance standards for existing emissions sources.

"It was a very important outcome because it preserves that state-federal partnership in decision-making in a very important environmental context," Seby said of the ruling. "And it has a lot of meaning outside just the power context."

Greenberg Traurig attorneys also successfully defended Lockheed Martin in a toxic tort lawsuit 45 plaintiffs brought in Illinois state court over soil and groundwater contamination in the town of Wedron. The firm said the judge in that case granted summary judgment in December 2021, after Greenberg Traurig attorneys had successfully moved to exclude a key expert witness for the plaintiffs because his analysis was not based on specific site data.

In October 2021, Greenberg Traurig attorneys also helped persuade a North Dakota federal judge to let North Dakota attempt to recover \$38 million of response costs from the federal government for the U.S. Army Corps of Engineers' alleged role in enabling months of Dakota Access Pipeline protests in the state.

Protestors camped out on Army Corps lands and attempted to attack the pipeline and shut down cities, Seby said, costing the state millions in emergency response costs.

"I think it's the only case where a state has sued the United States for tort damage that has gotten past a

motion to dismiss under the narrow waiver of sovereign immunity under the federal Tort Claims Act, called the discretionary function exception," Seby said. The case is currently set for trial in September.

Barsh said it was a year of standout wins for Greenberg Traurig's environmental practice. Founded in South Florida in 1967, the firm now has more than 2,500 attorneys working across the U.S., Europe, Asia and Latin America. The practice has grown with it and has about 100 attorneys based in 27 offices in six countries.

The practice saw 18% growth in the past year, adding attorneys in 15 offices, Barsh said. She expects continued growth as major infrastructure bills are implemented, regulatory changes are enacted and world economies continue transitioning to renewable energies, driving demand for critical minerals.

Greenberg Traurig is active in every aspect of environmental law, from due diligence, transactions and permitting to compliance, enforcement defense and litigation, according to firm leaders, with attorneys from different practices and offices often collaborating on complex, interdisciplinary cases.

"We view our practice as full service, and we think there is going to be continued growth," Barsh said.

--Editing by Gemma Horowitz.