

Champlain Towers collapse: the civil justice system does work!

Per the National Center for State Courts, “The civil justice system in the United States is arguably the most complex and comprehensive in the world. It involves state and federal statutes, regulations, and common law that guide governmental, commercial, and personal decision-making in the areas of consumer safety, employment and other contractual relationships, the sale of goods and services - to name only a few.”

Searcy Denney takes great pride in the leadership role it played on the Plaintiffs’ Steering Committee in the Champlain Towers Collapse Litigation. But enough credit cannot be given to Miami-Dade Circuit Court Judge Michael Hanzman whose extraordinary efforts were crucial in achieving the successful settlement of this very complex litigation in less than one year with a recovery of over \$1.2 billion.

On June 24, 2021, at approximately 1:30 a.m., the Champlain Towers South Condominium suffered a catastrophic failure and partial collapse resulting in a tragic loss of 98 lives and the eventual destruction of 136 condominium units. Despite the herculean toil of courageous first responders who risked their own lives in a valiant rescue effort, virtually everyone in the portion of the building that collapsed perished. Survivors in the remainder of the structure were severely traumatized.

Lawsuits followed including a class action brought on behalf of those who suffered loss of life and/or economic damage. Given the highly unusual circumstances, the Court made it clear at the outset that this would not be “business as usual.” Counsel seeking a leadership role in the litigation would be committing to public service. Their work would be performed on a pro bono basis with absolutely no assurance of payment or legal entitlement to any fees.

To their credit, many of the most skilled, experienced, and reputable members of the bar enthusiastically, and without hesitation, agreed to accept the Court’s terms. At the start, the prospect for a substantial recovery relative to the harm suffered appeared bleak. There were 98 wrongful death claims, multiple personal injury claims, the destruction of 136 condominium units, and a staggering loss of personal property. The Champlain Towers South Condo Association was woefully underinsured. Those involved in the initial development and construction of the building were long gone. Statutes of limitation and repose had expired. The apparent litigation targets that did still exist did not possess sufficient resources to satisfy the extensive claims. Insurance proceeds, along with proceeds from the sale of the remaining



real estate (the structure itself was eventually demolished), minus the considerable expense to operate a receivership and pursue claims would leave victims with the ability to recover only a fraction of the damages they had suffered.

With considerable skill and perseverance, counsel identified and pursued every conceivable viable claim against over thirty defendants (or potential defendants). Among the professional legal volunteers representing the victims were Searcy Denney attorneys **Jack Scarola, Chris Searcy, Mariano Garcia, David Vitale**, and senior paralegal, **Chris Rodgers**. Novel legal theories, substantive issues, and procedural complexities presented formidable obstacles. All involved attorneys had to cope with the intense pressure imposed by the Court’s strictly enforced deadlines. Few extensions of time were granted. Trial was scheduled within 18 months of filing. Counsel responded without complaint.

The result was extraordinary and unprecedented as parties reached settlement within ten months. Judge Hanzman stated that in over 35 years as a practicing lawyer/judge, he had never encountered a more complex and difficult case. Counsel’s skill, diligence, and tenacity uncovered substantial claims, and the quality of their work contributed to the remarkable result. The Court also acknowledged the emotional toll the case had taken on counsel as they worked closely with clients guiding them through difficult processes with empathy, compassion, kindness, and, often, with tears.

Almost immediately, the Association’s insurance carriers tendered policy limits of approximately \$50 million. The Receiver secured \$120 million from the sale of the remaining real estate. Counsel negotiated settlement with all named defendants (and some potential defendants) which came to \$1.02 billion. The total recovery reached over \$1.2 billion. Condominium owners received full appraised value for units which no longer existed. A \$15 million remedial works program

to address a long-term degradation of the building's structural support had been approved before the collapse but work had not begun. Unit owners' recovery would not be reduced by this assessment. Wrongful death/personal injury claimants would receive "full value" on claims without reduction for attorney's fees and costs. Most class members received an award within (and often more than) the "value" estimated by counsel. The result was unprecedented in any class action/mass tort case.

The Court had initially asked for, and received, numerous counsel who volunteered for this incredibly difficult and potentially long-term litigation – with the caveat that counsel would be committing to public service with no assurance of any compensation. Upon reaching preliminary settlement, the Court engaged in an evaluation for attorney fees. Examining governing legal principles on the issue and affidavits from counsel stating services rendered and time expended on this litigation, the Court ordered fees in the amount of \$65 million for counsel.

It was a privilege for Searcy Denney's attorneys, paralegals, and other staff to participate in this unique litigation. The manner and procedures in which the Court and counsel came together to reach conclusion effectively and promptly will serve as a model for any similar catastrophe that may occur in the future. ♦

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