

1           IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
2                           IN AND FOR MIAMI-DADE COUNTY, FLORIDA  
3   CASE No.2021-015089 CA

4           MANUEL DREZNER,  
5   Plaintiff,

6           -vs-

7           CHAMPLAIN TOWERS SOUTH  
8           CONDOMINIUM ASSOCIATION, INC.,  
9   Defendant.

---

10   HEARING BEFORE THE HONORABLE  
11   MICHAEL A. HANZMAN

12   STATUS CONFERENCE

13   Remote Proceeding  
14   Zoom Videoconference

15   Wednesday, October 6, 2021  
16   9:00 - 11:02 a.m.

17           Reported By:  
18           Wendy Beath Anderson, RDR, CRR, CRC  
19           Notary Public, State of Florida  
20           Esquire Deposition Services LLC  
21           West Palm Beach Office Job #J7507258

1 APPEARANCES:

2 RECEIVER: MICHAEL I. GOLDBERG, ESQUIRE

3 On behalf of the Receiver, Michael I. Goldberg:

4 PAUL S. SINGERMAN, ESQUIRE  
5 BERGER, SINGERMAN  
6 1450 Brickell Avenue, Suite 1900  
7 Miami, Florida 33131

8 On behalf of the Plaintiffs:

9 RACHEL W. FURST, ESQUIRE  
10 STUART GROSSMAN, ESQUIRE  
11 GROSSMAN, ROTH, YAFFA & COHEN, P.A.  
12 2525 Ponce de Leon Boulevard, Suite 1150  
13 Coral Gables, Florida 33134

14 ADAM MOSKOWITZ, ESQUIRE  
15 THE MOSKOWITZ LAW FIRM  
16 2 Alhambra Plaza, Suite 601  
17 Coral Gables, Florida 33134

18 HARLEY S. TROPIN, ESQUIRE  
19 JAVIER A. LOPEZ, ESQUIRE  
20 KOZYAK, TROPIN & THROCKMORTON  
21 2525 Ponce de Leon Boulevard, Suite 900  
22 Coral Gables, Florida 33134

23 RICARDO M. MARTINEZ-CID, ESQUIRE  
24 PODHURST ORSECK, P.A.  
25 1 Southeast 3rd Avenue, Suite 2300  
Miami, Florida 33131-1716

JORGE E. SILVA, ESQUIRE  
CARLOS E. SILVA, ESQUIRE  
SILVA & SILVA, P.A.  
236 Valencia Avenue  
Coral Gables, Florida 33134

1 APPEARANCES:

2 CURTIS B. MINER, ESQUIRE  
3 COLSON HICKS EIDSON, P.A.  
4 255 Alhambra Circle, Penthouse  
5 Coral Gables, Florida 33134

6 LUIS E. SUAREZ, ESQUIRE  
7 HEISE SUAREZ MELVILLE  
8 1600 Ponce de Leon Boulevard, Suite 1205  
9 Coral Gables, Florida 33134

10 KAREN B. PARKER, ESQUIRE  
11 KAREN B. PARKER, P.A.  
12 9100 S. Dadeland Boulevard, Suite 514  
13 Miami, Florida 33156

14 WILLIAM "CHIP" MERLIN, JR., ESQUIRE  
15 THE MERLIN LAW GROUP, P.A.  
16 777 South Harbour Island Boulevard, Suite 950  
17 Tampa, Florida 33602

18 ON BEHALF OF WESTERN WATERPROOFING:

19 SHAWN L. HAIRSTON, ESQUIRE  
20 KUBICKI DRAPER  
21 25 West Flagler Street, Penthouse  
22 Miami, Florida 33130

23 ON BEHALF OF MORABITO CONSULTANTS:

24 DAVID M. WELLS, ESQUIRE  
25 GUNSTER, YOAKLEY & STEWART, P.A.  
1 Independent Drive, Suite 2300  
Jacksonville, Florida 32202

ON BEHALF OF MIAMI-DADE COUNTY:

LAUREN E. MORSE, ESQUIRE  
MIAMI-DADE COUNTY ATTORNEY'S OFFICE  
111 Northwest 1st Street, Suite 2810  
Miami, Florida 33128

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPEARANCES:

ON BEHALF OF THE TOWN OF SURFSIDE:

LILLIAN ARANGO, ESQUIRE  
ANTHONY L. RECIO, ESQUIRE  
WEISS, SEROTA, HELFMAN, COLE, BIERMAN & POPOK  
2525 Ponce de Leon Boulevard, Suite 700  
Coral Gables, Florida 33134

COURT-APPOINTED LIAISON FOR GOVERNMENT ISSUES:

MANUEL KADRE, ESQUIRE  
2020 Salzedo Street, Suite 301  
Coral Gables, Florida 33134

ALSO PRESENT:

DAVID RODAN

MEDARDO RODRIGUEZ

P R O C E E D I N G S

- - -

1  
2  
3 THE COURT: The Court is calling the case of  
4 In Re: Champlain Towers South, class litigation,  
5 Case No. 2021-015089.

6 Can I please have appearances from the  
7 receiver and his counsel, lead counsel, any defense  
8 or insurance counsel who wishes to appear this  
9 morning and any counsel who is present representing  
10 any governmental agency or entity, in that order.  
11 Thank you.

12 MR. SINGERMAN: Good morning, your Honor. May  
13 it please the Court? I'm Paul Singerman from  
14 Berger Singerman and our firm is counsel to your  
15 court-appointed receiver, Michael Goldberg. For  
16 the record, your Honor, Mr. Goldberg is present and  
17 participating in the hearing. Thank you.

18 MR. GOLDBERG: Good morning, your Honor.

19 THE COURT: Good morning.

20 MS. FURST: Good morning, your Honor. Rachel  
21 Furst, co-chair lead counsel on behalf of  
22 plaintiffs.

23 MR. TROPIN: Good morning, Judge. Harley  
24 Tropin, co-chair lead counsel.

25 MR. MARTINEZ-CID: Good morning, your Honor,

1 Ricardo Martinez-Cid, lead counsel for wrongful  
2 death and personal injury claimants.

3 MR. MOSKOWITZ: Good morning, your Honor.  
4 Adam Moskowitz, co-lead counsel for the economic  
5 loss victims.

6 MR. LOPEZ: Good morning, your Honor. Javier  
7 Lopez of Kozyak Tropin, co-lead counsel for the  
8 property and economic loss class.

9 MR. GROSSMAN: And good morning, your Honor.  
10 It's Stuart Grossman, liaison counsel.

11 THE COURT: Any other lead counsel, any other  
12 lead counsel that would like to make an appearance?

13 MR. SUAREZ: Good morning, your Honor. Luis  
14 Suarez, steering committee.

15 MR. MERLIN: Good morning, your Honor. This  
16 is Chip Merlin, coverage counsel for the claimants.

17 MR. JORGE SILVA: Good morning. Jorge Silva,  
18 steering committee.

19 MR. MINER: Good morning, your Honor. Curtis  
20 Miner, also liaison counsel on the wrongful death  
21 track.

22 THE COURT: Okay. I'm going to assume that  
23 pursuant to my order, all the attorneys that I  
24 placed in a leadership role in this case are  
25 present, so we can -- we don't have to go through

1 every appearance. I'm just going to assume you all  
2 are here as the Court ordered earlier this week.

3 Let me hear appearances of any defense counsel  
4 or counsel for insurance carriers, please, who are  
5 present.

6 MR. WELLS: Your Honor, David Wells of  
7 Gunster, Yoakley representing Morabito Consultants.

8 THE COURT: Any other defense counsel?

9 MR. HAIRSTON: Good morning, your Honor, Shawn  
10 Hairston of Kubicki Draper representing Western  
11 Waterproofing, subpoena recipient.

12 THE COURT: Any other defense or insurance  
13 counsel that would like to make an appearance this  
14 morning?

15 All right. Let me have appearances of any  
16 counsel here representing any governmental body or  
17 agency, please.

18 MS. ARANGO: Good morning, your Honor. Lilly  
19 Arango with Weiss, Serota, town attorneys on behalf  
20 of The Town of Surfside.

21 MS. MORSE: Good morning, your Honor. Lauren  
22 Morse on behalf of Miami-Dade County.

23 THE COURT: Okay. Thank you all.

24 All right. As usual, I want to start by  
25 turning to Mr. Goldberg and asking him to bring to

1 the Court's attention any developments since our  
2 last meeting and any motions that are pending that  
3 the receiver would like to address.

4 So let's begin there, Mr. Goldberg.

5 MR. GOLDBERG: Yes, your Honor. Michael  
6 Goldberg, the court-appointed receiver, and thank  
7 you for hearing from me.

8 Your Honor, usually at these hearings, I go  
9 through a bunch of preliminary matters, such as  
10 assistance payments, insurance, banking. With the  
11 Court's permission today, I'm going to dispense of  
12 that and update everybody on those issues next  
13 time, because I want to focus on a couple of  
14 important issues today and I just think that those  
15 other issues are a little -- although they're  
16 important, I could certainly update everybody at  
17 the next hearing, with the Court's permission.

18 THE COURT: That's fine, Mr. Goldberg. Let's  
19 proceed with what you believe to be the material  
20 issues that need to be aired out today, okay?

21 MR. GOLDBERG: Thank you, your Honor.

22 Your Honor, the first issue I would like to  
23 discuss is the status of the sale of the property.  
24 As the Court may -- or does remember at the last  
25 hearing, a couple of concerns -- actually, three



1 concerns -- with the proposed contract, and you  
2 entered the -- you said you were inclined to grant  
3 it, but you instructed me and my counsel to go back  
4 to the buyer to take care of a few issues that the  
5 Court had concerns on.

6 The first issue was that you wanted exclusive  
7 jurisdiction over any issues that may arise under  
8 the contract. The second issue you had was  
9 basically you wanted to eliminate any right of  
10 specific performance to enforce the contract  
11 because, in the Court's words, you did not want any  
12 ability for the land to be tied up, and the third  
13 issue you had was you wanted a waiver of a right to  
14 a jury trial.

15 Immediately following your -- the hearing last  
16 week, your Honor, myself and counsel reengaged with  
17 the buyer -- I'm getting an echo.

18 THE COURT: I'm going to mute Steve's iPad.

19 Ladies and gentlemen, let me ask you again, as  
20 I do at every hearing, if you're not speaking,  
21 please ensure that your devices are on mute so that  
22 you don't give us background noise or interference  
23 with the hearing, okay? Please, unless you're  
24 speaking, make sure your devices are on mute.

25 Thank you.

1           Okay. Mr. Goldberg, please proceed.

2           MR. GOLDBERG: Thank you, your Honor.

3           Again, immediately following the hearing we  
4 reengaged with the buyer who was completely  
5 responsive to our concerns. I am happy to report  
6 that we have reached resolution on all of those  
7 issues, and in short, the buyer has fully agreed  
8 that this Court shall have exclusive jurisdiction  
9 over all disputes. We were able to replace the  
10 specific performance provision, eliminate that and  
11 replace it in full with a liquidated damages  
12 provision, as the Court requested, and importantly,  
13 also, your Honor, we were able to get a waiver of  
14 the jury trial.

15           THE COURT: All right. So in the event there  
16 are any disputes arising out of this contract or  
17 relating to it, any type of disputes of any nature  
18 will be litigated exclusively before this Court,  
19 non-jury and the buyer has no right to specific  
20 performance. So if you are determined to have  
21 breached the contract, after I approve it, by  
22 failing to comply with your obligations, the buyer  
23 is limited to a monetary remedy; is that correct?

24           MR. GOLDBERG: That's my understanding, your  
25 Honor. And we have uploaded both a copy of the new

1 contract, both redlined and in final, along with a  
2 proposed order, and yes, your Honor, that's what we  
3 focused on and we believe we've achieved all those  
4 goals.

5 THE COURT: All right. Well, let me thank  
6 your team and the buyer for negotiating in good  
7 faith and accommodating the Court's concerns. As I  
8 said last time, I want to make sure that whatever  
9 happens with this property and in the event there  
10 are any disputes, they're aired out before this  
11 Court efficiently and that this property cannot be  
12 clouded or tied up in the event of any dispute, and  
13 it looks like you and the buyer have cooperatively  
14 addressed the Court's concern and made those  
15 revisions, and with those revisions, the Court will  
16 enter the order this morning formally approving the  
17 sale contract and the bid procedure.

18 So thank you for that update, Mr. Goldberg.  
19 And please extend the Court's appreciation to all  
20 the members of your team and to Mr. Faye and his  
21 team, who have worked so hard to secure this  
22 contract, and to the buyer, who the Court commends  
23 for stepping up and giving us our stalking-horse  
24 bid and extend my appreciation for their  
25 willingness to address the Court's concern and

1 revise the contract in accordance with the Court's  
2 desire.

3 So thank you. Thank them as well.

4 MR. GOLDBERG: Absolutely, your Honor. Thank  
5 you for recognizing. Thank you for recognizing it  
6 was a team effort.

7 THE COURT: So that's very good news. I'm  
8 glad to hear it. And like I said, when we get off  
9 the hearing, I've seen that you have uploaded the  
10 order onto Court MAP and I will formally enter the  
11 order approving the contract and the bid procedure  
12 that we were going to implement in order to try to  
13 secure the highest value possible for this asset.

14 Okay. Very good. What's next, Mr. Goldberg?

15 MR. GOLDBERG: Your Honor, the next issue is  
16 an important issue, and it's why I chose to focus  
17 on this issue rather than getting into some of the  
18 more mundane things that I report about.

19 Your Honor, there's an issue that may have  
20 significant impact on the case. At the last  
21 hearing you stated certain things from the bench  
22 about entitlement to proceeds. I know it forced me  
23 to take a deeper dive into the issue. I know also,  
24 as you said, the plaintiff's bar, who is made up  
25 of -- or the plaintiff's side of this case who is

1 made up of the top lawyers in town, many of them  
2 who are just -- have been focusing on this issue as  
3 well --

4 THE COURT: I would say the top lawyers in the  
5 country, but others in other jurisdictions might  
6 disagree, but all right. So let's -- okay.

7 MR. GOLDBERG: Yes, your Honor. And I didn't  
8 mean to slight anybody. I'm honored to be working  
9 on a case like this with them.

10 THE COURT: You included, by the way. All  
11 right. Let's get on with it.

12 MR. GOLDBERG: Yes, your Honor.

13 So your Honor, after your comment at the last  
14 hearing, I took a deeper dive into the issues. And  
15 when I take a deep dive as a receiver, I don't view  
16 it from the position of an advocate, but I view it  
17 as a neutral fiduciary, impartial and I try to  
18 understand what my responsibilities are in stepping  
19 into the shoes of the association's -- of the  
20 association which I am the receiver of. And part  
21 of that as serving as a receiver, you have to  
22 figure out your duties and responsibilities.

23 I spent a good part of this weekend doing so  
24 and it culminated in me filing a motion late  
25 yesterday, which is entitled "Receiver's Motion to

1 Suspend Statutory Obligation to Provide notice to  
2 Unit Owners Pursuant to Florida Statute 718.119."

3 And if I may, with the Court's indulgence, I'd  
4 like to just take a quick few minutes just to tell  
5 you about this statute, the obligations I believe  
6 it imposes on me or may impose on me. Again, this  
7 is uncharted territory, but I just want the Court  
8 and everybody else to at least understand my  
9 thoughts as a mutual fiduciary what I'm thinking  
10 about the statute.

11 So if I may go into that a little bit, your  
12 Honor, it will only take a couple minutes if --

13 THE COURT: Sure, of course.

14 MR. GOLDBERG: First, your Honor, and most  
15 importantly, I determined that Florida Statute  
16 718.119 may apply. Again, I don't know for  
17 certain, and that will take the effort and analysis  
18 of many of the legal minds on this call, but it's  
19 important to understand that in the event it does  
20 apply, it may have considerable impact on this  
21 case.

22 So I want to start quickly by just reading a  
23 portion of the statute and going through my  
24 analysis.

25 Florida Statute 718.119(2) states, this is

1 important, "The owner of a unit may be personally  
2 liable for the acts and omissions of the  
3 association in relation to the use of the common  
4 elements, but only to the extent of his or her pro  
5 rata share of that liability in the same percentage  
6 as his or her interest in the common elements, and  
7 then in no case shall that liability ever exceed  
8 the value of his or her unit."

9 So in essence, your Honor, if -- and a big  
10 "if" -- this statute is applicable -- and again,  
11 I'm not a hundred percent certain -- the statute  
12 uses a term "may apply" -- may -- and it also uses  
13 "in relation to common elements." So that will be  
14 clearly factual legal determinations that the Court  
15 may have to make in the future. But if it does  
16 apply, there is a potential, based on the fact that  
17 this association is facing significant claims, that  
18 unit owners may be personally liable up to the  
19 value of their unit.

20 Again, I just want to be clear, your Honor.  
21 I'm just pointing this out. I am by no means  
22 advocating and I have not reached a conclusion.  
23 There is very little case law on the issue, but the  
24 legislature felt it was important enough to put a  
25 statute on it and it's going to have to be

1 considered by people in this case.

2 So how would that work, your Honor?

3 Technically, I step in the shoes of the association  
4 and I assume the powers, duties and obligations of  
5 the association. And specifically, Section 2.3 of  
6 the declaration provides and defines assessment as  
7 a defined term to mean a share of funds which are  
8 required for the payment of common expenses which  
9 is to be assessed against the unit owners.

10 Then you go to Section 2.11 of the  
11 declaration, which defines common expenses to  
12 expressly include any valid charge against the  
13 association. Thus, based on that, if there is a  
14 valid charge against the association that is  
15 otherwise not paid by insurance, it is quite  
16 possible that I have to assess the unit owners to  
17 pay the deficiency. And I'm not saying it's  
18 definitive, because the declaration is more of  
19 giving me the power to do so, not objecting. And  
20 there are expressed provisions in the declaration  
21 that say that I am not obligated.

22 However, then you get into the whole issue of  
23 does Florida Statute trump the declaration, which  
24 it does under the expressed terms of the  
25 declaration, and then you get into common law of



1 what is the duty of a fiduciary who runs a company  
2 to both unit owner creditors -- because the  
3 association's a company -- versus creditors of the  
4 association.

5 And your Honor, this brings us full circle  
6 back to something you said on the very first  
7 hearing or the very first couple of hearings and  
8 repeated multiple times. In this case, it is  
9 pretty much certain, if not highly unlikely, that  
10 we will not have enough money in this estate to  
11 satisfy all the claims of all the constituents in  
12 this case, and at some point there will have to be  
13 an allocation that will need to be addressed by  
14 this Court, absent some sort of consensus by all  
15 the various constituents in coming together and  
16 reaching some sort of consensus, and with all due  
17 respect, your Honor, taking the decision possibly  
18 out of your hands through some sort of arrangement.

19 So your Honor, this brings me to the next part  
20 of 718.119, which is the purpose of my motion.  
21 718.119(3) states specifically -- and I think it's  
22 important for me to read this as well. It states,  
23 "In any legal action in which the association may  
24 be exposed to liability in excess of the insurance  
25 coverage protecting it and the unit owners" -- and

1 the unit owners -- "the association shall give  
2 notice of the exposure within a reasonable time to  
3 all unit owners and they shall have the right to  
4 intervene and defend."

5 So basically --

6 THE COURT: So this provision, basically  
7 contemplates third-party claims, right? So in  
8 other words, this provision says, for example, if a  
9 child dies in a swimming pool that's a common  
10 element of an association, and the plaintiff sues  
11 the association and the association is exposed for  
12 more than its insurance coverage, in other words,  
13 if it has excess exposure, it might not be  
14 compensable through insurance coverage, the  
15 association has a duty to notify all of the owners  
16 so that they can decide whether to intervene and  
17 assist in the defense of the case?

18 MR. GOLDBERG: That's exactly right. The  
19 reason being is the preceding section which says  
20 they may have personal liability if to the extent  
21 it's a valid charge, so --

22 THE COURT: Okay. So it seems the purpose of  
23 the statute is to let owners intervene in that  
24 circumstance, and therefore, do whatever they can  
25 to defend the case or prevent exposure to the

1 personal liability contemplated by Subsection 2,  
2 right?

3 MR. GOLDBERG: That's exactly how I  
4 preliminarily read it.

5 THE COURT: So then a question in this case is  
6 going to be how does that statute work, if at all,  
7 in a case where with the owners themselves are the  
8 plaintiffs suing the association. Obviously, the  
9 owners cannot intervene and defend a case that they  
10 themselves are bringing, right?

11 MR. GOLDBERG: That's exactly right, your  
12 Honor, and that's the exact point of my motion  
13 where I asked permission to suspend my obligation  
14 to provide notice, number one, because the --  
15 because the plaintiffs in this case would be the  
16 same people getting notice and they're either  
17 direct plaintiffs or punitive class members. In  
18 addition, I don't have an amended complaint right  
19 now and we're in a procedurally awkward position  
20 that the statute never really anticipated.

21 So in an abundance of caution, because I do  
22 not ever want to be accused of shirking my  
23 responsibility under the statute, I filed my motion  
24 to at least at this point suspend my obligation, to  
25 the extent one even exists, your Honor, because we

1 have terms like "may" and "in connection with the  
2 use of common elements," and then we have this  
3 procedurally awkward position right now.

4 So that is why I am moving the Court and filed  
5 the motion to at least temporarily suspend my  
6 obligation, whatever that may be, and if I have it,  
7 to provide that notice under 718.119(3).

8 THE COURT: Okay. So this is very  
9 interesting. I assume the statute has rarely been  
10 used and that there's probably very little, if any,  
11 case law under this statute. I've never seen it.  
12 But what it seems to suggest, at least upon initial  
13 reading and your assessment, is if in a case like  
14 this, where the claims that are being made by both  
15 owners and non-owners are going to vastly exceed  
16 the \$18 million in liability coverage carried by  
17 this association, the equity that these owners have  
18 in the units could be at risk to pay any excess  
19 judgment. Bottom line -- is that the bottom line?

20 MR. GOLDBERG: Yes. Again, I have not come to  
21 a conclusive thing. As your Honor stated, there is  
22 very little, if any, case law on point and -- but  
23 yes, you've summarized it perfectly.

24 THE COURT: So if, for example -- if, for  
25 example -- the Court were to conclude -- and I

1 haven't concluded, so let me make that very clear.  
2 But if, for example, the Court were to conclude  
3 that the proceeds from the sale of land and the  
4 property insurance were to be distributed to the  
5 owners of the condos, you would arguably have the  
6 right, under the declaration and this statute --  
7 and maybe even the obligation, not merely the  
8 right. You would arguably have an obligation, or  
9 at the very least the right, to turn back around  
10 and assess the owners for the value of their units  
11 in order to satisfy any excess liability, right?

12 MR. GOLDBERG: That's my reading of that  
13 statute.

14 THE COURT: And that excess liability exists  
15 both with respect to claims brought by the owners  
16 themselves, as well as by non-owners, right?

17 MR. GOLDBERG: I don't know the answer to  
18 that, your Honor, because there's provisions in the  
19 dec itself that basically state owners -- and I  
20 haven't researched the validity of it, but that  
21 owners, when they come on and sign in the condo and  
22 buy a unit, there's a declaration there. There's  
23 provisions that directly state that essentially  
24 they're limiting their ability to move against the  
25 association for injury and damage claims. I don't

1 know the answer to that, if it applies to owners or  
2 not.

3 THE COURT: So there's a provision in the  
4 declaration where owners may have exculpated the  
5 association from liability for damage and injury  
6 claims? In other words, the owners by contract  
7 through the declaration have exculpated the  
8 association from liability in the event they're  
9 hurt on the property or in the event their units  
10 are damaged by neglect of the association? That's  
11 a possibility here as well?

12 MR. GOLDBERG: Yes, from the declaration and  
13 the bylaws.

14 THE COURT: Okay. So what you seem to be  
15 telling me -- and this is something that I'm  
16 hearing for the first time -- is that under this  
17 and the declaration, the equity or the value these  
18 victims have in their homes could be in jeopardy  
19 and assessed by you, possibly, in order to satisfy  
20 the claims against the association, in the event  
21 the association is deemed to have liability to  
22 these victims and the \$18 million is insufficient  
23 to cover that liability.

24 Does that sum it up?

25 MR. GOLDBERG: That sums up my reading of the

1 statute as I stand here today just looking at it  
2 thoroughly over the last couple days. But there  
3 may be other things.

4 THE COURT: All right. And given the  
5 procedural posture of this case, and the  
6 significant legal issues that are going to be  
7 raised, if I have to tangle with this statute,  
8 you're basically today only asking me to defer  
9 whatever obligation you may have under Subsection 3  
10 to place all the owners on notice of their  
11 potential personal liability? That's the only  
12 relief you're seeking in this motion?

13 MR. GOLDBERG: Correct, Judge. That's all I'm  
14 seeking, is just to suspend the notice obligation  
15 today.

16 THE COURT: Okay.

17 MR. GOLDBERG: No other relief.

18 THE COURT: All right. So let me turn to  
19 counsel who the Court has appointed to represent  
20 the condominium owners, who you suggest may have  
21 personal liability up to the value of their units  
22 for excess liability here, and see if any of them  
23 have any objection to the relief you're seeking,  
24 which is to temporarily suspend whatever obligation  
25 you may have under Subsection 3 of this statute to

1 place their clients on notice of this potential  
2 exposure.

3 Mr. Tropin, Ms. Furst, let me start with you  
4 as lead counsel for the entire group, and then I'm  
5 going to proceed to talk to Mr. Martinez-Cid and  
6 Mr. Moskowitz on behalf of the death claim  
7 plaintiffs and on behalf of the economic  
8 plaintiffs.

9 MS. FURST: Your Honor, Rachel Furst. I'll  
10 start.

11 So on behalf -- we have discussed this motion  
12 with Mr. Goldberg and we have no objection to the  
13 suspension of this notice requirement. We think  
14 this is appropriate at this time and there's no  
15 objection.

16 If I can take a minute, though, to address --  
17 if this is the appropriate time, to address the  
18 questions you posed to class counsel directly.

19 THE COURT: Let me stop you there, Ms. Furst,  
20 because I'm going to circle back to you and let you  
21 do that. Let me hear from other counsel and see if  
22 anybody else objects to this motion so the Court  
23 can dispose of it and then we'll move on to the  
24 next issue.

25 So Mr. Martinez-Cid, on behalf of the punitive



1 plaintiffs that you represent, those who suffered  
2 death and/or injury, do you have any objection to  
3 the receiver's motion to suspend whatever  
4 obligation he may have under Subsection 3 of this  
5 statute?

6 MR. MARTINEZ-CID: Your Honor, as the motion  
7 is made, based on the unique factual situation of  
8 this case being one in which, by definition, all  
9 owners are already on notice of the proceedings, we  
10 have no objection whatsoever.

11 Thank you, your Honor.

12 THE COURT: Thank you.

13 Mr. Moskowitz, on behalf of -- as lead counsel  
14 for the punitive class members who have suffered  
15 economic loss in the form of their units being  
16 lost, do you have any objection to the receiver's  
17 motion?

18 MR. MOSKOWITZ: No. We wholeheartedly agree.

19 THE COURT: Okay. Yes, Mr. Tropin?

20 MR. TROPIN: We -- for the reasons stated by  
21 Mr. Martinez-Cid, we agree. When you get to the  
22 assessment issue, you know, we'll have something  
23 else to say. I know you're going to give us an  
24 opportunity to talk about that.

25 THE COURT: Yeah, of course. This is

1 something that's been raised for the first time  
2 today. The Court, as soon as Mr. Goldberg  
3 mentioned the statute, I pulled it up and read it.  
4 It's not very long. As is the case with many  
5 statutes, my first reading suggested it is not a  
6 model of clarity for a number of reasons, but we  
7 can deal with those issues if and when the  
8 appropriate time comes. The only thing the  
9 receiver is asking now is to suspend any obligation  
10 he may have to place owners on notice of this  
11 possible excess exposure and their possibly  
12 personal liability, again, up to the value of their  
13 units. And given no opposition, I'm going to grant  
14 the motion.

15 Mr. Goldberg, I'm going to suspend whatever  
16 obligation you may have under Subsection 3 of the  
17 statute indefinitely, and my order will provide  
18 that any interested party may at any time ask the  
19 Court to vacate this order and direct the receiver  
20 to provide the notice required, that may be  
21 required by the statute. So I'm going to give you  
22 an indefinite suspension of your obligation under  
23 Subsection 3.

24 MR. GOLDBERG: Thank you, your Honor.  
25 Mr. Singerman and I will upload an order.

1 THE COURT: Okay. Very good.

2 So again, this raises an issue that the Court  
3 discussed at the very first hearing in this case  
4 and has discussed many times since then, which is  
5 the fact that we are in the unfortunate  
6 circumstance where there will in all likelihood --  
7 absent some extraordinary development that this  
8 Court cannot foresee, that we are in all likelihood  
9 in a case where the total recovery that is  
10 available from all sources -- meaning insurance,  
11 the sale of the property and any potential  
12 litigation recoveries -- will not be sufficient to  
13 pay what the law will ascribe to be the value of  
14 these cases.

15 Now, again, I said before and I'll say it  
16 again so there's no misunderstanding. There's  
17 never any amount of money that can compensate for  
18 the loss these families have suffered because their  
19 family members perished in this tragic event. But  
20 the law will ascribe a value to each case, both the  
21 death claims and the economic claims. And it's  
22 fairly apparent to this Court that the aggregate  
23 value of those claims collectively will likely --  
24 will greatly exceed the recovery that will be  
25 available through insurance proceeds, the sale of

1 the land and litigation proceeds, if any.

2 So as I recognized at the very first hearing  
3 in this case, there is -- there are going to be  
4 competing claims to this recovery, which is why  
5 from the outset of this case the Court felt it was  
6 necessary to appoint counsel to represent the  
7 interest of each group.

8 This is a very unique case. Many times in  
9 cases involving mass tragedies -- for example,  
10 plane crashes and things where multiple people are  
11 killed or injured -- all the victims are in the  
12 same boat as far as the legal claims and the legal  
13 defenses. And here we're in very unchartered  
14 waters because we have victims who, thank God, only  
15 lost their units and survived this tragedy, and we  
16 have other owners and non-owners who perished in  
17 this tragedy. And this is a very unique  
18 circumstance. And like the Court has said before,  
19 we are all in unchartered waters.

20 So last week I asked you all to start taking a  
21 look at these issues.

22 Ms. Furst, let me hear from you and what your  
23 thoughts are and I want to hear the thoughts of  
24 other counsel and then we'll go from there.

25 MS. FURST: Thank you, your Honor.

1           So last week you asked class counsel to  
2 provide you with a response as to how the funds  
3 realized from the sale of the land and the  
4 insurance proceeds already tendered should be  
5 distributed under the law to claimants, all  
6 claimants, and to suggest a briefing schedule if  
7 appropriate.

8           I can report on behalf of all appointed class  
9 counsel that our research on these topics, as you  
10 requested, has been extensive, but it is still very  
11 much ongoing.

12           What is clear is that the questions you posed  
13 and the question of allocation is governed by  
14 Chapter 718 and specifically, Subsections 117, 118,  
15 and 119, along with the provisions of the  
16 declaration of condominium, as it's been amended  
17 over the years and relevant case law, but not  
18 surprisingly, and as Mr. Goldberg and your Honor  
19 have already recognized, there is no case directly  
20 on point. There's no template for us to follow in  
21 this very unique case.

22           So given the complexity of this governing law,  
23 the issues that are opened to interpretation, we  
24 would ask that rather than scheduling a hearing  
25 where all counsel is, you know, entitled to air

1 their arguments to your Honor or setting a briefing  
2 schedule, which would entail us submitting those  
3 arguments in writing, we'd be permitted to first  
4 work through these challenging allocation issues  
5 with a court-appointed mediator. And I make this  
6 request I think with consensus of all class action  
7 counsel who we've spoken with. We believe the work  
8 of a mediator would be helpful to plaintiffs on  
9 these issues in a few ways.

10 First, the question of allocation, as you've  
11 started to hear, is highly sensitive issues of  
12 evaluation for our client and issues of priority  
13 among claimants in the context of a condominium  
14 termination proceeding.

15 We have claimants who have lost their homes  
16 and we have claimants who have lost the lives of  
17 family members. I can put this in perspective  
18 speaking --

19 THE COURT: We also have claimants who have  
20 lost both.

21 MS. FURST: Exactly.

22 THE COURT: Which is also unusual here. There  
23 are some claimants -- and I'm referring now to  
24 families who lost loved ones who did not own a unit  
25 but who were tenants, who were there temporarily

1 visiting who might not be bound by the declaration  
2 at all because they're not condo owners and --

3 MS. FURST: Correct.

4 THE COURT: -- so the declaration may address  
5 allocation issues amongst the various owners, but  
6 may not have anything to do with the claims of  
7 non-owners and visitors, right?

8 MS. FURST: That's right, your Honor. And  
9 arguably, you know, the condominium, the  
10 declaration of condominium would apply only to the  
11 titled owners, not to their spouses, and if the  
12 condominium was held in a corporation, not to the  
13 residents of the condominium who are not on the  
14 deed.

15 So just to put this in perspective, my firm,  
16 Grossman, Roth, Yaffa & Cohen, we -- although I am  
17 appointed class counsel, interim class counsel, and  
18 I'm advocating for all class victims and class  
19 members in prosecuting claims against those  
20 responsible for this collapse, prosecuting the  
21 negligence claims on the issue of liability, my  
22 firm individually represents family members of  
23 victims who lost their lives and our clients have  
24 wrongful death claims against the association for  
25 the damages they suffered in connection with the

1 death of their loved one, and if that loved one was  
2 also a condominium owner, in connection with the  
3 property loss.

4 So on the question of --

5 THE COURT: Of course, though, Mr. Goldberg  
6 suggests there's a possibility that those who died  
7 who were owners have no claim against the  
8 association due to exculpation provisions within  
9 the declaration, which exculpation provisions would  
10 have no impact on the claims of non-owners,  
11 correct?

12 MS. FURST: And that may be the case; correct.  
13 That may be a limited subset. Again, we're -- the  
14 law here is -- we're still investigating, is  
15 somewhat unsettled.

16 But the question of how all proceeds should be  
17 allocated to the wrongful death claimants, or  
18 whether any of those proceeds should be, you know,  
19 I could share with a view that 718.117 sets forth a  
20 priority of creditors and that wrongful death  
21 victims arguably would fall into the definition of  
22 creditors. Their claims for wrongful death against  
23 the association, by that reading, cannot be simply  
24 wiped out in the process of terminating the  
25 association. And so whether by presentment of



1 their claims as creditors or by way of assessment,  
2 which Mr. Goldberg has already discussed at length,  
3 these claims must be considered.

4 And that's just one view of the law. I expect  
5 Mr. Tropin, who represents property owners  
6 individually, will address another view.

7 So a skilled mediator we think can provide us  
8 with the forum and the space and the opportunity to  
9 try to reach consensus on these difficult questions  
10 and then, hopefully, we might be able to come back  
11 to your Honor with a stipulated protocol of  
12 allocation or a plan of termination that's  
13 agreeable or even a settlement of certain claims.

14 THE COURT: Okay. So what you're basically  
15 saying -- basically asking me is not to require the  
16 parties to stake their positions at this point; to  
17 let you go work with a mediator, have the various  
18 competing claimants represented and see if the  
19 victims themselves, with the assistance of their  
20 able counsel and a very skilled mediator, can reach  
21 a resolution of these questions so the Court does  
22 not have to make these decisions? That's what  
23 you're asking?

24 MS. FURST: That's right, your Honor, because  
25 we would like to keep -- we'd like to keep this

1 dispute to mediation and keep the focus of our  
2 efforts in this courtroom and before your Honor on  
3 prosecuting the claims against those responsible  
4 for the collapse.

5 THE COURT: Allegedly.

6 MS. FURST: Allegedly, correct. Thank you.

7 THE COURT: All right. So let me hear from  
8 lead counsel, Mr. Martinez-Cid, from the standpoint  
9 of the people who have injury death claims and then  
10 Mr. Moskowitz on behalf of the people who have  
11 suffered economic injury and get their views on  
12 this.

13 Mr. Martinez Cid?

14 MR. MARTINEZ-CID: Yes, your Honor. Thank  
15 you.

16 Since the Court first mentioned that the Court  
17 was, of course, keeping an open mind and had not  
18 decided any of the issues, but had looked through  
19 some of these issues and suspected that perhaps  
20 property owners would have priority of interest,  
21 that's been a big focus of my work. I take the  
22 responsibility the Court entrusted in myself and  
23 the rest of this great leadership team on behalf of  
24 the wrongful death clients very seriously. And we  
25 feel very confident that if these issues are

1 presented to your Honor with a full briefing, that  
2 it would help your Honor see that that's not the  
3 right position.

4 That being said --

5 THE COURT: Let me clarify something,  
6 Mr. Martinez Cid, just so you understand.

7 The Court said earlier, and what I've said  
8 before and still believe, is that the people who  
9 own the units may have an argument or claim that  
10 the proceeds of the land and the property insurance  
11 go to them because they own the land, they own  
12 title to it, and they own -- and the property  
13 insurance insured the building. The Court did not  
14 comment on whether those funds would then be  
15 subject to claims of others who perished in the  
16 accident.

17 And what Mr. Goldberg is suggesting, or  
18 suggested for the first time today, is that even if  
19 those funds would normally be paid to the owners of  
20 the land and the condo owners, that he may have the  
21 ability, or the death claimants may have the  
22 ability, to attach those funds by way of an  
23 assessment to pay for injury claims, something I  
24 have never commented on.

25 So if it turns out that my initial inclination

1 is correct and the owners would have the legal  
2 right to those proceeds, we have never discussed  
3 the next step, which is whether others who might be  
4 creditors would have the right to claim or attach  
5 those proceeds. And I have said, and I want to  
6 make very clear as I've said in every hearing, you  
7 know, absent agreement, this Court will go wherever  
8 the law takes it and it has not decided any of  
9 these issues, none of which have been briefed or  
10 presented to the Court.

11 So I just want to make that very clear on the  
12 record so there's no misunderstanding that this  
13 Court has made any decisions whatsoever.

14 MR. MARTINEZ-CID: That is crystal clear, and  
15 I hope that I didn't -- it didn't sound like I  
16 suggested otherwise. We are very aware that the  
17 Court has taken a very both inquisitive, careful  
18 thoughtful approach to this case and we're very  
19 thankful for it, your Honor. And we know that  
20 you're giving everyone, as you've said in every  
21 hearing, I believe, the opportunity to speak and be  
22 heard before any decision is made. And we  
23 appreciate that.

24 What is very important about this is despite  
25 how strongly I feel about our position, I also feel

1 very strongly that it really serves -- it does not  
2 serve the best interest of the wrongful death  
3 clients for us to be pitting victim against victim  
4 in this courtroom in these legal arguments. We  
5 believe there are factual issues also to be worked  
6 out that may be -- that may need to be considered.  
7 And that's why we wholly support Ms. Furst's  
8 request for a mediation.

9 I would add one small issue, which is we have  
10 ways of defining the claims of the property owners,  
11 the value of their property and what they will be  
12 claiming in any allocation. We lack a lot of that  
13 important information on behalf of the wrongful  
14 death victims, in that the Florida Statutes set  
15 forth who is entitled as a beneficiary or survivor  
16 of anyone who suffers a wrongful death, what the  
17 definition of the economic loss is of net  
18 accumulations, loss of support and services and  
19 other things that are provided for in the statutes.  
20 And we believe it would be very helpful to the  
21 mediation process as well, your Honor, to begin to  
22 compile some of that information.

23 So what I'm requesting of the Court is -- you  
24 know, we have great experience in compiling this  
25 information. Ms. Furst and Mr. Grossman, Mr. Miner

1 as liaison counsel as well, our firms do a lot of  
2 wrongful death work. That's why your Honor --

3 THE COURT: Mr. Martinez-Cid, you're talking  
4 about information that is necessary to value the  
5 wrongful death claims, right?

6 MR. MARTINEZ-CID: Yes, sir, your Honor.

7 THE COURT: See, it seems to me -- and we'll  
8 circle back to this, but it seems to me that this  
9 initial mediation, assuming I approve it, the focus  
10 needs to be on trying to avoid an allocation fight  
11 between those people who lost only their property  
12 and the wrongful death claimants, and then if that  
13 can be accomplished, the next stage would be to  
14 take whatever is allocated to the wrongful death  
15 claims and then have to decide how to value each  
16 one and how those proceeds would be allocated. It  
17 really seems like it would be a two-step process,  
18 no?

19 MR. MARTINEZ-CID: You're absolutely right. I  
20 think maybe I'm being too optimistic, your Honor,  
21 but my hope is I would like to not be in front of  
22 the Court at the end of that process to say we're  
23 not ready for step two, we're going to need a  
24 couple of months to get information together to  
25 begin the process.

1           So what I am suggesting is that concurrent  
2 with that mediation, though not as part of that  
3 process, that the Court allow us to propose a short  
4 questionnaire or form or some vehicle for folks  
5 to -- with the assistance of their counsel, or if  
6 they are pro se without it, to provide some of the  
7 very basic information so that down the road,  
8 assuming -- we're all going to work very hard to  
9 get this done and assuming we are successful with a  
10 mediator, be in a position to enter into those  
11 Phase 2 agreements and -- or discussions with the  
12 Court.

13           THE COURT: Okay. But for today's purpose,  
14 you agree with Ms. Furst, that the various  
15 constituents who may have competing claims to  
16 whatever funds realized should meet with a mediator  
17 and try to resolve those by agreement or consensus?  
18 I shouldn't say agreement. We may never have  
19 unanimity, but consensus before these issues are  
20 briefed and presented to the Court?

21           MR. MARTINEZ-CID: Most definitely, your  
22 Honor. One thing that is important to mention is  
23 that your Honor just recently said, your Honor is  
24 forced to go exactly where the law takes your  
25 Honor, and there are things that we can explore,

1 all being victims of this tragedy, rather than  
2 fighting with each other to where the law takes us  
3 that hopefully will be to the mutual benefit of all  
4 victims, but that can only happen in a mediated  
5 settlement and not by strict adherence to the law.

6 So absolutely, we would welcome that  
7 opportunity, your Honor.

8 THE COURT: Okay. Mr. Moskowitz, I've  
9 appointed you as lead counsel for the punitive  
10 class members who have suffered economic loss.  
11 What are your thoughts on giving the parties an  
12 opportunity to try to resolve these difficult  
13 allocation issues amongst themselves prior to the  
14 issues being briefed and addressed by the Court?

15 MR. MOSKOWITZ: Thank you very much, your  
16 Honor. The good news is we're not in totally  
17 uncharted waters. That's the good news that your  
18 Honor should know. For the last few months we've  
19 looked at many prior incidents which actually give  
20 us great guidance into how we should proceed in  
21 this matter.

22 For example, the 9/11 case has extensive  
23 reports that were done in great detail of how they  
24 divvied up what was their federal money that was  
25 put up, almost an unlimited fund, and there you had



1 much more diverse types of plaintiffs. You had  
2 businesses; you had cities; you had first  
3 responders; you had people that perished in the  
4 buildings. In fact, 62 percent of that money went  
5 to businesses in New York, and Ken Feinberg, who  
6 now there's a movie about, did an amazing job of  
7 trying to allocate a fair balance for all of these  
8 different victims.

9 So let me first say I wholeheartedly supported  
10 from the very beginning that there needs to be  
11 another layer of this process. You have excellent  
12 leadership by Rachel and Harley. You have lead  
13 counsel with all of our different hats, but you  
14 need someone else between us and the Court, because  
15 I think as Mr. Cid said, we're wearing two hats.  
16 We're spending 24 hours a day trying to go after  
17 people to increase the pot. That's what we're  
18 spending all night, all weekend doing.

19 At the same time, we're eventually going to  
20 have to divvy up how those funds are made. So in  
21 9/11, we learned a lot. There's also In Re:  
22 Katrina Canals, there's also In Re: Agent Orange.

23 THE COURT: That may be so, Mr. Moskowitz, but  
24 none of those cases involve circumstances where you  
25 had owners of a condominium that had property loss

1 and then other owners, as well as non-owners, who  
2 lost lives overlaid with condominium law and other  
3 things that are going to be unique to this case.

4 So yes, there are circumstances where there  
5 have been mass disasters and where funds, whether  
6 they be litigation recoveries or federal funding  
7 and assistance, have to be properly allocated. But  
8 I don't think you're going to find one, at least  
9 case law, dealing with one under the unique  
10 circumstances that are presented here.

11 MR. MOSKOWITZ: Absolutely, your Honor.  
12 You're right. These are very unique facts, but  
13 each case had their own unique facts. 9/11 had  
14 insurance policies for the building. It had other  
15 facts which we don't have here.

16 All I'm saying is I think with the appointment  
17 of a mediator who could help us, I think that's  
18 going to be a great way that we can all work  
19 together to try to come up with the most amicable  
20 and fair settlement. Because some of these  
21 decisions will have to be made and some of the  
22 suggestions people made is you need to have a  
23 spreadsheet on every possible victim, you need to  
24 have their name and you not only need to know if  
25 they were a homeowner or not, but like what your

1 Honor said, there's a lot of individual facts.

2 There are renters --

3 THE COURT: But do we need to know that in  
4 order to mediate what I would call the first issue  
5 in the case, which is what, if anything, should be  
6 paid to people who lost their condos and survived  
7 so that we can remove them from this case and get  
8 on with the wrongful death claims.

9 In other words, you know, it's always been the  
10 Court's desire, and I have been very active in  
11 trying to monetize whatever assets are available in  
12 the receivership's estate in terms of the sale of  
13 the property and the insurance, and in my mind, one  
14 of the reasons to do that and to do it  
15 expeditiously was to try to come up with a  
16 mechanism where those people who were lucky enough  
17 to have survived this and only lost their condos,  
18 as well as the other people, could be given some  
19 expeditious relief so that they could acquire new  
20 homes and move on with their lives.

21 Now, it seems to me that -- it's obvious to  
22 me, it doesn't seem to me, that some of those who  
23 lost only condominiums are going to take the  
24 position, through their counsel, that they're  
25 entitled to the land and the insurance proceeds and

1 that those funds should not be available to pay  
2 wrongful death claims. It's now equally obvious to  
3 the Court that there are others who are going to  
4 disagree and say that, number one, at most these  
5 owners should get their appraised value and that if  
6 there's an excess between the appraisal value and  
7 the land and insurance, that should be available to  
8 pay wrongful death claims, and there are others who  
9 going to go a step further and say that no moneys  
10 should go to condo owners because the receiver,  
11 using his powers either under the declaration or  
12 statutory, should assess those owners to pay any  
13 excess liability of the association, assuming there  
14 is any excess liability.

15 No decision's been made that the association's  
16 liable to anybody.

17 But it seems very apparent to me at this point  
18 that we're going to have competing claims, and it's  
19 equally apparent to me that we're going to have  
20 more in aggregate claims than we're going to have  
21 recovery.

22 So to me the first question, before you decide  
23 the value of each wrongful death claim, is, can we  
24 reach an allocation agreement between those owners  
25 who were fortunate enough to survive so that they

1 can be paid something for their units and move on  
2 with their lives and exit this case? And that, to  
3 me, seems to be the first issue to be mediated and,  
4 once that's done and then the recoveries are  
5 obtained, if there are any recoveries obtained,  
6 then we take whatever's left and including  
7 whatever's recovered and then you get to the point  
8 of now we've got to value each wrongful death claim  
9 and figure out how to allocate amongst the wrongful  
10 death claimants those funds.

11 So it seems to me to be kind of a two-step  
12 process, which is why I was not sure that we needed  
13 to delay any mediation until you all are able to  
14 gather all the information that may bear on  
15 Phase 2. In other words, I want to proceed with  
16 Phase 1, if we can do it.

17 Mr. Tropin, you want to be heard?

18 MR. TROPIN: I do. Thank you, your Honor.

19 I think this discussion is so useful and one  
20 thing that has come out of it is I believe  
21 everybody is in favor of a mediation. I think a  
22 skilled mediator, you know, can really be helpful.  
23 No one disagrees with that, and we have every  
24 confidence in the Court appointing such a skilled  
25 mediator.

1           As you know, Ms. Furst and the people that  
2 we're privileged to work with have been  
3 laser-focused on trying to increase the amount of  
4 money that can be distributed to these victims and  
5 trying to accomplish getting the amended complaint  
6 that we've been discussing. That's been the focus  
7 of our efforts. But now we're talking about the  
8 equally important task of what do we do with  
9 wrongful death versus the property damage?

10           I have to talk to you for a moment about the  
11 comment that has been made about the property  
12 damage people having lost only the condominiums.  
13 These people -- if this were a different case, we  
14 would be talking about the tragedy of people who  
15 one day were in their units with art, with friends  
16 that they loved, you know, leading a full life and  
17 then all of a sudden devastatingly losing their  
18 homes, losing their friends and being out on the  
19 street and not knowing where else to go.

20           And so these are the people that Mr. Moskowitz  
21 and we are privileged to represent. We have  
22 complete empathy for the people that Ms. Furst,  
23 Mr. Martinez-Cid, Mr. Silva and others represent.  
24 We are trying as best we can to work this out, and  
25 we welcome the skilled mediator that we're

1 discussing to help us do it.

2 We do think that the law will probably take us  
3 where your Honor's original instinct was and we  
4 agree that nothing that you've said is, you know,  
5 written in stone and that, you know, if we can't  
6 resolve it, it will be fully briefed and everything  
7 else, but the property will go to the property  
8 owners. There's the possibility of an assessment.  
9 That would be, you know, a tragedy for all  
10 concerned because it would mean chaos.

11 So where does this take us? I think before we  
12 get to questionnaires and all of that, it takes us  
13 to where you originally heard from Ms. Furst, which  
14 is a mediator that -- and I think that mediator  
15 should have flexible powers, first to deal with  
16 this question and a resolution, because without a  
17 resolution, we'll have a briefing schedule and that  
18 will be decisive. And if he could do things other  
19 than that, things that Mr. Moskowitz talks about,  
20 hopefully dealing with maybe third-party claims,  
21 that would be great too.

22 But the first order of business should be the  
23 things that you discussed, and that should be  
24 trying to see if we can figure out an equitable  
25 resolution between wrongful death claimants and the

1 property damage claimants.

2 Judge, with that, any questions that you have  
3 for me, I'd be happy to answer.

4 THE COURT: All right. Let me make a couple  
5 of comments and then I'm going to turn and ask you  
6 all a question.

7 As I said before, from the very first hearing  
8 up to today, the Court knew and foresaw and is not  
9 the least bit surprised to find out that there are  
10 going to be competing claims to what is going to be  
11 a limited fund. It is unfortunate, but there are  
12 many cases -- while this case is very unique in  
13 many respects, it is certainly not the first  
14 circumstance where there is a tragedy and where the  
15 claims arising from that tragedy are going to  
16 exceed, perhaps far exceed the aggregate recovery  
17 available to compensate all victims.

18 Now, you know, as I said before, those who  
19 lost property have an argument that they're  
20 entitled to certain proceeds of the insurance and  
21 land and that they have priority. Others who  
22 perished in this case, including many who also  
23 owned condominiums, like I said earlier, may see  
24 things in a much different light and they feel that  
25 either through the receiver's assessment of powers



1 or otherwise, their claim should take priority over  
2 the value of the units that were owned by the  
3 owners at the time.

4 Now, there's many options, many ways this  
5 could go if the matter's litigated. Maybe the  
6 Court, upon full briefing, would conclude that the  
7 owners of the condominiums have priority. Maybe  
8 even if the Court concludes they have priority, the  
9 Court would conclude that the receiver has a duty  
10 or obligation to assess them for the value of their  
11 units to cover what may be excess liability, and  
12 there are many other possibilities, ladies and  
13 gentlemen. I mean, the Court could conclude based  
14 upon the law that one potential option here would  
15 be to just simply take all recoveries at the end of  
16 the day, value each claim, both property and  
17 economic claims, and divide whatever funds are  
18 realized proportionately.

19 So if, for example, the wrongful death claims  
20 turn out to be valued at 800 million,  
21 hypothetically, and the condos are valued at  
22 another hundred million, hypothetically, and if  
23 there's total recovery in this case,  
24 hypothetically, of 300 million, the Court could at  
25 the end of the day conclude that everybody should

1 just get a pro rata recovery and a third of all of  
2 their claims. There are many ways this could come  
3 out if the issues have to be litigated.

4 Now, as I've said before and I'll say again,  
5 that the Court has no idea how those issues will  
6 turn out, but what I've said before, and I want to  
7 emphasize yet again, is this Court, as it does in  
8 every case, if it has to decide these issues, will  
9 go wherever the law takes it and it will exercise  
10 whatever discretion the law affords it to reach a  
11 fair and equitable resolution of these competing  
12 claims, period.

13 Now, I really hope it doesn't come to that and  
14 I hope it doesn't come to that for a lot of  
15 reasons. First of all, everybody who suffered a  
16 loss here is a victim, and certainly, you know, as  
17 Mr. Tropin pointed out, those who lost their homes  
18 and their possessions suffered a crushing blow.  
19 People had homes and possessions and things one day  
20 and then the next day they're displaced; they have  
21 no home. Many are living month to month and they  
22 need help and they are victims.

23 On the other hand, you know, I've heard from  
24 other people at these hearings whose children,  
25 siblings and other family members were simply

1 visitors on this property, had nothing to do with  
2 the property or its maintenance and lost their  
3 lives because of what may have been a building that  
4 was neglected by the association acting as a  
5 representative of owners. And those people may not  
6 be quite as sympathetic to those who were lucky  
7 enough to only lose their homes and possessions.  
8 And I say "only" because in relation to loss of  
9 life, hopes and possessions can be replaced,  
10 whereas life cannot.

11 So, you know, I understand that where people  
12 stand on these issues are going to differ and I  
13 hope -- I fervently hope -- that you all, as highly  
14 skilled lawyers, with a highly skilled mediator can  
15 work out an acceptable resolution of these issues  
16 so the Court does not have to address them, because  
17 I can't tell you how it will turn out, but one  
18 thing I can tell you, and I could tell you with  
19 reasonable certainty, is if there's not -- if  
20 there's not an allocation agreement reached or  
21 resolution by consensus -- and again, I don't  
22 expect unanimity, but absent some consensus amongst  
23 the groups, it may very well be that these  
24 allocation decisions are going to have to await the  
25 conclusion of the case, and that would be a

1 terrible result, because absent an agreement, there  
2 is a possibility, I'm not saying a certainty, but  
3 there's certainly a possibility that the Court may  
4 have to await the conclusion of all the litigation  
5 claims to see the total amount that's been realized  
6 in this case that is available and where those  
7 recoveries came from and make one allocation  
8 decision at the end of the case, a decision that  
9 would likely be appealed. And it could be, absent  
10 an agreement, absent you all working to -- toward  
11 an agreement with a highly skilled mediator, it  
12 could be years before any of these victims see any  
13 recovery.

14 And of course this Court's goal from the  
15 beginning has been to try to monetize assets, get  
16 some recovery so we can begin to get people relief  
17 expeditiously.

18 Now, like I said, I've been very active in  
19 trying to move along this receivership estate,  
20 monetize assets and put us in that position, but  
21 I've gone as far as I can. In other words, you  
22 know, I can't make agreements for you. I can't  
23 force allocations upon people. I need to go  
24 wherever the law takes me. And if you all can't  
25 work with a skilled mediator and come to a

1 resolution, I will do that.

2 But I can tell you and I can tell the victims,  
3 and I hope they're listening, that absent an  
4 agreement, if victims start taking extreme  
5 positions and if the condo owners want to say we  
6 get all the land, we get all the insurance and none  
7 of it goes toward the wrongful death claims and the  
8 wrongful death people want to say the condo owners  
9 get nothing because all of their equity in their  
10 unit should be used to satisfy our claims and  
11 people want to take extreme positions and litigate  
12 these issues, one thing I can tell you is it may be  
13 many years before any of these victims see any  
14 recovery, and that would be a shame because the  
15 last thing I'd like to see in this case is victims  
16 fighting over the allocation and having this  
17 delayed so that we cannot get money in their hands  
18 and let them begin to repair their lives for those  
19 who survived and let the families of those who  
20 perished begin to be compensated for their loss.  
21 Many of these people who perished were providers.  
22 People may have relied upon them for basic  
23 necessities and it would be a shame if litigation  
24 amongst the various people who suffer here delays  
25 their ability to be compensated quickly.

1           So I hope and I implore you all, together with  
2           your clients, to try to work out a solution. And  
3           I'm glad you've raised that. So let's talk about  
4           who this skilled mediator may be. Have you all  
5           discussed it and do you have -- I have someone in  
6           mind who I think is the best.

7           MR. CARLOS SILVA: Your Honor, this is Carlos  
8           Silva. May I be heard for a second?

9           THE COURT: Sure, Mr. Silva.

10          MR. CARLOS SILVA: As you know, we represent  
11          15 wrongful death victims and we are on the  
12          leadership wrongful death committee.

13          THE COURT: I'm sorry, Mr. Silva. How many?

14          MR. CARLOS SILVA: Fifteen.

15          THE COURT: Okay. Thank you.

16          MR. CARLOS SILVA: And I just wanted to  
17          clarify something. When it comes to mediation, and  
18          I agree with the Court and I agree with what the  
19          wrongful death lawyers, including myself, we all  
20          discussed and we think it's a great idea to do  
21          this. Are we going to be including in the first  
22          step -- and I understand that the protocol really  
23          hasn't been decided on the mediation process and I  
24          guess it's going to be a two- or three-step  
25          process.

1           But my concern is, when we talk about victims  
2 that lost property and victims that lost lives, we  
3 also have business owners in the surrounding  
4 properties around the Champlain Tower and I'm  
5 wondering, are we going to include them, or is it  
6 something that we should discuss among ourselves  
7 as -- on the committee and work in either  
8 mortgage -- people that have mortgages on  
9 properties, whether they're going to be part of  
10 this mediation or surrounding properties, before we  
11 get to the wrongful death mediation where we could  
12 discuss economic losses between the different  
13 wrongful death cases?

14           It's just something that concerns me because  
15 when we get to the second part of wrongful death, I  
16 just want to be able to be discussing wrongful  
17 death in mediation with my colleagues and those  
18 values, rather than still have over our head other  
19 little claims or bigger claims that could come out.  
20 And I just want to make sure that if we have a  
21 possibility clearing it all out, we do it in that  
22 one mediation or several mediations to try to get  
23 it all resolved.

24           THE COURT: Well, Mr. Silva, you raised some  
25 very interesting issues. I do not contemplate

1 businesses in the area who may have a claim against  
2 the association, I'm not sure what duty the  
3 association owed to surrounding businesses. I'm  
4 certainly not contemplating that they be included  
5 in a mediation of this case. As far as I know,  
6 none of those businesses have filed lawsuits. If  
7 they do, they'll be brought over here at some  
8 point. But I'm concerned mostly now with the  
9 people who lost their units and the families of  
10 those people who lost their lives.

11 Now, the mortgage-holders is a more  
12 interesting issue. Obviously, to the extent  
13 homeowners have debt on their property and there's  
14 a recovery by homeowners, those lenders are going  
15 to be there saying we want our debt satisfied,  
16 right? And you make a very interesting point.  
17 Does it make sense, given that there may be some  
18 compromise reached, that those lenders be brought  
19 into the mediation and maybe talked about with  
20 respect to the discount of their debt. That's a  
21 very interesting question you raise and I  
22 appreciate your raising it. I don't know the  
23 answer yet and I would probably leave it to the  
24 lawyers who are going to take the lead at the  
25 mediation and whoever the mediator is to decide



1 whether at some point it would make sense to bring  
2 those parties in.

3 I understand that all the lenders have now  
4 been named in the termination proceeding before  
5 this Court, so I could certainly compel them to  
6 attend that type of mediation, and you have a very  
7 good idea. Maybe they should be at the table, but  
8 I'm not going to decide that now. I'm going to  
9 let -- if I agree to this mediation, which I'm  
10 inclined to do, once I appoint a mediator and we  
11 talk about who the lawyers are who are going to  
12 take the lead, I would let them discuss that issue  
13 first and then bring it back to me. But I  
14 appreciate your raising it. It's a very good point  
15 and at some point these lenders are going to have  
16 to be dealt with one way or the other, right?

17 MR. CARLOS SILVA: That's correct. And if  
18 they do do as you say, they might give a discount  
19 to these property owners, that might be very  
20 beneficial to them to be able to get more money in  
21 their pocket and make the agreements all go -- work  
22 out better for everybody.

23 But getting back to one last issue, your  
24 Honor, I have heard and I know they have not filed  
25 suit, but I'm concerned about the surrounding

1 properties, that they could have some claims. And  
2 I know they haven't -- it's not in front of your  
3 Honor yet, but if somehow we're able to -- if we  
4 have information that there are some claims out  
5 there, I just don't want to be surprised that when  
6 we walk away from mediation, the wrongful death  
7 victims think it's all over and now we can pursue  
8 our third parties or whatever we're going to do,  
9 that suddenly out of the woodworks -- I know you  
10 can't control this, your Honor, but out of the  
11 woodworks now a building comes out that was damaged  
12 and says, oh, we have \$50 million in damage.

13 That was just one of the concerns. I just  
14 wanted to verbalize that with your Honor.

15 THE COURT: I guess theoretically -- and look,  
16 you know, there are a lot -- we're definitely in  
17 unchartered waters and anybody with a couple  
18 hundred dollars can file a lawsuit, right? But I'm  
19 not aware of any law that imposes a duty on a  
20 condominium association that runs in favor of  
21 surrounding businesses and if that duty's breached  
22 to maintain common elements. And a building  
23 collapses, that people in surrounding areas who may  
24 have been shut down for a period of time have a  
25 viable claim. Maybe they do. Maybe they don't. I

1 haven't seen any such lawsuits filed at least to  
2 date. And, you know, it's -- you know, I really  
3 don't want to opine on what the legal issues would  
4 be.

5 There would be significant legal issues. And  
6 if they succeeded in that lawsuit they would be no  
7 more than creditors, as would the people who have  
8 wrongful death claims. And I'm not sure where they  
9 would fall in line.

10 But I understand that that's a possibility.  
11 There are a lot of possibilities, but I have to  
12 kind of go one day at a time here.

13 MR. CARLOS SILVA: Okay.

14 THE COURT: And I do believe that if and when  
15 those claims are brought and if they survive, then  
16 we could deal with them in due course. But I don't  
17 want to delay or hang up a mediation by theoretical  
18 claims that may be advanced by business owners in  
19 surrounding areas at this point.

20 MR. GROSSMAN: Judge, could I pick up where  
21 you left off with Mr. Silva?

22 THE COURT: Yes, Mr. Grossman.

23 MR. GROSSMAN: We are in unchartered waters,  
24 but even if you're in unchartered waters, you have  
25 to set a course, because you don't want to be storm

1 tossed at sea for year after year after year and  
2 never have an objective.

3 There's no case I've ever been acquainted with  
4 that begs for a mediator to be appointed as much as  
5 this case. And the profile of that mediator should  
6 be someone who had a distinguished legal career,  
7 someone who is widely respected in this community,  
8 and someone who has the leadership ability and  
9 courage to understand that the decisions that could  
10 be left to you could be very harsh for one side or  
11 the other. But most importantly, that person has  
12 to make a commitment to see this matter through  
13 promptly, because we don't want any claimant,  
14 whether it's for property or death or injury,  
15 whether they're entirely innocent as someone who is  
16 an overnight guest or someone who was on the board  
17 of the condominium association, whatever their  
18 background is, we don't want them stuck in this  
19 situation knowing at the end of the day there  
20 wasn't going to be a large enough pot to divide and  
21 oh, what they could have done with the money to try  
22 to help themselves through this tragedy.

23 THE COURT: Mm-hmm.

24 MR. GROSSMAN: Hence, I strongly urge that you  
25 make this appointment as expeditiously as possible

1 and that we have an opportunity to talk to our  
2 clients about the importance of resolving this  
3 matter internally so that we can move forward.

4 Thank you.

5 THE COURT: I agree with everything you've  
6 said, Mr. Grossman. As I pointed out earlier,  
7 absent an agreement, I have no idea where this case  
8 is going to go in terms of allocation and a legal  
9 result, like you said, could be very damaging and  
10 harmful to some of the victims here. And that's  
11 the last thing this Court wants to see.

12 So let me throw out -- since I'm inclined to  
13 defer briefing and dealing with this issue legally,  
14 let me throw out to the parties who -- you know, I  
15 have someone in mind, who -- but I want to hear  
16 from the parties and see who it is you have as  
17 potential candidates that would have the skill-set  
18 and the respect of all the lawyers in this case to  
19 tackle this most difficult issue. I'm open.

20 MR. TROPIN: Judge, Harley Tropin.

21 THE COURT: Mr. Tropin?

22 MR. TROPIN: A mediator that the Court has  
23 used and we've used in other cases is Bruce Greer.  
24 I litigated against Mr. Greer 30 years ago. I  
25 mediated cases successfully with Mr. Greer, not

1 recently, but in the last five years. I know  
2 Mr. Grossman and others in leadership have  
3 litigated with him, and I think that he has got the  
4 skill-set to successfully tackle this. Nothing is  
5 assured in any walk of life and certainly,  
6 including this complex case, but I think that of  
7 the available candidates, I think that he would be  
8 a very strong one that I think the Court should  
9 seriously consider.

10 MR. GROSSMAN: I would entirely second Bruce  
11 Greer, if he will do this and undertake this work,  
12 and I would tell my individual clients that you've  
13 selected a five-star lawyer and human being.

14 THE COURT: All right.

15 MS. PARKER: Your Honor?

16 THE COURT: Yes.

17 MS. PARKER: Hi, Karen Parker here. Your  
18 Honor, I represent, with co-counsel Ralph Patino,  
19 we have two wrongful deaths with a property  
20 component and an individual property claim, and my  
21 question to is, although I'm hugely in favor and I  
22 know you're an advocate for the mediation, are the  
23 individual -- are the plaintiffs for some of the  
24 individual claimants, are they going to be able to  
25 participate in this mediation? And where is the

1 funding coming from for the source to source this  
2 mediation? And lastly, I know the Court has  
3 recommended in the past Mediator Harry Schafer.  
4 I've mediated with him. I know he is an  
5 appropriate person. He's a moneyman. He's got  
6 that financial background in addition to being a  
7 tremendous litigator. He was very effective in  
8 mediations in the past where you have appointed.  
9 So that's my two cents.

10 But I wanted to get that in because I know  
11 there may be other individual counsel on the line  
12 that may have the same concerns that they represent  
13 individual wrongful death and property owners and  
14 whether or not they are going to have a say or be  
15 able to participate in this proposed mediation.

16 Thank you.

17 THE COURT: So Ms. Parker, thank you for  
18 raising Mr. Schafer. I'll talk about him in a  
19 minute.

20 But as far as your first question is  
21 concerned, I frankly don't envision a mediation  
22 being effective with every lawyer trying to  
23 participate with every client. It just won't work.  
24 The way this mediation's going to have to go is I'm  
25 going to have to appoint, or lead counsel is going

1 to have to select kind of a subcommittee of lawyers  
2 to take the lead on the mediation and have  
3 representatives of each group, client  
4 representatives, responsible for attending with  
5 them and having input into the process. But I  
6 can't have a circumstance where every lawyer who  
7 represents every claimant is at the mediation  
8 table. It will be unwieldy and it will be  
9 unproductive.

10 So what the Court, at least my initial  
11 reaction would be to take lawyers within the  
12 leadership structure that I've already appointed,  
13 either have them agree or select some of them to  
14 take the lead on the mediation with client  
15 representatives and take the lead on it, and then,  
16 of course, whatever recommendations come out of the  
17 mediation or proposals that I'm asked to adopt,  
18 will be presented to the group as a whole and  
19 everybody will have a right to be heard.

20 So that's the way I anticipate the process  
21 going. I appreciate your suggestion of  
22 Mr. Schafer. He's outstanding.

23 Let me hear if any other lawyers have anything  
24 they want to add to what's already been said or any  
25 other recommendations.



1 MR. PODHURST: Your Honor, Aaron Podhurst.

2 May I be heard?

3 THE COURT: Yes, Mr. Podhurst, please.

4 MR. PODHURST: Your Honor, I'm not appointed  
5 anything. I'm the partner of Mr. Martinez-Cid and  
6 we represent 20-some-odd PI cases, but I'm not  
7 talking about our cases. I want to comment on what  
8 has occurred so far.

9 I've listened to every Zoom that's had here  
10 and I commend, "commend," the leadership,  
11 Mr. Goldberg, Ms. Furst, Mr. Tropin, my own partner  
12 Mr. Martinez-Cid, Mr. Moskowitz, Grossman, Silva,  
13 and all the people that have spoken. They're the  
14 best we have. But the proof is in the pudding,  
15 your Honor. Unless the lawyers understand their  
16 moral and ethical obligation to try to make this  
17 happen -- and, of course, the first obligation is  
18 to represent your client. We all know that. We  
19 don't detract from that -- unless we make this  
20 process work morally and ethically, we're not only  
21 going to end up --

22 THE COURT: Hold on one second, Mr. Podhurst.  
23 Please continue.

24 MR. PODHURST: We're not only going to end up  
25 with five years of horrible litigation, we're not

1 only going to end up with an expensive situation,  
2 and we know there's not enough funds to go around  
3 what I think is a billion dollars or more in  
4 claims, we're going to end up with people who used  
5 to have coffee together, used to go to dinner  
6 together, who are friends suing each other. I  
7 can't imagine a worse situation for people to be in  
8 who have suffered as the people in this case.

9 So it's the lawyers that need to make it  
10 happen. When I say "the lawyers," I mean these  
11 great lawyers here have to advise their clients  
12 hopefully to participate in the process. And  
13 therefore, it's important, in my judgment, for any  
14 lawyer who I'm looking at, all of whom are the  
15 best, if they think the process is in any way  
16 faulted, to tell Mr. Tropin and Ms. Furst, can't we  
17 privately do it this way, et cetera.

18 And so I think this can work. The first  
19 decision in what you called the two-step process  
20 sounds very simple. I'm going to make it even  
21 simpler and I'm probably inaccurate. The economics  
22 versus the deaths and the personal injuries, but  
23 it's more complicated than that because, because  
24 people have to understand the natures of the  
25 problems that are there.

1           So I urge, "urge," anybody who doesn't like  
2           the process to talk to Ms. Furst and Mr. Tropin  
3           during that time before they fall out of the  
4           process. There is a moral obligation. And your  
5           Honor, I've practiced 60 years and I've been in  
6           mass torts and I've been in aviation cases with  
7           many, many claims and I could tell you, I could  
8           really tell you, that the lawyer makes a  
9           difference.

10           So every one of you who is a great lawyer who  
11           represents clients, you need to be heard. Your  
12           client has the right to be heard, absolutely, and  
13           we need to buy into the process. And I think  
14           that's an obligation everyone has. And I'm not  
15           going to discuss the law and Mr. Martinez-Cid can  
16           represent my clients as well as anybody and  
17           Mr. Silva and Mr. Grossman and all the great  
18           lawyers here can represent their clients. They've  
19           done it for a lot of years and are very good at it.

20           So my point simply is we need to try to buy  
21           into this process.

22           And I want to make a second point, which I  
23           slightly disagree with what's been said. I think  
24           we've got to multitask here, because time is going  
25           to be our enemy for a lot of reasons that I don't

1 want to get into. We need to build a pot, no Hail  
2 Mary's, but get the people who are responsible to  
3 build a pot. I think we have to do that. It takes  
4 depositions, takes discovery. You can rule on  
5 discovery disputes.

6 The second thing we have to do is to get that  
7 wonderful mediator to start with what you call  
8 Step 1, which I agree with. And you'll pick the  
9 mediator. But the third point is, let's not hold  
10 off too long, your Honor, respectfully, on  
11 gathering the information to Step 2. Let's be  
12 optimistic that we're going to do Step 1 with a  
13 good mediator. It takes 90 and sometimes 120 days  
14 to build the kind of brochure on each of these  
15 personal injury and wrongful death cases. I've  
16 done it for a very long time. It's not going to be  
17 done, people don't gather the information quickly.  
18 They're still suffering; they're still grieving;  
19 they're still upset.

20 And so I think at some point, your Honor, I  
21 urge you, respectfully, to let the process go by.

22 I want to say that, and I guess I'm old enough  
23 to say it, your Honor's handled this thing with the  
24 most compassionate way any judge could handle  
25 anything. And I think all of the lawyers in this

1 case, the great lawyers you've appointed, need to  
2 step up here, participate in the process -- I'm not  
3 telling them how to do it -- and to be a part to  
4 see if we can solve -- there's a story in personal  
5 injury and wrongful death cases that you never stop  
6 going on and living. The grieving never gets over  
7 forever, but until the person is buried and until  
8 the lawsuit is over, you can't go on with your  
9 life. And I believe that, by the way.

10 So as an older person talking to all the  
11 lawyers, let's work together and see if we can make  
12 this happen. I'm sorry for the rah-rah speech, but  
13 I truly believe that's the way it has to go, your  
14 Honor.

15 THE COURT: Mr. Podhurst, you obviously are  
16 amongst the dean of our bar and have a lot of  
17 experience in cases of this nature that involve  
18 mass tragedy. Do you have anything to say about  
19 who the potential mediator might be?

20 MR. PODHURST: Well, I certainly think it's  
21 Step 1, Step 1 --

22 THE COURT: No, no. I'm talking about the  
23 mediator, the person.

24 MR. TROPIN: You're talking about the first  
25 mediator. I call it economics versus wrongful

1 death.

2 THE COURT: Yes, to mediate any allocation  
3 dispute amongst those who lost their units and  
4 amongst those who have wrongful death claims.

5 MR. PODHURST: Well, I think that's two parts  
6 of the process, Judge. I want to make sure I  
7 understand your question correctly.

8 There's going to be what I call a mediator who  
9 is going to say to the condo owners and to the  
10 wrongful death people, here's what I think under  
11 all of the difficult law that's involved. I think  
12 our friends collectively, all of us, all of us  
13 lawyers -- Bruce Greer is a fabulous mediator. I  
14 call him the irreverent Mr. Greer. He's really  
15 very good at what he does and he's really good and  
16 he's one of the best ever.

17 Number two, it has to be some mediator  
18 eventually -- forget the order, I'm going to  
19 obviously leave it to your Honor as to when that  
20 is -- is to make the allocations between personal  
21 injury cases and any other cases, as Mr. Silva has  
22 pointed out, that people are going to make claims  
23 on -- whatever the claims are, they are -- in the  
24 personal injury, wrongful death, et cetera. I  
25 personally think another mediator for you to

1 consider is a person who is retired from the  
2 Supreme Court --

3 THE COURT: I'm not there yet. What you're  
4 talking about -- what you're talking about now is  
5 down the road when we have to start talking about  
6 the value that the law will ascribe to each of  
7 these death cases and how those should be  
8 allocated. I'm not there yet.

9 MR. PODHURST: Okay.

10 THE COURT: I want -- I just want to talk  
11 today about who it is I can appoint that can meet  
12 with the people who lost their property and, thank  
13 God, survived and those who lost their lives and  
14 see whether there's a solution that can be reached  
15 where the property owners can get paid for their  
16 units or something for their units and exit from  
17 this case. That's the mediation I'm contemplating  
18 and what I call Phase 1.

19 MR. PODHURST: My recommendation would be the  
20 same as Mr. Tropin's and Mr. Grossman. I think  
21 Bruce Greer would do an excellent job and is  
22 experienced.

23 THE COURT: Okay. All right. Anybody else  
24 who wishes to address the Court? Any other  
25 counsel?

1 MR. JORGE SILVA: Very briefly, Jorge Silva.

2 THE COURT: Mr. Silva?

3 MR. JORGE SILVA: Our firm wholeheartedly  
4 supports Mr. Greer. Very few people are such  
5 knowledgeable in this area, this unique unchartered  
6 waters, as the Court referenced, and Bruce  
7 undoubtedly would be the person to be able to help  
8 us navigate.

9 THE COURT: All right. Let me say this. I  
10 have a number of mediators that I have appointed  
11 over the years in cases, in particularly complex  
12 cases, and two of my go-to mediators have always  
13 been Mr. Schafer and Mr. Greer. I appoint many  
14 other people, but they're certainly two individuals  
15 that are at the top of my list. I personally think  
16 they're both brilliant lawyers.

17 But I have to say, you know, I've known Bruce  
18 Greer for 35 years or so. I met him as a young  
19 lawyer. I've known him ever since and watched his  
20 work, both as a lawyer and a mediator, and I have  
21 to say that I think he's the most brilliant lawyer  
22 I've encountered and I think he's a highly skilled  
23 mediator.

24 Now, I don't know if Mr. Greer would be  
25 willing to step into this case. It's obviously one



1 that's going to take a lot of time. But given  
2 recommendation of counsel and my confidence that  
3 he's the right person for this Herculean task, I  
4 am, with counsel's permission -- unless anybody  
5 objects, I will reach out to Mr. Greer and see if  
6 he would be willing to take on this assignment,  
7 which is going to be time-consuming and difficult.

8 I agree, I think it's really important, for  
9 all the reasons I've said, to give everyone an  
10 opportunity to try to work these issues out.

11 Now, you know, this is one of those cases,  
12 again, where there's going to have to be  
13 compromise. I've appointed everybody on this team.  
14 Every firm that I appointed in this case has two  
15 things in common. I appointed the law firms that I  
16 know from 35 years of experience are the best.  
17 I've called them the Mount Rushmore of the bar, and  
18 I firmly believe that. I don't think there are any  
19 finer lawyers that could be found to handle this  
20 case. And I'm talking about all of you that are on  
21 this Zoom call. You were appointed for a reason.  
22 It is not fortuitous that I appointed you to be  
23 leadership in this case. It is not by chance. It  
24 is not by happenstance. It was deliberate, and I  
25 did it because I have full confidence in you and I

1 think you're the creme de la creme of the bar.

2 Part of being the creme de la creme of the bar  
3 is not only having litigation talent and the brains  
4 and the instincts and the litigation ability to  
5 handle this case -- you all have that -- but  
6 another very important component of being a member  
7 of our bar is to know when it's time to act as a  
8 counselor and not just an advocate.

9 And so this is one of those moments, ladies  
10 and gentlemen, where lawyers need to put on their  
11 counselor hats and recognize that this community  
12 has suffered a horrendous tragedy, that we have  
13 victims that are in severe pain, need some help and  
14 relief and it's in none of their interests to have  
15 a prolonged allocation fight that will require this  
16 Court to decide at possibly years from now with  
17 resulting appeals and delay the ability of these  
18 victims to be compensated.

19 So I am asking the lawyers who have stepped up  
20 in this case and agreed to do it under a highly  
21 favorable fee arrangement for these victims, I'm  
22 asking you to put on your counselor hats and  
23 continue to do the public service you've been doing  
24 and do everything in your power and use your  
25 significant talents and abilities to try to resolve

1 this issue in a way that will compromise the matter  
2 and not result in a fight amongst the various  
3 victim groups.

4 You know, this is one of those really rare  
5 cases, ladies and gentlemen, where your role as  
6 counselors may be as important, if not more  
7 important, than the litigation skills you bring to  
8 bear here. So unless anybody objects, I'm going to  
9 go ahead and approve this proposed mediation. I  
10 will reach out to Mr. Greer who I do believe is the  
11 best mediator not only here, but there's nobody  
12 better in the country, and I've seen him settle  
13 cases in my division that were unseizable. I  
14 mean, I have seen him do things that I didn't think  
15 any mediator could possibly do. And if there's any  
16 shot of getting a resolution between these various  
17 fashions that will be palatable, I believe he's the  
18 person that can do it.

19 So with your permission, I will reach out to  
20 Mr. Greer today and I will see if he's available to  
21 do this.

22 Now, once we have a mediator in place, the  
23 next question we have to address is who's going to  
24 take the lead in the mediation. Like I said  
25 before, I can't have every lawyer and every victim

1 participating in the mediation because it will be  
2 unwieldy. So we're going to have to select a  
3 subgroup of the leadership structure that I have in  
4 place to take the lead in the mediation.

5 What I'm going to ask you all to do is talk  
6 amongst yourselves over the next week and talk  
7 about who would be the ladies and gentlemen who the  
8 Court would direct to take a lead role in the  
9 mediation working with hopefully Mr. Greer, or if  
10 he's unwilling to serve or unable to serve,  
11 somebody else, and who the client representatives  
12 will be.

13 You all may not know all of your clients  
14 intimately, but you've had a chance to deal with  
15 many of these victims and I would hope that you  
16 will select, you know, two or three people. It  
17 doesn't have to be too large of a group, but two or  
18 three people in each group. You know, some people  
19 who lost only condos and thank God survived, others  
20 who are families who lost loved ones who happened  
21 to own a condo and others who are family members of  
22 those who perished and did not own a condo. I  
23 think all those constituencies need to be at the  
24 table, and I'm going to give you all a week to meet  
25 amongst yourselves and try to get me a team of the

1 lawyers and the clients who the Court will appoint  
2 and instruct to take the lead on this mediation.

3 So I will get back to you after I speak to  
4 Mr. Greer. If he agrees to do so, the way you'll  
5 hear from me is I'm going to enter an order  
6 appointing him. And then when we get together next  
7 week, I'm going to hear from you all as to whether  
8 you have an agreed-upon team to take the lead in  
9 the mediation, and if not, I will make the  
10 appointments at that time and we'll head toward  
11 mediation.

12 Now, obviously, as Mr. Podhurst brought up,  
13 we're proceeding on a dual, if not more than a  
14 dual, track here. This is not a case that's going  
15 to proceed sequentially. We are moving every  
16 aspect of this case forward diligently and  
17 expeditiously. There's nothing about this  
18 mediation that's going to slow down any other  
19 aspect of this case. I expect the plaintiffs to do  
20 their investigation and bring their amended  
21 pleading by mid-November. You all will continue to  
22 work together on behalf of all victims to bring  
23 what you believe to be viable claims against any  
24 parties who may have liability and may have been a  
25 contributing cause of this collapse, and you'll

1 proceed together to try to bring whatever claims  
2 you believe, based upon your detailed investigation  
3 are viable, and secure as much recovery as possible  
4 for these victims, while at the same time trying to  
5 mediate these allocation disputes. And the case  
6 will proceed forward on all fronts, as will the  
7 transactions involving the sale of the land and  
8 other things that we have to deal with as part of  
9 the receivership state.

10 This case is going to move forward in all  
11 directions expeditiously, as I've directed, and the  
12 mediation is just going to be one component of a  
13 multitasking case that is going to proceed at one  
14 time on all fronts.

15 So I will speak to Mr. Greer. I think it's an  
16 excellent suggestion to try to resolve these issues  
17 amongst yourselves, and I'm not going to say this  
18 again, but I am imploring all of the outstanding  
19 lawyers that have been appointed to represent these  
20 victims and implore the victims themselves to  
21 participate in this mediation and do everything  
22 that you can possibly do to avoid the Court having  
23 to address what will be these very difficult  
24 allocation issues years from now. Because I want  
25 to see -- it's been my objective since the

1 beginning, to try to get some compensation in the  
2 hands of these victims as soon as possible. But  
3 like I said before, as active as I have been in the  
4 receivership aspect of the case, in that process, I  
5 have gone as far as I can and now it's up to you  
6 and your clients to try to bring this thing home,  
7 okay?

8 So I'll speak to Mr. Greer and I'll get back  
9 to you with an order and if he's not able or  
10 willing, my order will probably say he's unable and  
11 unwilling and direct you within 48 hours to submit  
12 any other names for consideration and then I will  
13 select somebody else. But I hope Mr. Greer is  
14 willing to do this because like I said before, if  
15 anyone can get this done, I believe it's him.

16 So we'll take it from there.

17 MR. TROPIN: Thank you, Judge. I have one  
18 quick question.

19 THE COURT: Yep.

20 MR. TROPIN: I think that was very clear and  
21 very helpful and we welcome it. To help Ms. Furst  
22 and myself in this, do you have a thought as to the  
23 size of the team that you think would be optimal?  
24 Maybe you don't, but if you do, it would help us as  
25 to mediation.

1 THE COURT: I think a couple of counsel for,  
2 you know, each contingency, maybe a couple of  
3 people that represent, you know, people who lost  
4 condos but thank God survived, maybe a couple of  
5 lawyers whose client base -- or who have clients  
6 that were visitors for non-owners, and then maybe a  
7 couple of lawyers who have clients in both groups.  
8 You know, I'm not going to put a number on it. But  
9 if we get more than six to eight lawyers involved  
10 in this, it's going to become unwieldy. I would  
11 like you to try to work within those parameters.  
12 And then, of course, a couple of clients from each  
13 respective group.

14 MR. TROPIN: Thank you. That's helpful.

15 THE COURT: Mr. Goldberg?

16 MR. GOLDBERG: Yes. First, your Honor, I too  
17 have had major cases that Mr. Greer has mediated  
18 and has pulled a rabbit out of a hat, totally  
19 bringing the parties together, and I fully support  
20 that. If it helps you to entice him at all to take  
21 this task on, you can assure him that we will  
22 provide him whatever documents he needs and  
23 whatever information to get up to speed, because  
24 it's certainly going to be a significant task ahead  
25 of him, and also as the impartial neutral in this



1 case, my firm has conference facilities that can  
2 certainly accommodate anything in Miami right by  
3 the Court and we're happy to make those available.

4 THE COURT: So Mr. Goldberg, let's talk about  
5 your role, if any, in this mediation. You  
6 represent the association. Your obligation is to  
7 control that entity and advance whatever defenses  
8 and claims that entity may have, including whatever  
9 that's assessment powers are or may be.

10 Do you believe that having you involved in  
11 this mediation a kind of a neutral, that is an arm  
12 of the Court, to facilitate with information and  
13 have discussions with the lawyers and the mediator,  
14 do you believe that your involvement would help  
15 facilitate a resolution?

16 MR. GOLDBERG: In the end, your Honor, I view  
17 my role as eventually somewhere down the line the  
18 Court's going to say write a check to somebody and  
19 that's what I view my role is. Right now we have a  
20 huge interest in seeing the parties come together.  
21 We do personally think -- or I personally think  
22 it's the only way the case will move forward in a  
23 productive and quick fashion. And we offer  
24 whatever information we have -- we're controlling  
25 the ESI database. Whatever information or input we

1 can have to assist that, we are happy to assist any  
2 and all parties, the plaintiffs, the varying  
3 groups, and Mr. Greer, because we are routing for  
4 an amicable resolution of this case because we too  
5 think it's in the best interest of the victims. So  
6 whatever role anybody wants us to take, as much or  
7 as little, we'll be happy to do, but we want to  
8 help the parties come together.

9 THE COURT: Okay. All right. So as soon as  
10 we're done with this hearing, I will reach out to  
11 Mr. Greer. I'll enter an order of appointment,  
12 assuming he's willing and able to do it. If not,  
13 I'll advise you of that and gather from you some  
14 other names. Mr. Schafer's been put out. I have  
15 great respect for him. And there may be others  
16 that you all suggest.

17 So we'll take care of that today. I think  
18 it's an important process to get started on right  
19 away. And the reason the Court raised these issues  
20 last week and wanted your thoughts is because I  
21 don't want this process to only start beginning  
22 when we could be making a distribution. I want to  
23 get this started. I am hopeful that this land sale  
24 will close or that there will be even higher  
25 bidders and I would like to be in a position, if

1 there is an agreement, once that sale closes and we  
2 have those proceeds and the insurance proceeds, if  
3 there's an agreement that can be reached as to what  
4 should be paid for these condos, it may be possible  
5 to let those people get their payment for their  
6 units and exit this case and then we can focus on  
7 the other claims that are going to have to persist,  
8 including litigation claims that will be brought  
9 for the benefit of only those other victims, if the  
10 economic-only people can be removed from the  
11 lawsuit.

12 So you all go take your best shot. And I  
13 appreciate your willingness to do it and again, I  
14 know that all of you who I have put my confidence  
15 in, the Court knows that you will do everything you  
16 can to counsel your clients and try to reach a  
17 resolution. So I appreciate that.

18 All right. So I've now heard from class  
19 counsel. I assume you all are on track for -- your  
20 investigation is ongoing, you're going to file your  
21 amended pleading sometime around mid-November. Is  
22 that still the time frame you're working under,  
23 Mr. Tropin? Ms. Furst?

24 MR. TROPIN: It is.

25 MS. FURST: Yes, your Honor.

1 MR. TROPIN: If we ask for an extension, I'll  
2 ask Ms. Furst to ask for it.

3 THE COURT: That's probably a very good idea.

4 MR. TROPIN: Kidding, Judge, kidding. We're  
5 going to do everything we can to meet that  
6 deadline.

7 THE COURT: All right. So I've now heard from  
8 the receiver and class counsel. Let me turn to any  
9 defense counsel or insurance counsel and ask them  
10 whether there's anything they would like to address  
11 with the Court during this morning's status  
12 conference.

13 All right. Anything that anybody wants to  
14 report for me? I know Mr. Kadre may be here. I  
15 don't know if Mr. Beretto is here. Is there any  
16 news to report on any relief that's being pursued  
17 for these victims on the governmental front or  
18 charitable front?

19 MR. KADRE: Hey, Judge, good morning.  
20 Mr. Goldberg and I and Mr. Beretto have had a  
21 number of engagements with Senator Rubio's office,  
22 Congressman Wasserman Schultz's office. They are  
23 right now gathering information.

24 Candidly, they are struggling with a lot of  
25 issues that the Court is struggling with how much

1 overall recovery from insurance companies, et  
2 cetera, will be, but they are moving along the  
3 lines of getting ready to provide us some  
4 information vis-a-vis mortgage forgiveness and  
5 victims fund relief. But they are very anxious to  
6 know what the total pot of recovery will be so that  
7 they can engage government.

8 So that is where we are.

9 THE COURT: Mr. Kadre, I think you can tell  
10 them with relative confidence that the value of  
11 these claims -- again, absent something the Court  
12 is unaware of, the value of these claims and the  
13 losses that are going to be suffered by these  
14 victims in the aggregate, for both loss of property  
15 and loss of life, will greatly exceed any likely  
16 recovery. These people are going to be left with a  
17 significant shortfall, from what I've seen so far,  
18 and I think you can confidently tell these  
19 government leaders that they should be able to  
20 proceed under that assumption.

21 Because I think whatever relief we can get  
22 from government sources is going to be extremely  
23 helpful. Whether it be mortgage relief, whether it  
24 be some other type of relief, whatever we can get  
25 is going to be extremely needed and helpful. So

1 please keep up your efforts and see if there's any  
2 possibility of mortgage relief which may assist in  
3 the mediation process here that we've discussed or  
4 any other relief that may be available for these  
5 victims.

6 And I, again, appreciate your service. I know  
7 you and Mr. Beretto have worked with Mr. Goldberg  
8 and that you're diligently talking to our leaders  
9 in government to try to get these folks anything  
10 that you can possibly recover for them.

11 So thanks again for stepping up.

12 MR. KADRE: Thank you.

13 THE COURT: All right. So is there any news  
14 that can be provided to the Court by the County or  
15 the Town of Surfside? I know the County asked to  
16 look into a couple of issues last time we met.  
17 Anything that you all want to advise the Court of  
18 this morning, Ms. Morse?

19 MS. MORSE: Yes, your Honor, good morning.  
20 You asked us to look into the issue of the tax  
21 bills for 2021. We looked into that issue and it's  
22 our understanding that the governor issued an  
23 executive order, 21-160, that was subsequently  
24 extended which suspended certain deadlines for the  
25 county.

1           While it doesn't eliminate property taxes,  
2           what it does is we didn't send out TRIM notices, we  
3           didn't collect notices for ad valorem and non-ad  
4           valorem assessments, and the governor waived  
5           deadlines for paying property taxes. Basically, it  
6           seems like the legislature is the one that needs to  
7           make a final decision on what would happen with the  
8           2021 taxes, but with these deadlines waived, the  
9           County will not be assessing or attempting to  
10          collect property taxes for 2021 on the Surfside  
11          property.

12          THE COURT: So I basically need to ask  
13          Mr. Kadre and Mr. Beretto to go to the legislature  
14          and get a waiver of any property taxes, right?

15          MS. MORSE: Yes, your Honor.

16          THE COURT: Okay. But in the meantime, no tax  
17          obligations are being enforced and no liens are  
18          being placed on the proceeds of any unit, correct?

19          MS. MORSE: Right. And your Honor, I would  
20          clarify that it's for the individual units. The  
21          property taxes on the land, I believe, are still in  
22          place, but not necessarily being collected or  
23          enforced.

24          THE COURT: So hold on. Was -- the county was  
25          receiving -- when condos are -- from condominiums,

1 the county receives both property taxes on the  
2 units and as well as additional property taxes on  
3 the land?

4 MS. MORSE: Your Honor, that's my  
5 understanding.

6 THE COURT: I'm asking because I've never  
7 heard that before. I've never heard of ad valorem  
8 taxes being assessed on the land. I mean, when I  
9 pay the taxes for my home that are assessed, I pay  
10 it on the value of my home. I've never seen a bill  
11 for pay X for the value of your home and then Y for  
12 the value of the land that your home sits on.

13 MR. GOLDBERG: Your Honor, unless there was  
14 separate what we call, or defined as, quote,  
15 association property owned by the association, I  
16 think the land would pass through to the unit  
17 owners. That's my understanding, but if there was  
18 separate association property, which I'm not aware  
19 of any, then there could be a tax billed to the  
20 association, but I'm not aware of any separate tax  
21 to the association. I'm not telling you it's not  
22 there, but I just think it passes through to each  
23 individual unit owner in their indivisible share.

24 THE COURT: So the bottom line is if there's  
25 going to be relief from the tax obligation, it has



1 to come from Tallahassee, but the County's telling  
2 me that they're making no effort to enforce any  
3 obligations or to lien any property or proceeds  
4 thereof, correct, Ms. Morse?

5 MS. MORSE: Yes, your Honor.

6 THE COURT: Okay. Anybody -- Ms. Arango,  
7 anything you'd like to report from the prospective  
8 of the Town of Surfside?

9 MR. RECIO: Your Honor, Tony Recio on behalf  
10 of The Town of Surfside. One small issue. The --  
11 last week your Honor permitted Mr. Goldberg, the  
12 receiver, to sign some permits regarding the  
13 installation of pumps for drain to the site. The  
14 site currently has some level of inundation and  
15 we're trying to get the water out of that to allow  
16 the investigations to continue.

17 We're concerned about that for many reasons,  
18 but it would allow the investigation to continue.  
19 It's a bit of a public health issue with standing  
20 water, and we'd like the -- we facilitated and  
21 worked with Mr. Goldberg to have that drainage go  
22 into town storm water drains.

23 So in terms of -- it would also -- it may also  
24 impact the materials that are on the site if the  
25 standing water's allowed to remain. We'd like to

1 move forward with that. Unfortunately, we  
2 attempted to this week and the County would not  
3 allow our -- the pump installers to access the  
4 site. And we'd like to get some resolution of  
5 that, if it's in any way possible.

6 THE COURT: Well, how can I assist? It seems  
7 a little bit beyond my jurisdictional lane here,  
8 but Mr. Goldberg, is there anything the Court can  
9 do to assist in facilitating that process?

10 MR. GOLDBERG: Your Honor, I'm fully aware of  
11 the issue and the County will be giving me  
12 possession of the land, I'm told, in two weeks.  
13 The fence is going up and the arrangements are  
14 being made. Notwithstanding that, the County and I  
15 will speak after this hearing and we plan to speak  
16 to discuss a potential resolution to the issue. So  
17 we'll work with Mr. Recio. I speak with  
18 Mr. Kilsheimer often and I'll speak with the County  
19 and we'll try to get it resolved.

20 THE COURT: All right. Thank you, Counsel.  
21 All right. So do any other counsel -- before  
22 I open the floor briefly to see if any family  
23 members or victims would like to address any  
24 concerns with the Court, do any other counsel have  
25 anything they'd like to bring up with the Court

1 today at this status conference?

2 Okay. All right. So I know we have a number  
3 of people here who may have some questions or  
4 concerns about some of the matters discussed today.  
5 I'm not going to open the floor extensively to  
6 discuss issues or debate allocation things or  
7 matters of that nature. So I'm going to cut that  
8 off if it begins to happen. I'm not going to allow  
9 victims to state their position and argue against  
10 one another during these hearings.

11 The Court's been very liberal, unusually  
12 liberal, about allowing people affected to be heard  
13 directly as opposed to through their lawyers. I'm  
14 going to continue to do that as long as the process  
15 is not abused, but I want to make it clear to the  
16 victims that I'm not going to be opening up the  
17 forum today for people to debate or argue their  
18 particular points of view on allocation issues and  
19 things of that nature. I'm opening it primarily  
20 for people to advise the Court if they're having  
21 any difficulty with, you know, matters involving  
22 their loved ones or other matters that I can help  
23 them facilitate that are not victim versus victims.

24 So be aware of that, folks. And if you begin  
25 to advocate those positions, I'm going to cut you

1 off and put you on mute. So do not, do not take  
2 the opportunity today to urge the Court or advise  
3 the Court of your point of view. I understand,  
4 I've heard loud and clear that different people  
5 have different points of view as to, you know,  
6 who's at fault and who should be at the front of  
7 the line and who shouldn't be, and I'm not  
8 interested in hearing anything further on that  
9 today, nor will I.

10 So having said that, let me now open the floor  
11 and see if there are any victims or family members  
12 that would like to address the Court on matters  
13 that may be of common concern to all of our  
14 victims.

15 Okay. I don't hear anybody.

16 MR. RODRIGUEZ: Judge, good morning.

17 THE COURT: Yes, Mr. Rodriguez.

18 MR. RODRIGUEZ: Good morning, your Honor. I'm  
19 the brother of Raysa Rodriguez. As far the  
20 mitigation process and the leads that you're going  
21 to select for that, I'd just like to put my effort  
22 in getting Adam Moskowitz to be one of the people  
23 to lead in that litigation. We really liked Adam  
24 and we trust him wholeheartedly, so I just wanted  
25 to put that out there. Thank you.

1 THE COURT: Thank you, Mr. Rodriguez. And let  
2 me say this: If there are victims who are here  
3 today that feel they would like to participate in  
4 the mediation process, and that they could be  
5 productive members of that team, reach out to your  
6 lawyers and advise them of your desire to  
7 participate in the mediation so they can propose  
8 that you participate.

9 All right. Any other victims or family  
10 members that would like to be heard on matters of  
11 common concern? Mr. Rodan?

12 MR. RODAN: Thank you, your Honor. David  
13 Rodan.

14 I would like to ask -- possibly, this was  
15 explained last week, but I know a lot of the people  
16 involved, victims both from the property side and  
17 the wrongful death don't fully understand it. What  
18 is the status of the sale of the land that was  
19 approved last week? What are the time frames, and  
20 most importantly, I know you requested that we have  
21 some clauses included in that contract to exit in  
22 the case that we manage to find a better  
23 alternative, and I would like to understand that  
24 once again. And I'm sorry if this was already  
25 explained last week, but I know for a lot of us, it

1 was initially --

2 THE COURT: Well, Mr. Rodan, the general  
3 parameters are we now have a contract that's been  
4 signed. The buyer has a short period of time to do  
5 their investigation or due diligence and exit the  
6 contract, should they desire to do so. They'll  
7 exit with having paid a small penalty for exiting.  
8 Once that 60-day period expires, their deposit goes  
9 what we call hard, meaning it becomes  
10 non-refundable, and we proceed with the auction  
11 process that I have -- that I am going to approve  
12 this morning and see if we get any higher bids. If  
13 we do, the receiver has the right to sell to the  
14 higher bidders or whatever transaction he believes  
15 in his judgment is more favorable.

16 If we don't get higher bids or any transaction  
17 the receiver believes in his judgment to be more  
18 favorable than the existing contract, then that  
19 contract will be closed and the funds from that  
20 contract will go into the receivership estate and  
21 distributed in accordance to whatever agreement is  
22 reached or whatever allocation is eventually  
23 ordered by the Court. So that's where we are.

24 All right. Any other comments or questions or  
25 concerns any victims would like to address with the

1 Court?

2 All right. Thank you all for being here this  
3 morning.

4 Now, on a final note, I am going to schedule a  
5 status next Wednesday. I think it's important that  
6 we have these weekly meetings to keep everything  
7 moving and not have any delay. I may go back to  
8 live hearings next week. I haven't decided. I'm  
9 going to see what the situation -- what the Covid  
10 situation is and whether we're still under a mask  
11 mandate. So for the present purposes, we're going  
12 to schedule next week at 9:00 by Zoom, but if later  
13 in the week or early next week the Court decides to  
14 begin having these conferences in person, I will  
15 let you know. So there is a possibility that next  
16 week we'll be live.

17 All right. Thank you all. I will speak to  
18 Mr. Greer and get back to you promptly and I look  
19 forward to seeing you next week. Thank you for  
20 your time this morning.

21 MR. TROPIN: Thank you, your Honor.

22 MS. FURST: Thank you, your Honor.

23 MR. GOLDBERG: Thank you, your Honor.

24 THE COURT: Court is in recess.

25 (The proceedings were concluded at 11:02 a.m.)

C E R T I F I C A T E

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Wendy Beath Anderson, Certified Realtime Reporter, State of Florida at large, certify that I was authorized to and did stenographically report the foregoing remote proceedings and that the transcript is a true and complete record of my stenographic notes.

Dated this 15th day of October, 2021.



Wendy Beath Anderson, RDR, CRR, CRC

Job #J7507258