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IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO.: 2021-015298 CA 01

RAYSA RODRIGUEZ,
Plaintiff,

-vs-

CHAMPLAIN TOWERS SOUTH
CONDOMINIUM ASSOCIATION, INC.,
Defendant.

-----/

PROCEEDINGS BEFORE HONORABLE MICHAEL HANZMAN
STATUS CONFERENCE

Dade County Courthouse
75 West Flagler Street
Miami, Florida 33130

Remote Zoom Proceeding
Wednesday, July 14, 2021
9:00 a.m.

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1 Thereupon --

2 THE COURT: Please stay seated.

00:00:09 3 Let's get up and running. All right. Good
00:00:15 4 morning, everybody. The Court is calling
00:00:17 5 the matter of Drezner versus Champlain
00:00:22 6 Towers South Condominium Association
00:00:22 7 2021-015089 together with the related cases
00:00:28 8 of Rosenthal versus Champlain, Rodriguez
00:00:32 9 versus Champlain, Rosenberg versus
00:00:35 10 Champlain, and all subsequently filed
00:00:37 11 tagalong cases.

00:00:38 12 At this point let me have
00:00:38 13 appearances of counsel, please, starting
00:00:38 14 with the Drezner matter.

00:00:42 15 MR. TROPIN: May it please the
00:00:44 16 Court, Harley Tropin together with Javi
00:00:44 17 Lopez, Tal Lifshitz. My partners Jorge
00:00:55 18 Piedra, Eric Kay, also Brad Sohn, Graham
00:01:05 19 LippSmith. Thank you, Judge.

00:01:05 20 THE COURT: And for the defendants?

00:01:06 21 MR. SINGERMAN: Good morning, Judge,
00:01:13 22 and may it please the Court, I'm Paul
00:01:14 23 Singerman from Berger Singerman. Our firm
00:01:15 24 is general counsel to Michael I. Goldberg,
00:01:19 25 the court-appointed receiver. Mr. Goldberg

00:01:19 1 is present in the courtroom and with Your
00:01:19 2 Honor's permission, this appearance will
00:01:19 3 stand for each of the cases that Your Honor
00:01:25 4 called.

00:01:25 5 THE COURT: Thank you. I'll take
00:01:27 6 your standing appearance on all matters on
00:01:30 7 behalf of Mr. Goldberg in his capacity as
00:01:31 8 receiver for the association. Thank you,
00:01:32 9 Mr. Singerman.

00:01:32 10 MR. SINGERMAN: Thank you, Your
00:01:34 11 Honor.

00:01:34 12 THE COURT: Let me have appearances
00:01:35 13 in the Rosenthal case, please.

00:01:37 14 MR. MCKEE: Good morning, Your
00:01:37 15 Honor. Robert McKee and David Brill on
00:01:42 16 behalf of Mr. Rosenthal.

00:01:42 17 THE COURT: Very good. Are there
00:01:43 18 any defendants in that case other than the
00:01:45 19 receiver that wish to make an appearance?

00:01:48 20 Very good. Let's proceed on to the
00:01:50 21 Rodriguez matter. Can I have appearances
00:01:52 22 of counsel in Rodriguez.

00:01:54 23 MR. MOSKOWITZ: Yes, good morning,
00:01:55 24 Your Honor.

00:01:55 25 THE COURT: Good morning,

00:01:56 1 Mr. Moskowitz.

00:01:57 2 MR. MOSKOWITZ: In person here
00:01:57 3 we have Adam Moskowitz and Joey Kaye. On
00:02:00 4 Zoom we have Adam Schwartzbaum and Howard
00:02:03 5 Bushman. With us also as our co-counsel on
00:02:06 6 Zoom Jack Scarola and our co-counsel Stuart
00:02:10 7 Grossman and Rachel Furst on Zoom, and as
00:02:15 8 co-counsel here, Chip Merlin and Shane
00:02:17 9 Smith.

00:02:17 10 THE COURT: Thank you, are there
00:02:18 11 any -- thank you, counsel. Okay. Are
00:02:24 12 there any defendants in the Rodriguez
00:02:26 13 matter that have not yet appeared?

00:02:30 14 Very good. Proceeding on to the
00:02:32 15 Rosenberg matter, can I have appearances of
00:02:35 16 plaintiff.

00:02:36 17 MR. GOODMAN: Good morning, Your
00:02:37 18 Honor. Jeffrey Goodman appearing in person
00:02:38 19 and on Zoom is my law partner Bob
00:02:38 20 Mongeluzzi as well as our co-counsel
00:02:44 21 Yechezkel Rodal.

00:02:44 22 THE COURT: Thank you. Any
00:02:45 23 defendants in that matter?

00:02:48 24 MR. RASKAS: Good morning, Your
00:02:51 25 Honor. Aron Raskas along with David Wells

00:02:52 1 on Zoom from Gunster on behalf of Morabito
00:02:04 2 Consultants, Inc.

00:02:56 3 THE COURT: Thank you. Any other
00:02:58 4 defense appearances?

00:03:00 5 Okay. Would anybody like to appear
00:03:02 6 in any subsequently filed or tagalong cases
00:03:07 7 that have not made an appearance yet?

00:03:07 8 Mr. Ruiz.

00:03:09 9 MR. RUIZ: I'm here on behalf of the
00:03:12 10 plaintiff Rosa Quesada and also Mr. Gonzalo
00:03:26 11 Dorta (Inaudible.)

00:03:26 12 THE COURT REPORTER: Your Honor --
00:03:26 13 Your Honor, this is the court reporter, I
00:03:30 14 can't hear.

00:03:30 15 THE COURT: To the court reporter,
00:03:30 16 we have electronic recording in this
00:03:30 17 courtroom. You are on Zoom for whatever
00:03:30 18 reason, I don't know if someone ordered a
00:03:58 19 court reporter live, but just do your best.
00:03:58 20 There are people in the audience, and I can
00:04:00 21 have them scream at the top of their lungs,
00:04:00 22 so you just do your best, and we're going
00:04:00 23 to have to live with the transcript that we
00:04:00 24 get. Okay?

00:04:06 25 THE COURT REPORTER: Okay.

00:04:06 1 THE COURT: Now is there any way to
00:04:07 2 move this Zoom computer over a little bit
00:04:11 3 so my vision is not blocked, if that's
00:04:11 4 possible, Dennis?

00:04:12 5 Any other appearances anybody wishes
00:04:15 6 to make before we begin the proceeding?

00:04:18 7 MR. SUAREZ: Good morning. Luis
00:04:20 8 Suarez, I represent the sister as personal
00:04:27 9 representative of the five family members
00:04:28 10 who perished.

00:04:32 11 THE COURT: Thank you.

00:04:35 12 MR. GROSSMAN: Judge, Stuart
00:04:37 13 Grossman, good morning. On the Altman,
00:04:41 14 Spiegel, and Notkin case, in addition to
00:04:42 15 me, present on Zoom is Billy Mulligan,
00:04:46 16 Rachel Furst, Ryan Yaffa, Andrew Yaffa, and
00:04:50 17 you've already had the rest of our team
00:04:52 18 introduced by Mr. Moskowitz.

00:04:59 19 THE COURT: Let me take care of the
00:05:01 20 courtroom first, and then I'll see if
00:05:01 21 anyone wants to appear who is on Zoom.
00:05:01 22 Okay?

00:05:04 23 Good morning, counsel.

00:05:06 24 MR. BLUMENTHAL: Good morning, Your
00:05:06 25 Honor, Dustin Blumenthal from Goldberg

00:02:20 1 Segalla representing Philadelphia Indemnity
00:05:27 2 Insurance Company.

00:05:28 3 THE COURT: Very good. Thank you,
00:05:28 4 counsel. Any other appearances?

00:05:30 5 Mr. Pita, go ahead.

00:05:32 6 MR. PITA: Skip Pita for Alex Santo
00:05:37 7 (inaudible.)

00:05:41 8 THE COURT: Thank you. Mr. Rosen.

00:05:44 9 MR. ROSEN: Good morning, Your
00:05:46 10 Honor. Judd Rosen along with my partner
00:05:48 11 Mustafa Dandashly and Todd Rosen on behalf
00:05:48 12 of Jonah Handler and his mother who passed
00:05:54 13 away, the Estate of Stacy Fang.

00:05:57 14 THE COURT: Mr. Miner.

00:05:59 15 MR. MINER: Good morning, Your
00:06:03 16 Honor, Curtis Miner, (Inaudible.)

00:06:03 17 THE COURT: Ms. Rockenbach.

00:06:08 18 MS. ROCKENBACH LINK: Good morning,
00:06:08 19 Your Honor, Kara Rockenbach Link on behalf
00:06:13 20 of Universal Property and Casualty.

00:06:13 21 THE COURT: I've reviewed your
00:06:15 22 motion. We'll be taking that up early.
00:06:15 23 Okay?

00:06:15 24 MS. ROCKENBACH LINK: Thank you.

00:06:18 25 THE COURT: All right. Very good.

00:06:18 1 UNIDENTIFIED SPEAKER: (Inaudible.)

00:06:28 2 THE COURT: Very good, good morning,
00:06:30 3 gentlemen.

00:06:30 4 UNIDENTIFIED SPEAKER: (Inaudible.)

00:06:39 5 THE COURT: Okay.

00:06:39 6 MR. MARTINEZ-CID: Good morning,
00:06:40 7 Your Honor. Ricardo Martinez-Cid with my
00:06:41 8 partner Aaron Podhurst on behalf of the
00:06:45 9 Cohen matter that has already been
00:06:46 10 transferred to Your Honor. We've also
00:06:48 11 filed a number of other cases. We are
00:06:51 12 putting the Drezner matter as a related
00:06:54 13 case and will continue to file some other
00:06:55 14 cases this week.

00:06:56 15 THE COURT: Okay. There is an
00:06:58 16 administrative order that all cases will be
00:07:00 17 automatically transferred here, but you go
00:07:02 18 ahead and mark them as related cases when
00:07:04 19 you file these matters, okay, and they'll
00:07:06 20 be transferred over here automatically by
00:07:08 21 the clerk.

00:07:10 22 MR. MARTINEZ-CID: Thank you,
00:07:10 23 Your Honor.

00:07:10 24 THE COURT: Okay. Very good.
00:07:12 25 Counsel.

00:07:12 1 MR. MCNABNEY: Good morning, Your
00:02:23 2 Honor, Joel McNabney on behalf of James
00:07:14 3 River.

00:07:15 4 THE COURT: Thank you. All right.
00:07:16 5 I'll accept Zoom appearances only from
00:07:19 6 lawyers whose firms have not already
00:07:22 7 appeared through somebody live in the
00:07:24 8 courtroom. That's it. Anybody on Zoom
00:07:27 9 whose firm has not already made an
00:07:29 10 appearance?

00:07:33 11 Okay. Let's proceed.

00:07:36 12 MS. CHALIK: Good morning, Debi
00:07:38 13 Chalik on behalf of Josephina Henriques and
00:07:43 14 the Estate of Anna Ortiz.

00:07:44 15 THE COURT: Very good.

00:07:45 16 MR. SILVA: Good morning, Your
00:07:47 17 Honor, Jorge Silva. First, let me
00:07:49 18 apologize, because I had no idea this was
00:07:52 19 going to be live, and I apologize for that,
00:07:53 20 but Jorge Silva on behalf of multiple
00:07:57 21 plaintiffs, including decedents Lozano,
00:08:01 22 Fernandez, and Oliwkowicz, that all of them
00:08:05 23 have already been filed and being
00:08:07 24 transferred to Your Honor's court.

00:08:08 25 THE COURT: Very good. Thank you,

00:08:10 1 Mr. Silva. Anybody else on Zoom whose firm
00:08:12 2 has not already appeared through counsel in
00:08:14 3 the courtroom?

00:08:15 4 MS. PATINO: Yes, good morning, Your
00:08:17 5 Honor. Alison Patino on behalf of the
00:08:19 6 Estate of Claudio Bonnefoy and Maria
00:08:25 7 Bonnefoy.

00:08:25 8 THE COURT: Okay. Any other
00:08:28 9 appearances?

00:08:28 10 MR. WILSON: Yes, Your Honor, this
00:08:29 11 is William Wilson from Mound Cotton on
00:08:33 12 behalf of Great American Insurance Company
00:08:36 13 in the Quesada matter.

00:08:38 14 MR. SEARCY: Your Honor, Chris
00:08:39 15 Searcy with the Rodriguez group.

00:08:44 16 THE COURT: Okay. I think somebody
00:08:46 17 already appeared for the Rodriguez group
00:08:49 18 here. Okay. Anybody else on Zoom whose
00:08:51 19 firms have not made an appearance?

00:08:54 20 MR. BRODIE: Your Honor, Steve
00:08:54 21 Brodie and Jeffrey Michael Cohen of Carlton
00:08:57 22 Fields on behalf of QBE, the excess insurer
00:09:00 23 on the GL policy side.

00:09:01 24 THE COURT: Thank you, Mr. Brodie.
00:09:04 25 Any other appearances?

00:09:07 1 Okay. Ladies and gentlemen, we have
00:09:08 2 a lot to accomplish today.

00:09:12 3 MS. VALLES I apologize, Your Honor.
00:09:13 4 There's one more appearance, I apologize
00:09:16 5 Your Honor. Suzanne Valles of Biedermann,
00:09:21 6 Hoenig, Semprevivo on behalf of Fireman's
00:09:23 7 Fund Insurance Company as insurance only.
00:09:25 8 They have been named in this matter, but
00:09:27 9 not yet served. My partners from New York,
00:09:33 10 Phil Semprevivo and Peter Hoenig are also
00:09:34 11 joining the conference.

00:09:35 12 THE COURT: Thank you, counsel.
00:09:37 13 Okay. Let me ask one more time, any other
00:09:40 14 appearances before we start the hearing?

00:09:43 15 Very good. Mr. Goldberg?

00:09:47 16 MR. GOLDBERG: Yes, sir.

00:09:49 17 THE COURT: So I have a number of
00:09:50 18 matters I want to address. I want to start
00:09:52 19 with the receiver, and the first thing
00:09:56 20 I want to talk about is the status of
00:09:58 21 assistance payments. Can you bring me
00:10:00 22 up-to-date on how we're doing on getting
00:10:03 23 these victims compensation or relocation
00:10:07 24 expenses and end of life expenses and how
00:10:09 25 that program is proceeding.

00:10:11 1 I understand we had some funds
00:10:13 2 tendered by some insurance carriers.
00:10:15 3 We had Mr. Ruiz make his contribution as
00:10:20 4 he represented he would last week to the
00:10:21 5 Court. So how much do we have, and how are
00:10:24 6 we getting it in the hands of victims of
00:10:26 7 this tragedy.

00:10:29 8 MR. GOLDBERG: Yes, Your Honor,
00:10:30 9 we did receive Mr. Ruiz' money that day.
00:10:36 10 He called our office and tendered --
00:10:39 11 it wasn't tendered but wired \$1 million to
00:10:42 12 us.

00:10:42 13 THE COURT: Okay.

00:10:43 14 MR. GOLDBERG: It was received and
00:10:45 15 it's already been put to good use.
00:10:47 16 Your Honor, we've had 24 applications for
00:10:49 17 relocation. Of the 24, 18 have been
00:10:54 18 approved, checks are in hand already. They
00:10:56 19 were FedEx'd out Monday for delivery on
00:11:01 20 Tuesday.

00:11:01 21 There were two pending verifications
00:11:05 22 in those applications. The verification is
00:11:09 23 easy, we just have to verify that the
00:11:12 24 person is entitled to the relocation, they
00:11:15 25 lived in the building, and that they need

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it.

THE COURT: And you're also making those payments available to renters? My order didn't specifically address that, but I want to make sure anybody who was in the building, whether they be an owner or renter is being provided assistance payments.

MR. GOLDBERG: That's correct, Your Honor. We have denied four. One was an individual that we denied who lived in the building up through January, was a girlfriend of a homeowner, and the homeowner said she hasn't lived there through January -- since January, and we denied that.

Then there were several -- three applicants who were renting their units to others who were not living in the building, and, therefore, they did not need to be relocated, and we denied those three, but we have paid 18 of the 24, 2 pending, 4 denied.

Then on the end of life benefits we've had two applications, and we're just

00:12:16 1 simply waiting to make sure that the
00:12:18 2 applicant is the correct person to cut the
00:12:20 3 check to, that they're responsible for
00:12:23 4 dealing with the end of life benefits, and
00:12:26 5 we're in the process of doing that, and
00:12:27 6 we expect we will confirm that within the
00:12:30 7 next 48 hours, and the checks are all being
00:12:34 8 FedEx'd out.

00:12:35 9 THE COURT: Okay. And tell me how
00:12:36 10 the victims are being notified of the
00:12:39 11 availability of these funds, because I know
00:12:41 12 you have a website. Is there any other
00:12:44 13 effort that's being made to notify the
00:12:46 14 victims that these funds are available and
00:12:48 15 they can ask you for those assistance
00:12:50 16 payments?

00:12:51 17 MR. GOLDBERG: Yes, Your Honor.
00:12:51 18 Just everyone is in the courtroom, we have
00:12:55 19 set up a website, it's live. It's
00:12:58 20 www.ctsreceivership.com. We have forms for
00:13:03 21 the application on it. It has a bunch of
00:13:06 22 other information, court orders entered.
00:13:08 23 There are also government agencies that
00:13:12 24 have asked us to put their information on
00:13:13 25 there so it goes to notify them, but to

00:13:18 1 answer, we've also had email addresses of
00:13:21 2 each unit owner and tenant in the apartment
00:13:23 3 as best as we had from the building, and
00:13:26 4 we emailed the application to each of those
00:13:29 5 email addresses, and then the local news
00:13:32 6 has been pretty much on top of it to let
00:13:32 7 people know benefits are available, and we
00:13:39 8 believe that is sufficient.

00:13:39 9 THE COURT: Good. Okay. So let's
00:13:41 10 talk about the next area I want to address,
00:13:44 11 and that's the real estate. From taking a
00:13:48 12 look at the Chapter 718, it looks to me
00:13:51 13 that at some point prior to the sale of
00:13:53 14 that real estate, there may have to be a
00:13:56 15 judicial termination of this condominium
00:13:57 16 and some other preliminary steps.

00:14:03 17 Then we need to figure out what is
00:14:04 18 the most effective and efficient way to
00:14:07 19 bring the highest and best value for that
00:14:10 20 property so that the monies can be
00:14:12 21 distributed to the victims. So let's talk
00:14:16 22 about that a little bit.

00:14:17 23 What do we need to do to move that
00:14:19 24 along, and what I want you to address for
00:14:21 25 me is whether the two ways that I have

00:14:24 1 thought about dealing with this is maybe
00:14:28 2 try and secure a stalking horse bid with
00:14:33 3 maybe a breakup fee and put it to auction.
00:14:35 4 The other possibility is just to let you
00:14:37 5 negotiate through a broker or directly with
00:14:39 6 potential buyers and see if we can reach a
00:14:42 7 contract.

00:14:42 8 Now, I said last time, and I said
00:14:45 9 again -- I'm going to say it again, a
00:14:48 10 couple of points, the Court wants to
00:14:51 11 monetize whatever property is available, so
00:14:54 12 that we can get money in the hands of these
00:14:57 13 victims as soon as possible. I'm not
00:14:59 14 interested in a prolonged negotiation or
00:15:02 15 process to try to squeeze every nickel out
00:15:06 16 of the property. I'm more interested in
00:15:08 17 who is going to step up and close quickly.

00:15:11 18 I understand that there were some
00:15:12 19 people at the last hearing that expressed a
00:15:14 20 desire to have some memorial on the
00:15:16 21 property, and the Court is sympathetic to
00:15:18 22 that, but I want to make it very clear that
00:15:21 23 the victims of this tragedy are not going
00:15:24 24 to be sacrificing their funds and their
00:15:27 25 property for a memorial. If the state or

00:15:30 1 any governmental agency wants to step up
00:15:32 2 and acquire that property at fair market
00:15:33 3 value, it is, of course, free to do so and
00:15:36 4 do whatever it likes with the property, but
00:15:38 5 that is going to be a long process.

00:15:40 6 It's my belief that no governmental
00:15:43 7 agency is going to be able to move as
00:15:45 8 quickly as this Court intends to move, so
00:15:47 9 while that's a possibility, I want you to
00:15:50 10 be proceeding forward with whatever needs
00:15:52 11 to be done to monetize that property so
00:15:55 12 we can get money in the hands of these
00:15:57 13 people. Okay?

00:15:58 14 So tell me what we need to do and
00:16:00 15 what process you recommend. Do we go with
00:16:03 16 the stalking horse bidder, do we put it to
00:16:07 17 auction with that, or do we go ahead and
00:16:10 18 just hire a broker, or do we do it directly
00:16:13 19 and negotiate and see what we can do? What
00:16:15 20 do you recommend?

00:16:16 21 MR. GOLDBERG: With respect to the
00:16:17 22 process, I would recommend a stalking horse
00:16:20 23 process where a potential buyer is located
00:16:24 24 or identified, a contract is entered into,
00:16:27 25 and then brought before this Court pursuant

00:16:30 1 to a very, very transparent auction
00:16:34 2 process. This case needs the utmost in
00:16:39 3 transparency, and I don't think it needs a
00:16:42 4 private negotiated sale. I think
00:16:44 5 everything should be --

00:16:46 6 THE COURT: Well, of course the
00:16:47 7 negotiations would be the only thing
00:16:49 8 private. Once there would be a contract,
00:16:52 9 it would be subject to court approval, and
00:16:54 10 people would have the right to be heard.

00:16:56 11 So you think the best way is to try
00:16:58 12 to find someone to put up a stalking horse
00:17:02 13 bid and pay them a breakup fee if they
00:17:05 14 don't acquire the property at auction?

00:17:07 15 MR. GOLDBERG: Yes, and with respect
00:17:08 16 to the breakup fee, that would be minimal
00:17:11 17 to almost nonexistent. We're dealing with
00:17:16 18 a commodity here. There's not a lot of due
00:17:18 19 diligence that needs to be done with
00:17:19 20 respect to this property. The way that
00:17:21 21 Mr. Singerman and I view this is the estate
00:17:25 22 will bear the expense of the Phase I or
00:17:27 23 whatever environmental -- we'll do the
00:17:29 24 basic stuff that every potential bidder
00:17:32 25 will need so they can bid and put them on

00:17:36 1 an apples-to-apples basis, but we can
00:17:39 2 discuss the breakup fee with the Court at
00:17:41 3 the time, but, yes, Your Honor, we believe
00:17:44 4 a stalking horse process is the --

00:17:47 5 THE COURT: With an auction.

00:17:48 6 MR. GOLDBERG: With an auction.

00:17:50 7 THE COURT: Okay. And what do
00:17:51 8 we need to do preliminarily to get things
00:17:54 9 legally in order so that that process can
00:17:57 10 unfold, what do we have to do?

00:18:00 11 MR. GOLDBERG: Your Honor, you
00:18:00 12 mentioned it a few minutes ago. Florida
00:18:04 13 Statute 718.118 allows for judicial
00:18:08 14 termination of the condominium association,
00:18:11 15 and that will need to take place prior to
00:18:14 16 this. It doesn't mean we can't go down the
00:18:17 17 process simultaneously, but we need to get
00:18:22 18 a judicial termination.

00:18:22 19 That is a two-step process. The
00:18:25 20 first step is determining entitlement to
00:18:29 21 termination, and the next step is the
00:18:32 22 remedial phase on how that termination will
00:18:36 23 be affected. We believe that incidents
00:18:40 24 like this are exactly what Florida Statute
00:18:44 25 718.118 was created for, and basically,

00:18:50 1 it requires a substantial damage to the
00:18:54 2 building, which I think the Court can take
00:18:59 3 judicial notice of, and the inability to
00:19:01 4 repair the property within a reasonable
00:19:03 5 time, and just the fact that the insurance
00:19:06 6 proceeds alone are going to be insufficient
00:19:10 7 to repair the property, that should give
00:19:13 8 Your Honor the -- what the Court is
00:19:17 9 required to find under the statute to find
00:19:22 10 an entitlement of termination of the
00:19:26 11 condominium association.

00:19:27 12 THE COURT: Okay. Is there anything
00:19:27 13 else that would need to be accomplished
00:19:30 14 legally before the property could be put
00:19:32 15 out to bid other than judicially
00:19:34 16 terminating the condominium form of
00:19:37 17 ownership?

00:19:37 18 MR. GOLDBERG: Let me just -- as
00:19:39 19 part of that judicial termination, all
00:19:42 20 interested parties have to be brought
00:19:44 21 before the Court, which requires a title
00:19:46 22 examination and the joining of any
00:19:47 23 lienholder and an owner, anybody with an
00:19:50 24 interest in the property in that lawsuit,
00:19:53 25 judicial termination before the Court.

00:19:55 1 It's highly technical.

00:19:57 2 We've already started doing the
00:20:00 3 title work necessary to do that, but it may
00:20:03 4 take a little time, but that is the
00:20:04 5 precursor to setting up the stalking horse
00:20:08 6 process.

00:20:08 7 THE COURT: Okay. And how do
00:20:09 8 we initiate that process. Is the -- when
00:20:11 9 I looked at the statute, it authorized any
00:20:15 10 owner to petition the Court for judicial
00:20:19 11 termination. I didn't see any reference to
00:20:21 12 the association, so I assume one or more of
00:20:24 13 the condominium owners would be the
00:20:27 14 appropriate party to initiate that process.

00:20:29 15 MR. GOLDBERG: Yes, Your Honor,
00:20:30 16 that's correct. Standing on the statute
00:20:31 17 requires a, quote, unit holder or unit
00:20:34 18 owner. Now, we are looking, because the
00:20:37 19 association may own some commercial units,
00:20:39 20 we're not sure. We're finding that out.
00:20:41 21 There isn't any sort of distinguishment
00:20:44 22 between commercial unit or residential,
00:20:48 23 however, as Your Honor knows, as a
00:20:51 24 receiver, we get approached by quite a bit
00:20:55 25 of victims, and many victims have

00:20:57 1 approached, and I think will be subject --

00:21:00 2 THE COURT: Okay.

00:21:01 3 MR. GOLDBERG: At least represented
00:21:03 4 by one of the counsels here and might want
00:21:05 5 to step up to the plate and queue up that
00:21:08 6 termination lawsuit.

00:21:09 7 THE COURT: I'd like you to initiate
00:21:10 8 that process as soon as possible, get the
00:21:13 9 title work done, get all our ducks in a row
00:21:17 10 so if and when somebody steps up and is
00:21:19 11 willing to pay fair value for this
00:21:21 12 property, we'll be ready to proceed. Okay?

00:21:23 13 MR. GOLDBERG: Yes, Your Honor.

00:21:24 14 THE COURT: All right. Let's talk
00:21:25 15 about another source of recovery for these
00:21:27 16 victims, and that's insurance coverage.
00:21:29 17 When I went back and looked at the file,
00:21:31 18 I saw some filings that suggested that
00:21:34 19 we had four layers of liability coverage.

00:21:36 20 I know James River commendably
00:21:40 21 already tendered. We addressed that last
00:21:42 22 time, and that was the first layer of
00:21:45 23 2 million. We then have Philadelphia
00:21:47 24 Indemnity, which someone mentioned to me
00:21:50 25 tendered as well; is that correct?

00:21:52 1 MR. GOLDBERG: Yes, that's correct.

00:21:53 2 THE COURT: And that's a \$1 million
00:21:54 3 second tier layer?

00:21:56 4 MR. GOLDBERG: Yes, and both James
00:21:58 5 River and Philadelphia checks have been
00:22:00 6 received by my office for the trust.

00:22:02 7 THE COURT: And the third layer of
00:22:04 8 coverage is Fireman's Fund, which is \$10
00:22:06 9 million of liability coverage, correct?

00:22:08 10 MR. GOLDBERG: Yes, Your Honor.
00:22:09 11 Just so we're clear, the Philadelphia
00:22:12 12 Indemnity policy is a D & O policy, just so
00:22:14 13 the Court is aware of that.

00:22:15 14 THE COURT: Okay. Well, it's
00:22:16 15 liability. I'm distinguishing liability
00:22:18 16 from property.

00:22:19 17 MR. GOLDBERG: Yes, I didn't want
00:22:20 18 you to think it was CGL.

00:22:23 19 THE COURT: Okay. Very good. So
00:22:24 20 Philadelphia Indemnity has tendered,
00:22:27 21 correct?

00:22:27 22 MR. GOLDBERG: Yes, Your Honor.

00:22:28 23 THE COURT: And the third layer
00:22:29 24 looks to be Fireman's Fund, \$10 million.

00:22:32 25 MR. GOLDBERG: Yes.

00:22:32 1 THE COURT: What's the status of
00:22:34 2 Fireman's Fund? Have you demanded
00:22:36 3 insurance information and received
00:22:38 4 everything you need, and have you had any
00:22:39 5 discussions with them? I don't want you to
00:22:41 6 disclose any negotiations or settlement,
00:22:43 7 I just want you to tell me what the status
00:22:47 8 is of the policy and whether or not you're
00:22:49 9 in contact with this carrier.

00:22:51 10 MR. GOLDBERG: I contacted Fireman's
00:22:54 11 Fund for the 2021 first layer excess
00:22:57 12 policy, and I'm happy to report that
00:22:59 13 yesterday we received notice that they are
00:23:03 14 tendering the \$10 million plus \$300,000 in
00:23:06 15 crisis management benefits for a total of
00:23:09 16 12.3. We have not received the funds yet,
00:23:12 17 but that's expected, because they just
00:23:15 18 tendered by letter yesterday.

00:23:16 19 THE COURT: Okay. And I know we
00:23:16 20 have somebody representing Fireman's Fund
00:23:18 21 here by Zoom. Counsel?

00:23:19 22 MS. VALLES: That is correct,
00:23:19 23 Your Honor, and the information that he has
00:23:22 24 represented to the Court is also accurate.

00:23:28 25 THE COURT: Excellent. Well, let me

00:23:28 1 commend Fireman's Fund as well as
00:23:31 2 Philadelphia Indemnity for stepping up.
00:23:34 3 The Court is very pleased to hear that
00:23:37 4 those carriers have stepped up and tendered
00:23:37 5 their indemnity limits.

00:23:40 6 Let's move on to the last layer that
00:23:42 7 I can see on the liability side, which is
00:23:44 8 QBE. I know Mr. Brodie and Mr. Cohen, I
00:23:47 9 saw from the docket, made an appearance on
00:23:49 10 their behalf. Have you had any
00:23:51 11 conversations or discussions with QBE and
00:23:53 12 their counsel, and where are we there?

00:23:55 13 MR. GOLDBERG: Yes, Your Honor, just
00:23:56 14 in general, we have had multiple
00:24:00 15 conversations with all of the insurers, and
00:24:02 16 they have all been completely responsive,
00:24:05 17 and we appreciate that, and I'm happy to
00:24:07 18 report that last night with respect to the
00:24:09 19 2021 second layer of QBE insurance, they
00:24:15 20 tendered \$5 million.

00:24:16 21 Again, we don't have the funds in
00:24:18 22 hand, and we just want to verify that
00:24:21 23 that's the full amount of the coverage, but
00:24:24 24 we are happy to report that QBE stepped up
00:24:26 25 to the plate and tendered last night by

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letter.

THE COURT: Mr. Brodie, Mr. Cohen?

MR. BRODIE: Yes, Your Honor, that's correct. We sent a letter to counsel for the receiver confirming that QBE is prepared to tender its funds in accordance with the tenders of the carriers lower than it in the tower subject to the same terms and conditions, and I could also advise the Court that is the only policy that QBE issued to the association.

THE COURT: Very good. Thank you, Mr. Brodie. Let me commend QBE as well as the other carriers. Like I said before, the Court could not be more pleased to see that we will not have extended and protracted proceedings involving coverage and other insurance-related issues, and that these liability carriers have stepped up to the plate to tender their coverage and assist these victims, and I commend all of them.

Now, Mr. Goldberg, these indemnity policies we discussed last week, that the primary carrier, James River, in addition

00:25:33 1 to the indemnity obligations, also had a
00:25:36 2 duty to defend. Is there a duty to defend
00:25:38 3 on the part of these excess carriers that
00:25:40 4 may be triggered here despite their having
00:25:44 5 tendered the indemnity coverage?

00:25:47 6 MR. GOLDBERG: Yes, Your Honor,
00:25:47 7 we believe there is, and we're working with
00:25:50 8 coverage counsel, and we are engaged in the
00:25:54 9 very collaborative discussions with the
00:25:56 10 insurers. Again, they could not be more
00:26:00 11 responsive.

00:26:01 12 They made themselves available for a
00:26:03 13 lengthy Zoom call yesterday. We've been in
00:26:06 14 constant communication. We've made some
00:26:09 15 progress, I think, and we're hopeful that
00:26:11 16 we'll be able to, through a give and take
00:26:15 17 process that necessarily is involved, come
00:26:17 18 to an agreement where it will be the best
00:26:21 19 possible --

00:26:21 20 THE COURT: Okay. But no carrier
00:26:23 21 has conditioned their tender on any release
00:26:26 22 or bar order, and they all acknowledged
00:26:32 23 they have a duty to defend or additional
00:26:35 24 obligations under the policy aside from the
00:26:36 25 indemnity, that they're not being released

00:26:38 1 from that, correct?

00:26:39 2 MR. GOLDBERG: That's correct, Your
00:26:39 3 Honor, they have to stand up and approach
00:26:44 4 their responsibility. We're not there, but
00:26:46 5 we're going to try, and I think, as they
00:26:48 6 said, they're going to try, and I think
00:26:51 7 they're all represented by good counsel,
00:26:52 8 and they're good companies, and I think
00:26:55 9 we'll get there.

00:26:55 10 THE COURT: Good.

00:26:55 11 MR. GOLDBERG: Your Honor, just one
00:26:56 12 clarification. We are also exploring any
00:27:00 13 prior CGL policies that may exist, so
00:27:02 14 I don't want Your Honor to think we're done
00:27:05 15 with our efforts. There may be prior
00:27:07 16 policies, but the policies that I spoke to
00:27:09 17 with the Court just a minute ago are all --

00:27:11 18 THE COURT: So there may be -- there
00:27:12 19 may be prior coverage that was not claims
00:27:16 20 made coverage, there may have been other
00:27:18 21 types of coverage that may be triggered by
00:27:20 22 the deterioration that occurred?

00:27:23 23 MR. GOLDBERG: There may be. We're
00:27:25 24 looking at that, but every policy that is
00:27:27 25 being tendered is their 2021 policy.

00:27:28 1 THE COURT: Okay. Let's talk about

00:27:30 2 the other type of insurance that may be
00:27:32 3 triggered here and available, and that's
00:27:33 4 the property coverage. I guess we have one
00:27:36 5 policy with Great American; is that
00:27:38 6 correct?

00:27:38 7 MR. GOLDBERG: That is correct,
00:27:39 8 Your Honor.

00:27:39 9 THE COURT: And what are the
00:27:41 10 coverage limits of that policy, and have
00:27:42 11 you had any dialogue with Great American in
00:27:45 12 an effort to see if that matter can be
00:27:50 13 resolved and we can secure funds from the
00:27:52 14 property insurance policy?

00:27:53 15 MR. GOLDBERG: Yes, Your Honor, the
00:27:56 16 base amount is \$30 million with Great
00:27:59 17 American, and we believe it may actually be
00:28:03 18 2 to 3 million higher with additional
00:28:06 19 coverages that may be applicable, and we
00:28:08 20 have been engaged in discussions with Great
00:28:11 21 American. They are represented by very
00:28:13 22 good counsel, and we will continue those
00:28:16 23 discussions, and we're hoping -- we're
00:28:22 24 hoping the commitment on their part and our
00:28:23 25 part -- we're hoping that they will follow

00:28:27 1 suit and tender shortly.

00:28:28 2 THE COURT: Well, I'm hoping that as
00:28:31 3 well, and I want you to continue having
00:28:33 4 dialogue with them and their counsel and
00:28:35 5 report back to the Court as soon as there's
00:28:37 6 something to tell me. All right?

00:28:39 7 MR. GOLDBERG: Yes, sir.

00:28:40 8 THE COURT: Okay. So does that take
00:28:41 9 care of, before I move on, insurance issues
00:28:43 10 that we need to address?

00:28:45 11 MR. GOLDBERG: Yes, Your Honor.

00:28:46 12 THE COURT: Okay. Now --

00:28:46 13 MR. MCKEE: Your Honor.

00:28:50 14 THE COURT: Yes, sir.

00:28:50 15 MR. MCKEE: Robert McKee. Just a
00:28:52 16 couple of questions on insurance.

00:28:53 17 THE COURT: No, no, Mr. McKee, I'm
00:28:55 18 not taking questions from counsel this
00:28:57 19 morning. Do you represent Great American?

00:28:59 20 MR. MCKEE: No, I was looking for
00:29:01 21 the sworn affidavit that was required for
00:29:02 22 all of these.

00:29:03 23 THE COURT: Okay. Well, no, I'm not
00:29:05 24 opening the floor for questions to the
00:29:09 25 receiver from counsel, but thank you.

00:29:11 1 Mr. Goldberg, have you secured books
00:29:14 2 and records of the association, whatever
00:29:15 3 funds are available, was there any working
00:29:17 4 capital in accounts? Tell me where we are
00:29:21 5 with just securing the other property
00:29:23 6 belonging to the association.

00:29:24 7 MR. GOLDBERG: Yes, Your Honor. All
00:29:26 8 the bank accounts have been moved over to
00:29:28 9 my signature or are in the process of being
00:29:31 10 moved over. I think they're done, but
00:29:34 11 I don't want to sit here and tell you that
00:29:36 12 they're completed. There were several
00:29:39 13 accounts, operating accounts, and I
00:29:42 14 apologize to the Court, I should have --
00:29:43 15 I don't have the exact balances.

00:29:45 16 THE COURT: No apology necessary.
00:29:46 17 Just tell me where you are in terms of
00:29:49 18 securing other intangible property,
00:29:52 19 whatever cash may be on hand belonging to
00:29:55 20 the association.

00:29:56 21 MR. GOLDBERG: All banks that held
00:29:59 22 bank accounts were put under receivership,
00:30:01 23 and the accounts are in the property of
00:30:04 24 those. Additionally, securing the ESI and
00:30:08 25 we are in the process of gathering and

00:30:11 1 setting up a database of the ESI to
00:30:16 2 preserve and house ESI to the benefit of
00:30:18 3 all the counsel that are going to need it.
00:30:21 4 That is being done and is well on its way.

00:30:26 5 We are also -- obviously, there's no
00:30:30 6 personal property to secure in the case, so
00:30:33 7 it really is books and records, which are
00:30:37 8 underway, as well as the bank accounts.

00:30:42 9 THE COURT: All right. Very good.
00:30:43 10 Now, lastly, the issues I want to address
00:30:46 11 with you is from my review of the docket,
00:30:49 12 it looks like you have a few miscellaneous
00:30:51 13 motions that were set for hearing this
00:30:54 14 morning. Would you like to address those,
00:30:56 15 or your counsel is going to address them?

00:30:58 16 MR. GOLDBERG: My counsel is going
00:30:59 17 to address them.

00:31:01 18 THE COURT: Okay. While I have you
00:31:02 19 here, before I hear from Mr. Singerman, is
00:31:04 20 there anything else before I turn to some
00:31:06 21 other issues, including the civil
00:31:08 22 litigation, that you'd like to report to
00:31:10 23 the Court, anything we haven't discussed
00:31:13 24 already this morning?

00:31:14 25 MR. GOLDBERG: No, just the fact

00:31:15 1 that I'm continually getting calls from
00:31:18 2 victims, obviously. I know counsel who are
00:31:23 3 on the front line as well. It's extremely
00:31:27 4 sad to hear the stories. It's kind of
00:31:31 5 amazing how life works. I'm hearing very
00:31:34 6 unfortunately stories that -- people that
00:31:36 7 just happened to be there that night
00:31:38 8 visiting. It's very sad. It's a difficult
00:31:42 9 case.

00:31:43 10 THE COURT: Yes, it's a very
00:31:45 11 difficult assignment, and it's a
00:31:51 12 heart-wrenching, horrific case. It's an
00:31:51 13 assignment that's going to take a lot of
00:31:54 14 hand-holding and a lot of finesse and a lot
00:31:56 15 of care, and I have no doubt that you and
00:31:59 16 the esteemed counsel that are already in
00:32:02 17 this case and that will have a leadership
00:32:05 18 role are up to the task.

00:32:06 19 MR. GOLDBERG: Yes, Your Honor.

00:32:07 20 THE COURT: I know it's going to be
00:32:10 21 difficult, and I know people are very
00:32:13 22 distraught and confused and need a lot of
00:32:15 23 assistance, and I've had a lot of lawyers
00:32:18 24 and members of the Bar reach out to the
00:32:20 25 Court and volunteer their time, not only to

00:32:23 1 take a role in this case, but to also
00:32:26 2 counsel with and assist victims with such
00:32:30 3 things as probate estates, getting the
00:32:34 4 affairs of their deceased in order, and
00:32:37 5 doing what is necessary in order to move
00:32:40 6 forward, and the Bar has been extremely
00:32:43 7 responsive, and the Court is pleased about
00:32:45 8 that.

00:32:46 9 And of course, you need to let these
00:32:50 10 victims know that we'll be having these
00:32:52 11 hearings every Wednesday, and they're
00:32:54 12 welcome to be here. Okay?

00:32:56 13 MR. GOLDBERG: Additionally, I have
00:33:00 14 two lawyers full-time staffing calls from
00:33:03 15 victims, letting them know the benefits
00:33:05 16 that are available to them. Senator Pizzo,
00:33:09 17 who is the senator, State Senator for the
00:33:12 18 building and that area, has been extremely,
00:33:14 19 extremely involved with his constituents
00:33:21 20 who are affected by this.

00:33:21 21 In fact, he organized a meeting last
00:33:23 22 week, and there's a meeting tomorrow night
00:33:26 23 with the victims and their families.
00:33:28 24 Mr. Singerman and I will attend just to
00:33:30 25 answer questions about the receivership and

00:33:32 1 the benefits. It's our goal to let
00:33:36 2 everybody know at that meeting, and to go
00:33:39 3 back to the beginning, let individuals know
00:33:40 4 about the assistance payments available,
00:33:43 5 and that's tomorrow night, in the evening.
00:33:45 6 There's two separate meetings going into
00:33:48 7 the night.

00:33:48 8 THE COURT: Okay. Well, make sure
00:33:50 9 you convey to the victims that this is a
00:33:52 10 public forum, and the Court welcomes their
00:33:57 11 appearance any time they wish to attend any
00:34:00 12 proceedings. Okay?

00:34:01 13 MR. GOLDBERG: Absolutely, Your
00:34:02 14 Honor.

00:34:02 15 THE COURT: Let me hear from
00:34:03 16 Mr. Singerman so we can address those
00:34:06 17 miscellaneous motions, and then I want to
00:34:07 18 turn to a couple of other matters.

00:34:12 19 MR. SILVA: Your Honor, before we
00:34:12 20 proceed, Your Honor was asking -- this is
00:34:14 21 Jorge Silva -- Your Honor was asking about
00:34:14 22 available insurance, and I don't know
00:34:17 23 if the Court has already attempted or wants
00:34:20 24 to address third-party insurance coverage,
00:34:22 25 because I have what I believe to be some

00:34:24 1 wonderful news for the Court and for all
00:34:26 2 the parties, but I don't know if the Court
00:34:28 3 is there regarding third-party --

00:34:30 4 THE COURT: Let's -- we'll discuss
00:34:31 5 that when I get to the third-party
00:34:33 6 litigation, okay, Mr. Silva? So just hold
00:34:35 7 that thought. Okay?

00:34:37 8 MR. SILVA: Thank you, Your Honor.

00:34:38 9 THE COURT: All right. Thank you.
00:34:40 10 Mr. Singerman.

00:34:41 11 MR. SINGERMAN: Judge Hanzman, may
00:34:42 12 it please the Court, Paul Singerman from
00:34:44 13 Berger Singerman, general counsel to
00:34:45 14 Mr. Goldberg, the court-appointed receiver.

00:34:48 15 There are three administrative
00:34:49 16 motions that Mr. Goldberg has filed through
00:34:51 17 our firm which we'd like the Court to
00:34:54 18 consider as of this time, Your Honor. No
00:34:57 19 objections to relief sought in any of the
00:34:59 20 three motions that have been filed and I've
00:35:01 21 not been apprised by any party interest --

00:35:04 22 THE COURT: Yes, I've reviewed the
00:35:06 23 motions, so tell me what they are and what
00:35:08 24 the relief you're seeking is, and let's see
00:35:10 25 if we can clean these matters up. Okay?

00:35:12 1 MR. SINGERMAN: The first is the
00:35:13 2 receiver's motion for authorization to
00:35:15 3 refund special assessments. Your Honor,
00:35:20 4 prior of course to this tragedy, the
00:35:23 5 association imposed a special assessment in
00:35:29 6 the aggregate amount of \$15 million for
00:35:31 7 capital improvements to the condominium
00:35:34 8 building.

00:35:35 9 In terms of the assessment allowed
00:35:37 10 for unit owners to make their respective
00:35:40 11 payments, the amount of which varied with
00:35:42 12 the size and type of unit in the
00:35:45 13 condominium building, those unit owners
00:35:48 14 that deposited their assessment prior to
00:35:50 15 June 30, there was no interest or finance
00:35:54 16 charge. For those who chose to delay the
00:35:57 17 payments and pay in installments, there was
00:36:00 18 a 4 percent interest coupon.

00:36:02 19 Pursuant to the assessment, the
00:36:03 20 association received in aggregate
00:36:06 21 \$2,416,395.22. In the motion before the
00:36:12 22 court, there's a schedule of the unit
00:36:13 23 owners who remitted the deposits.

00:36:16 24 The purpose of this motion,
00:36:18 25 Your Honor, is to get the Court's approval

00:36:20 1 to return the special assessments to those
00:36:25 2 unit owners or their respective estates.
00:36:28 3 Naturally, Your Honor, the purpose of the
00:36:31 4 assessment, that is to do capital
00:36:35 5 improvements, has been mooted by the tragic
00:36:39 6 collapse, and these funds are available and
00:36:42 7 segregated, and the receiver would like to
00:36:43 8 do what it considers to be the right thing
00:36:45 9 and what would be contractually appropriate
00:36:47 10 given the frustration.

00:36:52 11 THE COURT: Would anybody like to be
00:36:54 12 heard on this motion?

00:36:55 13 Okay. Hearing from no one, the
00:36:57 14 Court will grant the motion and authorize
00:36:59 15 the receiver to return to those unit owners
00:37:02 16 who prepaid their special assessments,
00:37:05 17 return those funds forthwith.

00:37:07 18 What is your next motion,
00:37:09 19 Mr. Singerman?

00:37:09 20 MR. SINGERMAN: Thank you very much,
00:37:09 21 Your Honor. Next I'd like to take up the
00:37:10 22 receiver's motion for authorization to pay
00:37:13 23 the association payroll and unused vacation
00:37:17 24 and sick time for three employees of the
00:37:20 25 association up to the date of the

00:37:21 1 commencement of receivership, July 2, 2021,
00:37:24 2 and for the receivership authorization to
00:37:29 3 enter into a limited duration, six-month
00:37:32 4 contract with the former manager of the
00:37:36 5 condominium association, Mr. Scott Stewart.

00:37:41 6 Your Honor, the three employees to
00:37:44 7 whom I refer are Mr. Rolando Thomas and
00:37:48 8 Mr. Luis Suarez along with Mr. Stewart.
00:37:50 9 The first two, Messrs. Thomas and Suarez,
00:37:53 10 were hourly rate, hourly paid employees.
00:37:56 11 Mr. Stewart was salary.

00:37:58 12 The motion seeks to pay the unpaid
00:38:00 13 salary and vacation and sick time benefits
00:38:03 14 to Mr. Thomas in the amount of \$1,604 for
00:38:09 15 his wages and \$1,545.56 in vacation pay.
00:38:15 16 For Mr. Suarez, \$1,440 in wages, \$919.59 in
00:38:22 17 vacation pay. For Mr. Stewart, he was owed
00:38:27 18 a balance in salary prior to commencement
00:38:30 19 of the receivership in the amount of
00:38:32 20 \$3,230.77, and vacation pay in the amount
00:38:35 21 of \$4,196.09.

00:38:39 22 The second element of relief sought
00:38:42 23 by the motion to which I referred,
00:38:44 24 Your Honor, is the authorization of the
00:38:46 25 Court to allow Mr. Goldberg to contract

00:38:48 1 with Mr. Stewart, the former manager of the
00:38:52 2 condominium association, for a 6-month
00:38:54 3 period at an annual wage of, per annum, of
00:38:58 4 \$90,000.

00:39:00 5 As is set forth in the motion, prior
00:39:03 6 to the collapse of the building,
00:39:05 7 Mr. Stewart had a salary of \$86,000. This
00:39:08 8 represents a \$4,000 increase, but that is
00:39:11 9 what was offered in writing by the
00:39:14 10 association prior to the collapse.
00:39:16 11 Mr. Stewart is, for all intents and
00:39:20 12 purposes, our only employee of the
00:39:21 13 association, as opposed to a board member
00:39:24 14 or former board member, who has been
00:39:26 15 already cooperating fully with Mr. Goldberg
00:39:30 16 and our team in gathering essential
00:39:32 17 information through the receivership, and
00:39:37 18 accordingly, for all these reasons,
00:39:38 19 Your Honor, Mr. Goldberg set forth this
00:39:41 20 motion which I present to the Court.

00:39:44 21 THE COURT: Would anybody like to be
00:39:45 22 heard on this motion?

00:39:46 23 MR. SILVA: Your Honor, Jorge Silva.
00:39:48 24 Just very briefly, I have on behalf of my
00:39:51 25 clients no objection; however, the Court

00:39:53 1 needs to know that Mr. Stewart is a
00:39:57 2 defendant in several named actions as the
00:40:01 3 manager of the property.

00:40:04 4 Again, no objection, but just so
00:40:06 5 that the Court has full disclosure,
00:40:08 6 Mr. Stewart is a defendant.

00:40:10 7 THE COURT: He's been sued
00:40:12 8 individually as the manager of the
00:40:13 9 property?

00:40:14 10 MR. SILVA: That is my
00:40:15 11 understanding.

00:40:15 12 THE COURT: What was his duty as a
00:40:17 13 manager of the property to effectuate
00:40:20 14 repairs or what's the theory of liability
00:40:23 15 against Mr. Stewart individually? I'm very
00:40:28 16 curious about that, Mr. Silva.

00:40:30 17 MR. SILVA: Well, my understanding,
00:40:31 18 Your Honor, from having spoken to countless
00:40:34 19 victims, that he was well aware of the
00:40:37 20 repairs that were needed, and that he was
00:40:40 21 put on notice by several bidders that the
00:40:46 22 building had extreme issues that needed to
00:40:50 23 be addressed.

00:40:51 24 THE COURT: Okay. All right. I got
00:40:52 25 it. Mr. Singerman, your motion is granted.

00:40:56 1 MR. SINGERMAN: Thank you,

00:40:56 2 Your Honor.

00:40:57 3 THE COURT: What's the last motion
00:40:58 4 you wish to take up?

00:40:59 5 MR. SINGERMAN: The last motion
00:41:00 6 I wish to present on behalf of Mr. Goldberg
00:41:02 7 is receiver's motion for authorization to
00:41:05 8 terminate a limited security agreement and
00:41:09 9 related rules and security interest granted
00:41:11 10 by the association in favor of Valley
00:41:13 11 National Bank.

00:41:14 12 Your Honor, in or about April of
00:41:16 13 2021, the association entered into a line
00:41:19 14 of credit arrangement with Valley National
00:41:22 15 Bank in the maximum amount available under
00:41:26 16 the line of credit of \$12 million. There
00:41:28 17 has not been -- and that was, again,
00:41:31 18 Your Honor, for improvements to common
00:41:33 19 areas in the condominium building.

00:41:36 20 There were no draws under the line
00:41:38 21 of credit save except approximately \$19,025
00:41:43 22 in closing costs that the association is
00:41:47 23 obligated to pay under the terms of the
00:41:48 24 loan under this security agreement.

00:41:49 25 By this motion we seek Your Honor's

00:41:51 1 approval of Mr. Goldberg's termination of
00:41:53 2 any obligation or right to borrow under
00:41:55 3 that line of credit, which will facilitate
00:41:59 4 the termination of the contract and the
00:42:01 5 release of any condominium real property
00:42:04 6 and personal property.

00:42:06 7 I wish to add, Your Honor, that
00:42:08 8 Valley National Bank has agreed, as an
00:42:11 9 accommodation to the receivership estate,
00:42:13 10 to refund to the estate the entirety of the
00:42:17 11 closing costs that were previously charged
00:42:18 12 to them in the line of credit.

00:42:20 13 And following Mr. Goldberg's
00:42:21 14 comments about Senator Jason Pizzo, Senator
00:42:25 15 Pizzo has been instrumental in facilitating
00:42:28 16 this relief promptly and in arranging for
00:42:31 17 and helping us to arrange for the refund of
00:42:34 18 the closing costs.

00:42:36 19 Again, Your Honor, I'm unaware of
00:42:38 20 any objections, and we ask Your Honor to
00:42:42 21 grant the motion.

00:42:42 22 THE COURT: Anybody wish to be heard
00:42:44 23 on this motion?

00:42:44 24 Okay. Mr. Singerman, the motion is
00:42:46 25 granted. That's very good news that the

00:42:49 1 bank agreed to refund those closing costs.
00:42:53 2 I assume they were under no obligation to
00:42:57 3 do so, and it's nice to hear they agreed to
00:43:00 4 return those funds to the receivership
00:43:02 5 estate. Every bit helps. Okay.

00:43:05 6 MR. SINGERMAN: It does, Your Honor.
00:43:06 7 One additional point in terms of the
00:43:09 8 magnitude of this tragedy and informing
00:43:13 9 victims and their families and loved ones
00:43:16 10 of victims of an additional benefit that
00:43:19 11 may be available to them at no charge,
00:43:22 12 I received an inquiry from Chira Cassel,
00:43:26 13 the founder of the Children's Bereavement
00:43:31 14 Center. She has provided us information to
00:43:33 15 Mr. Goldberg and the receivership estate
00:43:36 16 making available to anyone, the families,
00:43:39 17 the victims, their loved ones, the first
00:43:41 18 responders and their families, and others
00:43:44 19 their services at Children's Bereavement
00:43:48 20 Center, and the information about that will
00:43:51 21 be on the information website.

00:43:54 22 Your Honor, lastly, and this is for
00:43:55 23 high clarity. Mr. Goldberg told you of the
00:43:58 24 meetings tomorrow evening for which he and
00:44:02 25 I have been invited, again, by Senator

00:44:05 1 Pizzo and others to talk about information
00:44:07 2 services -- information about services in
00:44:10 3 the receivership process to the victims and
00:44:13 4 their families.

00:44:14 5 At the last hearing before the
00:44:16 6 Court, one of the lawyers involved had some
00:44:18 7 concern and an allegation that we had been
00:44:23 8 improperly giving legal advice. We intend
00:44:25 9 to go to that meeting tomorrow night, and
00:44:26 10 we wish Your Honor to be aware of that and
00:44:28 11 give any direction to us if it's
00:44:31 12 inconsistent with our intention to appear
00:44:33 13 and be responsive to the victims and their
00:44:34 14 families.

00:44:35 15 THE COURT: Mr. Singerman, let me
00:44:37 16 make something very clear. Part of the
00:44:40 17 receiver's charge here is to address the
00:44:42 18 concerns of these victims, to make
00:44:44 19 information available to these victims,
00:44:46 20 including information regarding what
00:44:47 21 resources may be available to assist them
00:44:50 22 in all types of matters, including housing,
00:44:53 23 estate matters, probate concerns,
00:44:57 24 documentation concerns, and I expect the
00:45:01 25 receiver to do that promptly and with

00:45:05 1 diligence. You have my authority to do
00:45:07 2 that, and that's exactly what I've charged
00:45:10 3 him with doing.

00:45:10 4 Now, if somebody at that meeting
00:45:14 5 asks you questions that involve a legal
00:45:16 6 nature, you are free to answer them to the
00:45:18 7 best of your ability. These people have
00:45:20 8 not retained the receiver. You let them
00:45:23 9 know that you are not available as counsel
00:45:25 10 to them, and that they're free to secure
00:45:27 11 their own counsel, but you are not in any
00:45:30 12 way precluded from meeting with these
00:45:33 13 people and addressing their concerns.

00:45:34 14 That is exactly -- that is exactly
00:45:35 15 what I expect you and the receiver to do at
00:45:37 16 all times. Okay?

00:45:38 17 MR. SINGERMAN: Thank you very much,
00:45:39 18 Your Honor.

00:45:39 19 THE COURT: So is that high clarity
00:45:41 20 for you?

00:45:42 21 MR. SINGERMAN: It is, Your Honor,
00:45:43 22 thank you.

00:45:43 23 THE COURT: Okay. Very good.

00:45:43 24 MR. SINGERMAN: Thank you, Your
00:45:43 25 Honor.

00:45:44 1 THE COURT: Now, we have a motion to
00:45:46 2 intervene that has been filed on behalf of
00:45:49 3 another insurer, Ms. Rockenbach Link.

00:45:53 4 MS. ROCKENBACH LINK: Yes,
00:45:53 5 Your Honor.

00:45:53 6 THE COURT: Let me deal with your
00:45:55 7 motion for intervention, and let's talk
00:45:57 8 about where you are with Universal Property
00:46:01 9 and Casualty and what relief you're seeking
00:46:03 10 here.

00:46:03 11 MS. ROCKENBACH LINK: Thank you,
00:46:04 12 Your Honor, may it please the Court.
00:46:07 13 Universal insured 42 of those units and has
00:46:10 14 paid out approximately \$4 million to 28 --

00:46:13 15 THE COURT: I assume we're talking
00:46:16 16 about contents coverage?

00:46:17 17 MS. ROCKENBACH LINK: Well, it's
00:46:18 18 building coverage. These are unit owner
00:46:19 19 policies, they're (inaudible) policy, and
00:46:23 20 so each unit has building coverage plus
00:46:27 21 personal property coverage and additional
00:46:29 22 coverages, which I --

00:46:31 23 THE COURT: But this is coverage
00:46:32 24 that runs only to the particular unit
00:46:34 25 owner?

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MS. ROCKENBACH LINK: That's

correct, exactly.

THE COURT: So they're individual policies?

MS. ROCKENBACH LINK: That's correct, they are.

THE COURT: Okay.

MS. ROCKENBACH LINK: There's 22 individual policies. So we paid out approximately 4 million to about 28 unit owners. 3 unit owners, we learned, sadly perished in the collapse, and so we're assisting them with opening estates and paying the building coverage and the personal property coverage to the estates to the next of kin or survivors.

We have remaining, which is identified in my motion, 11 units that, despite best efforts, we could not locate, and in listening to Mr. Goldberg speak to the Court this morning as well as counsel, a motion seems appropriate to seek from this Court permission to intervene and interplead the remaining funds of those 11 units.

00:47:28 1 THE COURT: So you're seeking
00:47:29 2 intervention for that limited purpose only?

00:47:32 3 MS. ROCKENBACH LINK: Yes.

00:47:32 4 THE COURT: You're not seeking to
00:47:34 5 have any litigation?

00:47:34 6 MS. ROCKENBACH LINK: That's right.

00:47:34 7 THE COURT: You just want to tender
00:47:36 8 the policy limits and have them held and
00:47:39 9 disbursed in accordance with -- once
00:47:41 10 we determine who they're owed to and proper
00:47:44 11 notice is given?

00:47:45 12 MS. ROCKENBACH LINK: That's
00:47:45 13 correct, Your Honor. It's approximately
00:47:46 14 \$1.2 million. There may be -- there may
00:47:50 15 be -- I heard the Court just say in a
00:47:50 16 motion I was unaware of about special
00:47:57 17 assessments, I did receive a demand just
00:47:59 18 last evening and in reviewing it with my
00:48:01 19 client, there might be additional money
00:48:03 20 other than that 1.2 million for special
00:48:07 21 assessments.

00:48:07 22 THE COURT: What would your client
00:48:08 23 have to do with special assessments?

00:48:09 24 MS. ROCKENBACH LINK: The unit owner
00:48:11 25 policies have a limit of \$2,000 for units

00:48:14 1 for special assessments. So we'll have to
00:48:16 2 review the demands. So that might be an
00:48:19 3 additional component to that 1.2 tender.

00:48:21 4 THE COURT: Okay. Very good. So
00:48:24 5 basically you want the receiver to hold
00:48:26 6 these funds. Your client is not asking for
00:48:28 7 any type of release or bar order or any
00:48:32 8 type of relief, they simply want to
00:48:36 9 interplead the funds with the insurance
00:48:37 10 having a full reservation of rights, albeit
00:48:40 11 you're tendering limits, so I don't know
00:48:43 12 what those claims might be, but whatever
00:48:44 13 they are, you're not seeking any bar
00:48:47 14 orders, any releases.

00:48:48 15 You're making an unconditional
00:48:48 16 tender, and you're just asking the receiver
00:48:51 17 to hold those and the Court disburse to the
00:48:53 18 appropriate parties?

00:48:54 19 MS. ROCKENBACH LINK: That's
00:48:55 20 correct.

00:48:55 21 THE COURT: Okay. Mr. Singerman,
00:48:56 22 would you like to address that on behalf of
00:48:58 23 the receiver, please.

00:48:59 24 MR. SINGERMAN: Thank you, Judge
00:49:00 25 Hanzman, and may it please the Court, the

00:49:02 1 receiver has no objection to acting as the
00:49:05 2 accountholder to receive those funds,
00:49:09 3 notwithstanding the fact that these funds
00:49:12 4 are not the association or receiver as
00:49:14 5 successor, but we will be happy to do that
00:49:16 6 as a service to these unit owners and
00:49:19 7 victims.

00:49:19 8 Just a couple of points that I'm
00:49:22 9 sure will not be controversial. The motion
00:49:25 10 refers to approximately \$884,000 to tender.
00:49:29 11 Counsel indicated it was about 1.2 million,
00:49:31 12 and we only ask Your Honor, and I'm sure
00:49:33 13 this will be forthcoming anyway, for all
00:49:35 14 the related documentation to allow the
00:49:39 15 receiver to understand and do his best to
00:49:41 16 also identify the proper parties whom the
00:49:45 17 funds are due, and we may have need for
00:49:45 18 assurances and ask for additional
00:49:54 19 information, but we have no objection.

00:49:55 20 THE COURT: Very good, thank you.
00:49:56 21 Does anyone else wish to be heard on this
00:49:59 22 motion?

00:50:01 23 MR. RUIZ: Your Honor, may it please
00:50:03 24 the Court, Mr. Ruiz. I ask the Court
00:50:05 25 if Universal Casualty is going to waive any

00:50:07 1 rights to subrogation with the tender.

00:50:11 2 THE COURT: Well, I wasn't generally
00:50:14 3 going to be open to questions. I think
00:50:16 4 I said that before, Mr. Ruiz, but my
00:50:19 5 understanding -- Ms. Rockenbach Link,
00:50:22 6 I thought this was just a tender with no
00:50:24 7 waiver of any rights of any -- either the
00:50:25 8 insured or the insurer; is that correct?

00:50:28 9 MS. ROCKENBACH LINK: That's
00:50:28 10 correct, Judge.

00:50:29 11 THE COURT: So maybe you should
00:50:30 12 speak to your client and see if they're
00:50:33 13 voluntarily waiving subrogation rights in
00:50:36 14 this unique case. It would be nice, but
00:50:38 15 I can't compel that.

00:50:40 16 MS. ROCKENBACH LINK: Thank you.

00:50:41 17 THE COURT: Do me a favor and work
00:50:42 18 with Mr. Singerman. I'll grant the motion.
00:50:45 19 Please prepare an order. What I'd like to
00:50:47 20 do in the order is make the receiver's
00:50:49 21 charge clear that I'm granting you
00:50:49 22 intervention for this limited purpose.

00:50:52 23 The receiver's charge is simply to
00:50:54 24 hold the funds in escrow in a segregated
00:50:57 25 account pending further order of the Court

00:51:00 1 to be disbursed to the appropriate party
00:51:04 2 once they are identified. Make sure the
00:51:05 3 order says that there is no waiver or
00:51:09 4 relinquishment of any rights on behalf of
00:51:10 5 any insurer as a result of receiver's
00:51:12 6 acceptance of this tender, nor is there any
00:51:15 7 waiver of any rights on behalf of the
00:51:16 8 carrier as a result of making the tender,
00:51:19 9 right?

00:51:19 10 MS. ROCKENBACH LINK: Yes.

00:51:20 11 THE COURT: And that the parties are
00:51:21 12 to cooperate in securing documentation and
00:51:24 13 whatever is necessary to disburse these
00:51:26 14 funds.

00:51:27 15 MS. ROCKENBACH LINK: Thank you,
00:51:27 16 Your Honor.

00:51:28 17 THE COURT: All right. Thank you
00:51:28 18 very much. Okay. Let's turn our attention
00:51:38 19 to the civil claims that have been brought
00:51:40 20 and the Court's request that counsel meet
00:51:43 21 and confer. I gave you all a deadline of
00:51:47 22 today to see if you can come up with a
00:51:49 23 proposed leadership structure.

00:51:50 24 So let me repeat a couple of things
00:51:52 25 before we get into the discussion. As the

00:51:57 1 Court said before at every hearing, and I'm
00:52:00 2 going to say it again so everybody is
00:52:02 3 clear. This is obviously a case where
00:52:05 4 there is no amount of money that could
00:52:09 5 possibly be available to compensate these
00:52:12 6 families for their suffering and their
00:52:15 7 loss, but while there's no amount of money
00:52:20 8 in the world that could do that, the law
00:52:22 9 places value on claims, and these claims at
00:52:27 10 some point are going to have to be valued,
00:52:30 11 and the Court has no doubt that the value,
00:52:33 12 the aggregate value of the claims that the
00:52:35 13 law will place on them is going to far
00:52:42 14 exceed all amounts that are available for
00:52:44 15 recovery both by way of insurance proceeds,
00:52:46 16 the sale of assets, and third-party claims.

00:52:50 17 I wish that were not the case, and
00:52:52 18 I wish there were unlimited resources
00:52:55 19 available either by way of property owned
00:52:58 20 by the association or by third-party claims
00:52:59 21 that could compensate all of these victims
00:53:02 22 for their extreme loss and pain and
00:53:05 23 suffering, but that is not going to be the
00:53:08 24 case.

00:53:08 25 There is going to be a limited fund

00:53:11 1 available here, and that fund at some point
00:53:14 2 is going to have to be apportioned amongst
00:53:17 3 the unit owners who will not likely be made
00:53:21 4 whole, particularly for the death and
00:53:24 5 injury claims, while the Court does hope
00:53:28 6 they'll be made whole for their property.

00:53:30 7 Now, what I envision here, because
00:53:33 8 this is a limited fund, and I told you
00:53:35 9 before, I envision the consolidated
00:53:39 10 proceeding on dual tracks. We have two
00:53:41 11 types of harm here. We have economic harm
00:53:45 12 that people have suffered as a result of
00:53:47 13 the loss of their units and other tangible
00:53:50 14 property.

00:53:51 15 Then we have, of course, those
00:53:52 16 unfortunate victims who lost loved ones and
00:53:56 17 have death -- wrongful death and injury
00:54:00 18 claims. So we're going to have to be
00:54:02 19 proceeding on a dual track with a
00:54:04 20 consolidated pleading on behalf of the
00:54:06 21 class, the entire class, seeking economic
00:54:10 22 losses, and a consolidated pleading on
00:54:12 23 behalf of these class members, I'll call
00:54:16 24 them a "subclass" for lack of a better
00:54:19 25 term, who aside from suffering property

00:54:21 1 loss, have also suffered from wrongful
00:54:24 2 death and personal injury.

00:54:26 3 So we're going to have a dual track.
00:54:28 4 We're going to have consolidated
00:54:30 5 proceedings, and we're going to have a
00:54:32 6 leadership role in both of those
00:54:34 7 proceedings. As I've said before, and I'm
00:54:37 8 going to say it again, I've got the finest
00:54:42 9 members of the Bar who have all stepped up.
00:54:45 10 I'm looking around this room, I'm looking
00:54:47 11 at Zoom, and we've got the best lawyers in
00:54:50 12 our community that have stepped up and want
00:54:52 13 to participate in this case on the terms
00:54:54 14 the Court outlined last week and on the
00:54:56 15 terms that I will outline again this week
00:54:58 16 so there's no misunderstanding.

00:55:00 17 Now, as I said last week, while
00:55:05 18 I would like to have everyone of these fine
00:55:08 19 lawyers participate in this case and donate
00:55:11 20 their time and services, the matter cannot
00:55:14 21 function that way. There can only be so
00:55:17 22 many chefs in any kitchen, and there's
00:55:20 23 going to be a leadership structure, and all
00:55:22 24 other cases are going to be stayed.

00:55:24 25 I'm not going to have a circumstance

00:55:25 1 where I have 100 cases litigating this
00:55:28 2 matter and wasting resources of defendants
00:55:33 3 who might be able to pay these victims.
00:55:36 4 That is not going to happen. So once these
00:55:38 5 consolidated pleadings are filed and there
00:55:40 6 is a consolidated complaint seeking to
00:55:44 7 recover economic claims on behalf of all
00:55:46 8 those who suffered it, and once the
00:55:49 9 consolidated pleading is filed on behalf of
00:55:52 10 those subclass members who also suffered
00:55:57 11 from wrongful death and personal injury
00:56:00 12 claims, the case is going to proceed on
00:56:02 13 those consolidated tracks, and everything
00:56:04 14 else is going to be put on hold, and
00:56:06 15 there's not going to be any exceptions.

00:56:09 16 I'm not, again, going to let
00:56:11 17 counsel, through individual cases, deplete
00:56:13 18 and waste the resources of this estate by
00:56:17 19 pursuing individual claims, especially at
00:56:20 20 the outset.

00:56:22 21 Now, in for whatever reason this
00:56:24 22 case isn't certified as a class, either for
00:56:28 23 litigation purposes and/or settlement
00:56:30 24 purposes, and if -- or if it's certified
00:56:34 25 and people have the right to opt out, then

00:56:37 1 they can make their decision, and if either
00:56:39 2 the case is not certified or if certified
00:56:42 3 and people wish to opt out, that stay will
00:56:45 4 be lifted, and they can proceed with their
00:56:47 5 cases, but while these class matters are
00:56:51 6 pending, these matters are going to be
00:56:53 7 handled on a dual track through a
00:56:55 8 consolidated complaint, and cases filed by
00:56:58 9 those lawyers who are not in a leadership
00:57:01 10 role are going to be stayed.

00:57:02 11 Now, having said that, I gave you
00:57:05 12 all to Wednesday to come up with a proposed
00:57:07 13 leadership track or structure so that
00:57:10 14 we can have these matters consolidated and
00:57:13 15 get these two main cases, one for the
00:57:16 16 property losses and one for wrongful death
00:57:19 17 and injury claims off and running.

00:57:21 18 So who wants to report to me?
00:57:23 19 I think I put Mr. Tropin in charge of
00:57:27 20 trying to reach a consensus among the
00:57:29 21 members of the Bar as to who would take a
00:57:31 22 leadership role on these two track cases.

00:57:34 23 So, Mr. Tropin, report to me on your
00:57:37 24 discussions and tell me whether the
00:57:39 25 esteemed members of the Bar who have

00:57:41 1 stepped up here have worked out a
00:57:43 2 leadership structure for the Court or
00:57:45 3 if I am going to have to impose one upon
00:57:48 4 you.

00:57:48 5 MR. TROPIN: May it please the
00:57:50 6 Court, Harley Tropin. Judge, if you can
00:57:53 7 give me just a couple of minutes to explain
00:57:56 8 where we are, because we're close, and I
00:57:59 9 think by the end of the day, we will be
00:58:00 10 there. Let me explain about that, Judge.

00:58:03 11 THE COURT: Okay.

00:58:05 12 MR. TROPIN: You tasked me with
00:58:08 13 taking the lead on the organization
00:58:10 14 negotiations of the various plaintiffs'
00:58:11 15 counsel. You ordered a meet and confer.
00:58:13 16 You said the Court had looked at the list
00:58:15 17 of people who filed these class actions,
00:58:17 18 and wanted me to, quote, have them agree
00:58:20 19 upon a leadership structure, divide up the
00:58:22 20 work, and have everyone make a meaningful
00:58:26 21 contribution to the case.

00:58:26 22 Quote, you instructed us all to
00:58:30 23 exercise restraint here, to cooperate with
00:58:33 24 the litigation intention as much as
00:58:36 25 possible, and you said, Judge, these

00:58:38 1 lawyers were the best of the best.

00:58:39 2 Judge, in my discussions with them,
00:58:42 3 I found that to be exactly the case,
00:58:45 4 exactly the case. I consulted with almost
00:58:49 5 every single one of them personally or
00:58:51 6 through my law firm, and they have
00:58:54 7 justified your confidence in them.

00:58:57 8 I consulted with Adam Moskowitz on
00:59:00 9 class actions, he's given me his orders and
00:59:03 10 leadership structure in other cases. I've
00:59:05 11 talked to Aaron Podhurst. He's here by
00:59:08 12 Zoom. He's a leader in the legal community
00:59:11 13 and the Jewish community which has been so
00:59:13 14 hurt by this. John Ruiz, who has been
00:59:16 15 charitable, as you know. Gonzalo Dorta is
00:59:22 16 a warrior in the legal community. Jack
00:59:25 17 Scarola, Stuart Grossman are some of the
00:59:25 18 best trial lawyers in the state. Everyone
00:59:28 19 has heeded your call and agreed to work
00:59:32 20 cooperatively towards the end that you
00:59:34 21 wanted.

00:59:34 22 So how are we going to get there?
00:59:36 23 Let me explain. What I -- what I am
00:59:42 24 proposing that we do, we compiled a list of
00:59:48 25 all lawyers, and it's not easy, Judge,

00:59:50 1 because new cases are being filed even as
00:59:51 2 we speak. Ten new cases are being filed
00:59:54 3 today, literally.

00:59:55 4 THE COURT: Well, that's going to be
00:59:56 5 organized in a very quick fashion. Like
00:59:59 6 I said, once the consolidated class
01:00:01 7 pleadings are up and running and leadership
01:00:04 8 is appointed, any tagalong cases are going
01:00:07 9 to be brought over to this division and
01:00:11 10 promptly stayed. We're not going to have
01:00:11 11 people chasing a hundred different cases
01:00:14 12 and seeking the same limited pot. That's
01:00:16 13 not happening.

01:00:17 14 MR. TROPIN: No, I agree, and
01:00:18 15 we took your meaning of proposing exactly
01:00:21 16 what you've already said. My point is just
01:00:25 17 there's new people arriving --

01:00:26 18 THE COURT: No, I understand. I'm
01:00:28 19 looking around the room, and other than the
01:00:30 20 esteemed lawyers that you pointed out,
01:00:31 21 I have people like Mr. Gary, Mr. Rosen,
01:00:34 22 other people that weren't even here last
01:00:36 23 week, and I'm sure when we get together
01:00:38 24 next Wednesday, I'll have more esteemed
01:00:41 25 members of the Bar that are willing to step

01:00:44 1 up and volunteer their time.

01:00:46 2 You know, like I said, this Court
01:00:47 3 has complete confidence that these victims
01:00:51 4 are going to be not well represented but in
01:00:55 5 an exemplary fashion. I have no doubt
01:00:58 6 about that, and I'm very comforted by that,
01:01:01 7 but it has to be organized.

01:01:04 8 MR. TROPIN: It has to be organized.

01:01:04 9 THE COURT: Yes.

01:01:05 10 MR. TROPIN: How do we propose to
01:01:06 11 get there, Judge? We've reached, you know,
01:01:06 12 tentative thoughts about how it's going to
01:01:08 13 be done. By the end of the day, here's
01:01:12 14 what we propose to do. Immediately
01:01:14 15 following this hearing, we're having a Zoom
01:01:16 16 meeting call so that everybody gets heard.

01:01:20 17 By the end of the day today,
01:01:23 18 I propose to file with you a proposed order
01:01:28 19 of the leadership track which I think
01:01:31 20 I will have unanimity or close to it. With
01:01:34 21 all the new cases, I can't promise you
01:01:38 22 unanimity, but I will quote to you a phrase
01:01:40 23 that I think I've heard you quote to
01:01:40 24 litigants in the courtroom, which is, "Let
01:01:43 25 us not have the perfect be the enemy of the

01:01:47 1

good."

01:01:47 2

So if I could give you 80 percent or

01:01:50 3

90 percent of the good, I would suggest

01:01:53 4

that what we do is I give you this proposed

01:01:55 5

order for you to bless, append, change in

01:01:59 6

whatever way you think is appropriate, by

01:02:01 7

the end of the day today, and then

01:02:07 8

if anyone wants to object or be heard or

01:02:10 9

whatever, they can do so within a day, and

01:02:14 10

then you can edit it, bless it, or however

01:02:16 11

you propose, but I think you'll be pleased

01:02:16 12

with the structure that we're going to

01:02:18 13

propose.

01:02:18 14

Everyone has an opportunity to be

01:02:20 15

heard. I've spoken with literally 40, 50

01:02:24 16

lawyers over the last few days, and I think

01:02:26 17

you'll be pleased when this gets worked

01:02:29 18

out. Thank you, Your Honor.

01:02:30 19

THE COURT: So let me -- Mr. Tropin,

01:02:34 20

I assume you envision kind of a dual track

01:02:39 21

with maybe co-chairs, one from each track

01:02:42 22

or two from each track?

01:02:44 23

MR. TROPIN: Yes.

01:02:45 24

THE COURT: And separate leadership

01:02:46 25

structure on the economic track and a

01:02:48 1 separate leadership structure on the
01:02:50 2 wrongful death/injury track?

01:02:51 3 MR. TROPIN: That is right.

01:02:53 4 THE COURT: And you envision one
01:02:53 5 complaint on behalf of the class seeking
01:02:53 6 the economic recovery and one complaint on
01:02:57 7 behalf of those subclass members that are
01:03:00 8 seeking to recover for wrongful death
01:03:02 9 claims?

01:03:03 10 MR. TROPIN: Exactly right.

01:03:04 11 THE COURT: Okay. All right. And
01:03:05 12 then a steering committee working under
01:03:07 13 those lead counsel?

01:03:09 14 MR. TROPIN: Correct.

01:03:09 15 THE COURT: Okay.

01:03:10 16 MR. TROPIN: And I may have a couple
01:03:11 17 of --

01:03:12 18 THE COURT: Now, have you -- or by
01:03:14 19 the end of the day today, are you going to
01:03:16 20 be in a position to share that proposal,
01:03:20 21 obviously not only with the Court, but
01:03:22 22 you're going to share it with all the
01:03:23 23 lawyers that appeared in the case?

01:03:25 24 MR. TROPIN: Oh, yes.

01:03:26 25 THE COURT: Now, if you all want to

01:03:27 1 meet after this hearing, I've got all the
01:03:29 2 lawyers here on Zoom and you're all here,
01:03:32 3 I'm free to give -- I'm glad to give you
01:03:33 4 the courtroom. If it will make it helpful
01:03:35 5 you can stay right here and have your
01:03:37 6 meeting.

01:03:37 7 MR. TROPIN: What I was trying to
01:03:39 8 say, this may not be fully articulate. 45
01:03:46 9 minutes this hearing is closed, I'm having
01:03:48 10 a Zoom meeting with all of these lawyers
01:03:53 11 invited. We're going to go for hours
01:03:54 12 talking about the best approach.

01:03:56 13 In addition to talking about the
01:03:58 14 leadership structure, you know, there's 27
01:04:01 15 different requests to produce so --

01:04:03 16 THE COURT: All discovery is stayed
01:04:05 17 today. Just let me make something clear.
01:04:07 18 The receiver got 20 complaints that have
01:04:11 19 been filed. Litigation is stayed pending
01:04:14 20 my appointment of a leadership structure
01:04:16 21 and the filing of consolidated pleadings.
01:04:19 22 All litigation of a civil nature involving
01:04:22 23 these claims is stayed.

01:04:25 24 No defendant is required to file any
01:04:27 25 answers or motions directed towards any of

01:04:30 1 the complaints. Counsel are free to go
01:04:32 2 about their business serving their
01:04:34 3 lawsuits, if that's what they want to do,
01:04:36 4 but like I said before, the assets of this
01:04:38 5 estate and the funds that are going to be
01:04:41 6 available for victims are not going to be
01:04:43 7 wasted or dissipated by defendants having
01:04:45 8 to respond to a hundred different lawsuits
01:04:48 9 that are pending and brought individually.
01:04:50 10 That's not happening.

01:04:51 11 So I want the leadership structure
01:04:53 12 in place by the end of the week, which
01:04:56 13 means if you don't get me an agreed order
01:04:58 14 and people have objections, I'm going to
01:05:00 15 hear them Friday, and I'm going to have a
01:05:02 16 leadership order in place by the end of
01:05:04 17 this week.

01:05:05 18 MR. TROPIN: Perfect.

01:05:05 19 THE COURT: Okay? Now, is everybody
01:05:09 20 invited to this meeting?

01:05:11 21 MR. TROPIN: Yes, it will be Zoom.

01:05:13 22 THE COURT: New lawyers who have
01:05:17 23 appeared, everybody who have appeared --

01:05:17 24 MR. TROPIN: Everybody.

01:05:17 25 THE COURT: -- or has clients,

01:05:18 1 whether they've appeared or not, everyone
01:05:21 2 you're aware of has been invited to
01:05:24 3 participate in these discussions?

01:05:25 4 MR. TROPIN: Yes, everybody will be
01:05:26 5 invited to the Zoom meeting. If there's
01:05:27 6 new lawyers here today, all they need to do
01:05:29 7 is send me an email. 45 minutes to an hour
01:05:34 8 after this has concluded so people have an
01:05:36 9 opportunity to get back to the office and
01:05:38 10 share the Zoom with everybody, we're going
01:05:40 11 to go for hours and try to work out a
01:05:43 12 leadership structure.

01:05:46 13 As an enemy of the good, we'll have
01:05:48 14 the proposed order by the end of the day --
01:05:50 15 I mean, late tonight, and you can look at
01:05:53 16 it, change it, and people, if they want,
01:05:55 17 can object to it.

01:05:56 18 THE COURT: Okay. Now, let me make
01:05:58 19 a couple of comments to follow up on
01:06:01 20 something I said last week, because anybody
01:06:04 21 who is involved in this leadership
01:06:06 22 structure I want to be going in with eyes
01:06:08 23 wide open. So let me reiterate a couple of
01:06:10 24 points that I said last week so there's no
01:06:13 25 misunderstanding, and we have, in the words

01:06:15 1 of Mr. Singerman, quote, high clarity.

01:06:19 2 Okay?

01:06:19 3 First off, I've said that a number
01:06:22 4 of lawyers have agreed to address these
01:06:24 5 matters pro bono and step up for the
01:06:27 6 community and look at this case as a public
01:06:30 7 service. The Court commends them and
01:06:33 8 that's what's going to happen. Now, I said
01:06:35 9 that the structure of this leadership is
01:06:37 10 going to be as follows:

01:06:40 11 There is going to be no right or
01:06:42 12 legal entitlement to any attorney's fees in
01:06:45 13 this case. The lawyers will be paid their
01:06:47 14 costs out of the receivership estate and
01:06:52 15 recovery by insurers and other, but there
01:06:54 16 is no legal right to payment of any type
01:06:57 17 for services rendered in this case.

01:07:00 18 At the end of the case, assuming the
01:07:02 19 lawyers have generated a recovery, and I'm
01:07:05 20 going to talk about that in a minute, they
01:07:08 21 will be paid or the Court will consider
01:07:10 22 paying them up to their lodestar amount,
01:07:13 23 which would be their regular hourly rate
01:07:16 24 times the hours reasonably expended.

01:07:18 25 There will be no multipliers. There

01:07:21 1 will be no percentage fees. There will be
01:07:23 2 no contingency enhancements. It will be a
01:07:29 3 straight hourly lodestar engagement in a
01:07:31 4 death case scenario with no legal
01:07:31 5 entitlement to even that.

01:07:33 6 So any lawyer who agrees to step
01:07:35 7 into this case on a leadership role is
01:07:38 8 doing so under those terms and with their
01:07:40 9 eyes wide open that they are putting at
01:07:43 10 risk and donating as a public service the
01:07:47 11 hours spent on this case with their cost --
01:07:50 12 out-of-pocket costs paid for and the
01:07:52 13 possibility, but certainly no assurance,
01:07:55 14 that they will be paid their lodestar and
01:07:59 15 not a penny more. So I want that to be
01:08:02 16 made clear on the record, because that's
01:08:04 17 the way it's going to be.

01:08:06 18 Secondly, the lawyers need to
01:08:08 19 understand that they are not going to be
01:08:10 20 compensated out of any recovery that they
01:08:12 21 did not generate. So to the extent
01:08:16 22 property insurers have tendered money, to
01:08:18 23 the extent the real estate is sold and
01:08:20 24 those monies were realized from the estate
01:08:24 25 through no efforts of litigation counsel,

01:08:24 1 those funds will not be available to
01:08:28 2 compensate attorneys for any of their time
01:08:34 3 expended, and that also needs to be made
01:08:34 4 clear that any compensation awarded to
01:08:36 5 litigation counsel will come from and only
01:08:38 6 from recovery generated as a result of
01:08:41 7 their efforts. Okay?

01:08:43 8 So when you all meet today and you
01:08:45 9 all decide who wants to volunteer your time
01:08:48 10 and effort in this role under leadership
01:08:51 11 structure, you keep those things in mind,
01:08:53 12 because that's the deal that is going to be
01:08:56 13 struck with the Court.

01:08:58 14 Right, Mr. Tropin?

01:09:00 15 MR. TROPIN: Yes, Your Honor.

01:09:02 16 THE COURT: Okay. If anybody is
01:09:03 17 unclear about that, now is the time to say
01:09:05 18 it, because if you don't want those terms
01:09:07 19 and you're not willing to look at this case
01:09:09 20 as a public service and donate your time
01:09:11 21 with the risk of not being paid and with an
01:09:14 22 upside of your lodestar, then don't come to
01:09:17 23 the party. Okay?

01:09:19 24 MR. TROPIN: I think we have what
01:09:21 25 Mr. Singerman says, maximum clarity.

01:09:24 1 THE COURT: Good. Okay. So I'm
01:09:25 2 going to give you to the end of the day to
01:09:27 3 have your meeting. I'm hopeful you all
01:09:30 4 will be able to come in for a landing on an
01:09:30 5 agreed-upon leadership structure that will
01:09:34 6 be to the Court's satisfaction, and if you
01:09:34 7 do, we'll have a hearing on it Friday
01:09:38 8 morning so I can hear any objections,
01:09:40 9 if anybody wants that hearing.

01:09:41 10 If not, I'll sign a proposed order,
01:09:44 11 and we're off and running. Okay? Just
01:09:47 12 make sure all these fine lawyers who want
01:09:49 13 to donate their time are at the table, and
01:09:52 14 they're heard before you decide what the --
01:09:55 15 well, not decide, before you decide what to
01:09:58 16 recommend to the Court as the leadership
01:10:00 17 structure. Okay?

01:10:01 18 MR. TROPIN: Okay. Judge, thank
01:10:03 19 you.

01:10:03 20 THE COURT: Very good. Thank you,
01:10:04 21 Mr. Tropin. Now, would anybody else like
01:10:06 22 to be heard on how the civil litigation is
01:10:11 23 going to proceed or discuss this meeting
01:10:16 24 that you all are going to have today on a
01:10:18 25 potential leadership structure, anybody

01:10:20 1 want to add anything to what Mr. Tropin has
01:10:24 2 said?

01:10:24 3 Good. I want to, again -- I want
01:10:26 4 to, again, commend the members of the Bar
01:10:29 5 here that have stepped up. This is going
01:10:31 6 to be an extremely difficult case. It's
01:10:34 7 going to require a lot of time and effort,
01:10:36 8 and it's going to require a lot of skill on
01:10:39 9 behalf of the practitioners who are going
01:10:41 10 to take a leadership role and those who
01:10:43 11 will work under that leadership role, and
01:10:46 12 I could not be more pleased to see how many
01:10:49 13 members of the Bar, how many esteemed and
01:10:53 14 experienced and successful lawyers have
01:10:55 15 stepped up here to provide services to
01:10:58 16 these victims of this tragedy.

01:11:01 17 It makes me very proud as a member
01:11:04 18 of the Bench to look around this room and
01:11:06 19 on the Zoom camera and see so many people
01:11:10 20 that have had so much success in their
01:11:12 21 practice and have accomplished so much over
01:11:15 22 such long and distinguished careers step up
01:11:18 23 here and want to provide services.

01:11:20 24 If I could, I wish I could appoint
01:11:25 25 everybody on a leadership role, but that

01:11:26 1 can't be done here so I'm hoping that once
01:11:29 2 we have a leadership structure in place,
01:11:31 3 you will still be willing to work with and
01:11:34 4 under that leadership structure and provide
01:11:36 5 help to these victims.

01:11:38 6 The last thing I want to say and
01:11:40 7 reiterate, something I said last week,
01:11:42 8 aside from the financial terms, if you take
01:11:48 9 a leadership role in this case, you better
01:11:51 10 be ready to work, because, like I said last
01:11:53 11 week, this case is going to move at rapid
01:11:56 12 speed.

01:11:56 13 There are going to be no
01:11:58 14 continuances, there are going to be no
01:12:00 15 enlargements of time for routine matters.
01:12:04 16 It's not going to be business as usual, and
01:12:04 17 it's not going to be handled as your
01:12:08 18 routine commercial case. It is going to be
01:12:09 19 moved with extreme speed and dispatch,
01:12:12 20 giving everybody their constitutional right
01:12:14 21 to due process, but that does not include a
01:12:17 22 constitutional right to enlargements of
01:12:20 23 time of the rules provided for in the civil
01:12:23 24 procedure rules.

01:12:25 25 There aren't going to be extensions,

01:12:25 1 there aren't going to be enlargements,
01:12:28 2 there aren't going to be continuances.
01:12:29 3 Depos that need to be taken are going to go
01:12:31 4 forward whether all lawyers are available
01:12:34 5 or not, and this case is going to move,
01:12:37 6 again, at a rapid pace.

01:12:39 7 The last thing I want to say and
01:12:43 8 reiterate, which I said last week, is
01:12:45 9 I don't want this Court's time wasted, and
01:12:48 10 I don't want people distracted with dubious
01:12:53 11 Hail Mary claims. I want the defendants
01:12:57 12 that may have liability in this case
01:12:58 13 targeted. I want only defendants whose
01:13:02 14 conduct can be reasonably alleged to have
01:13:06 15 contributed to this disaster added in this
01:13:10 16 lawsuit, and I don't want dubious, weak,
01:13:13 17 and Hail Mary claims.

01:13:14 18 I want only claims that have the
01:13:18 19 gold merit, because I don't want this case
01:13:20 20 slowed down, and I don't want party and
01:13:23 21 judicial resources wasted on claims that do
01:13:25 22 not have substantial merit.

01:13:27 23 Okay? All right. Is there anything
01:13:30 24 else anybody wants to say before we adjourn
01:13:34 25 these proceedings and possibly reconvene

01:13:37 1

Friday morning?

01:13:38 2

MR. BRODIE: Your Honor, Steve

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Brodie when you have a chance.

01:13:42 4

THE COURT: Mr. Brodie.

01:13:43 5

MR. BRODIE: Thank you, Your Honor.

01:13:44 6

The Court did note that at least on the GL

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policy and the D & O policy, the

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obligations with respect to defense costs.

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Without commenting on any of those duties

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or anything, are you envisioning the

01:14:00 11

carriers that have some role with respect

01:14:03 12

to defense costs to participate in these

01:14:06 13

meetings?

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THE COURT: Not necessarily,

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Mr. Brodie. I'll let you and your clients

01:14:18 16

use your discretion on that point. You

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know, I'm not going to treat you any

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differently than I would any other carrier

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that is providing a cost of defense and

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require your personal participation in

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hearings, et cetera, but I'll leave that to

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your discretion.

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Does that answer your question?

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MR. BRODIE: Yes, Your Honor. I do

01:14:32 25

think we have involvement here and some

01:14:36 1 interest in making sure the process is done
01:14:38 2 properly, but at the same time, not have
01:14:41 3 unnecessary defense costs incurred that
01:14:45 4 really do not create value and just prolong
01:14:48 5 this matter, so we do concur with a lot of
01:14:52 6 what the Court said, but we look forward to
01:14:52 7 working with everyone to try to come up
01:14:54 8 with a streamlined process.

01:14:55 9 THE COURT: Yeah, I said last week,
01:14:57 10 Mr. Brodie, before you joined us,
01:15:03 11 I encouraged the carriers to contribute
01:15:05 12 their defense costs to the lawyers who are
01:15:07 13 already in the case, namely Mr. Singerman
01:15:08 14 representing the receiver as the insurer,
01:15:08 15 so as to not bring lawyers in and
01:15:13 16 unnecessarily deplete resources that might
01:15:13 17 be able to be distributed to victims.

01:15:16 18 I appreciate that. It seems like
01:15:19 19 we don't need excessive, duplicate counsel,
01:15:22 20 and if the carriers who have defense
01:15:24 21 obligations can go ahead and work an
01:15:27 22 arrangement out to help fund the lawyers
01:15:29 23 who are already in the case, it seems to me
01:15:31 24 it will be much more efficient than just
01:15:34 25 hiring additional lawyers to make

01:15:36 1 appearances as appointed by the carriers.

01:15:39 2 So you all work that out, if you
01:15:41 3 can, but as far as participation, like
01:15:43 4 I said, I'm not going to treat these
01:15:46 5 carriers different than I would any carrier
01:15:49 6 in any other commercial case and require
01:15:51 7 active participation or presence at
01:15:53 8 hearings, but given the unique
01:15:55 9 circumstances of the case, I'll leave that
01:15:56 10 to your decision, and you're more than
01:15:58 11 welcome to join us anytime. Okay?

01:16:01 12 MR. BRODIE: Thank you, Your Honor.

01:16:02 13 THE COURT: Hearing nothing else --

01:16:04 14 MR. SILVA: Your Honor?

01:16:04 15 THE COURT: Yes.

01:16:04 16 MR. SILVA: Your Honor, Jorge Silva.

01:16:09 17 I alluded to earlier that I had what
01:16:12 18 I believe to be wonderful news to report to
01:16:15 19 the Court and to all the members that are
01:16:17 20 participating in this case. As the Court
01:16:19 21 knows, several of us have filed lawsuits
01:16:25 22 against third parties where we believe
01:16:28 23 there is substantial liability and to quote
01:16:31 24 the Court, not Hail Marys.

01:16:34 25 In speaking with defense counsel for

01:16:35 1 one of the defendants, it has been brought
01:16:38 2 to our attention that there are several
01:16:43 3 defendants which, again, we believe have
01:16:46 4 substantial liability that have multiple
01:16:48 5 times the amount of insurance that has been
01:16:51 6 disclosed this morning.

01:16:52 7 I think the Court was talking
01:16:54 8 somewhere in the neighborhood of 40 or \$50
01:16:57 9 million when you add up all the coverage,
01:16:59 10 and in speaking with defense counsel, there
01:17:01 11 are several defendants that have multiple
01:17:04 12 times that amount of insurance coverage
01:17:07 13 available. Obviously, the liability will
01:17:09 14 be addressed.

01:17:12 15 THE COURT: Mr. Silva, I'm sure --
01:17:15 16 that's good news if those claims are
01:17:18 17 viable, and I'm sure in your meeting this
01:17:20 18 afternoon with counsel, all counsel that
01:17:22 19 are seeking to participate in this case
01:17:24 20 will share any results or any
01:17:27 21 investigations that they've undertaken with
01:17:29 22 potential third-party defendants and
01:17:32 23 coordinate those efforts.

01:17:34 24 If you've identified potentially
01:17:38 25 liable parties under viable legal theories

01:17:41 1 that may have coverage or other assets that
01:17:44 2 can contribute to this, I'm sure you'll
01:17:47 3 share it with the other lawyers who are
01:17:49 4 discussing the leadership structure and
01:17:51 5 bring that to their attention, and that's
01:17:54 6 great news.

01:17:55 7 MR. SILVA: That's exactly the plan.
01:17:57 8 Thank you.

01:17:57 9 THE COURT: Okay. The Court is
01:17:58 10 adjourned in this matter. I'm going to
01:18:01 11 schedule -- just so everybody is clear, I'm
01:18:03 12 going to go ahead now and schedule
01:18:05 13 another --

01:18:06 14 MR. BRILL: Your Honor, may I be
01:18:09 15 heard? I'm sorry, I know you have a lot of
01:18:11 16 people on Zoom, and --

01:18:12 17 THE COURT: Yeah, I think I'm going
01:18:13 18 to stop the Zoom hearings at this point,
01:18:17 19 guys. I think we're just going to have
01:18:18 20 these hearings live, but go ahead. Who is
01:18:18 21 speaking and what do you want to --

01:18:22 22 MR. BRILL: Thank you, Your Honor.
01:18:22 23 David Brill and Bob McKee. Just two
01:18:26 24 points, if I may. One was relative to
01:18:28 25 insurance exposure, and this was touched

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on --

THE COURT: No, I'm not getting -- we're adjourning at this point, Mr. Brill. Whatever issues you have, you can take up with me Friday morning. I'm setting a hearing 9 a.m. on Friday morning. It's going to be live here, and the purpose of this hearing Friday morning is to come in for a landing on the leadership structure for the civil claims.

Now, if you all work it out and there's no objections and there's a proposed leadership structure, we can cancel the hearing, but as of right now, I'm going to leave it on just so we make sure that everyone has an opportunity to be heard.

Okay. Thank you all.

MR. BRILL: Well, I object to not being able to make my point, Your Honor. It's very disappointing.

(Thereupon, the hearing was concluded at 10:19 a.m.)

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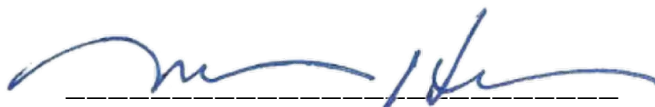
CERTIFICATE OF REPORTER

STATE OF FLORIDA :

COUNTY OF MIAMI-DADE :

I, Matthew J. Haas, shorthand
reporter, do hereby certify that I was authorized
to and did stenographically report the foregoing
proceedings remotely via Zoom videoconferencing
and that the transcript is a true and complete
record of my stenographic notes.

Dated this 22nd day of July, 2021.



MATTHEW J. HAAS
Court reporter