

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

COMPLEX BUSINESS
LITIGATION DIVISION

CLASS REPRESENTATION

CASE NO. 2021-015089 CA 01

IN RE: CHAMPLAIN TOWERS SOUTH
COLLAPSE LITIGATION

JOINT REPORT REGARDING LITIGATION AND SETTLEMENT INFORMATION

Defendants 8701 Collins Development, LLC; Terra Group, LLC; Terra World Investments, LLC; John Moriarty & Associates of Florida, Inc.; NV5, Inc.; DeSimone Consulting Engineers, LLC; Morabito Consultants, Inc.; and Becker & Poliakoff, P.A. (collectively, “Defendants”), Receiver, Michael Goldberg, on behalf of Champlain Towers South Condominium Association, and Plaintiffs Raquel Azevedo de Oliveira, as personal representative of the Estates of Alfredo Leone and Lorenzo de Oliveira Leone; Kevin Spiegel, as personal representative of the Estate of Judith Spiegel; Kevin Fang, as personal representative of the Estate of Stacie Fang; Raysa Rodriguez; and Steve Rosenthal (collectively, “Plaintiffs”) jointly file this Report Regarding Litigation and Settlement Information, as directed by this Court’s Order entered January 10, 2022. The Parties have conferred and submit the below responses as required by the Order:

A. The likelihood of settlement between Plaintiffs (collectively) and each Defendant

1. 8701 Collins Development, LLC:

The Court has ordered 8701 Collins to participate in mediation within 120 days, and it will do so in good faith. However, likelihood of settlement cannot be determined until the parties' respective positions are explored.

2. Terra Group, LLC; Terra World Investments, LLC:

TWI's only involvement was entering into a contract for the purchase of the 8701 Collins Property, and assigning that contract to 8701 Collins Development, LLC *prior to closing*. Therefore, the likelihood of settlement is low.

TG had no involvement, and therefore, the likelihood of settlement is low.

For the reasons set forth above, any reference to "Terra Defendants" in any other parties' responses to this Court's Sua Sponte Order is incorrect and inappropriate. In this regard, please see the Motions to Dismiss filed by TWI and TG.

3. John Moriarty & Associates of Florida, Inc.:

The likelihood of settlement between Plaintiffs and JMAF cannot be reasonably determined at this stage, as the factual and expert investigation and discovery is in its nascent stages. JMAF strongly rejects any allegations that its activities constructing 87 Park was a legal cause of the collapse of CTS.

4. NV5, Inc.:

The likelihood of settlement cannot be ascertained at this time as the allegations against NV5 cannot be determined with any specificity given the co-mingling of claims in the Consolidated Second Amended Class Action Complaint and the paucity of ultimate facts with respect to NV5, which deficiencies are the subject of several motions to dismiss.

5. DeSimone Consulting Engineers, LLC:

The likelihood of settlement cannot be ascertained at this time as the allegations against DeSimone cannot be determined with any specificity given the co-mingling of claims in the Consolidated Second Amended Class Action Complaint and the paucity of ultimate facts with respect to DeSimone, which deficiencies are the subject of several motions to dismiss.

6. Morabito Consultants, Inc.:

MCI initiated good-faith settlement discussions with Plaintiffs shortly after the Court entered its Order appointing class counsel and its leadership. MCI has provided plaintiffs information that plaintiffs' counsel requested to evaluate settlement and plaintiffs recently made a firm settlement demand upon MCI. MCI and its professional liability insurer, AEIC, are prepared to enter a settlement for the remainder of the AEIC policy limits provided that such a settlement fully

protects MCI from any and all further uninsured exposures. The parties will pursue this framework and are optimistic that, with the assistance of the mediator and the Court, such a resolution can be achieved.

7. Becker & Poliakoff, P.A.:

It is difficult to assess the likelihood of settlement at this point, given the nature of the claims asserted, the legal defenses, and the magnitude of the damage. However, Becker proposed an early mediation, to commence on February 8, with the expectation that the parties would negotiate a prospective resolution in good faith. The carriers, the Class and the Receiver have agreed.

8. Receiver, Michael Goldberg, on behalf of Champlain Towers South Condominium Association:

Terra Defendants:

Uncertain at this time.

John Moriarity & Associates of Florida, Inc.:

Likely, based on the discussion and representations made at the January 14, 2022, Status Conference. The comparatively low amount of insurance and the objective damages resulting from the CTS collapse, including both personal injury and property damages militate towards an early settlement.

NV5, Inc.:

Likely, based on the discussion and representations made at the January 14, 2022, Status Conference. The comparatively low amount of insurance and the objective damages resulting from the CTS collapse, including both personal injury and property damages militate towards an early settlement.

DeSimone Consulting Engineers, LLC:

Likely, based on the discussion and representations made at the January 14, 2022, Status Conference. The comparatively low amount of insurance and the objective damages resulting from the CTS collapse, including both personal injury and property damages militate towards an early settlement.

Morabito Consultants, Inc.:

Likely, based on the discussion and representations made at the January 14, 2022, Status Conference. The comparatively low amount of insurance and the objective damages resulting from the CTS collapse, including both personal injury and property damages militate towards an early settlement.

Becker & Poliakoff, P.A.:

Possible. The mediation with the Receiver, the Plaintiffs and Becker & Poliakoff is scheduled to take place on February 8, 2022.

9. Plaintiffs:

Plaintiffs agree with the Receiver's assessment of the likelihood of settlements.

B. The likelihood of appearance in the action of additional parties and identification of any nonparty to whom any of the parties may seek to allocate fault

1. 8701 Collins Development, LLC:

8701 Collins is currently assessing the likelihood of allocating fault to any other defendant or nonparty. At this point, potential non-parties to which fault may be attributed include the original CTS developers, engineers, design professionals, contractors, and consultants. Members of the Board, and depending on their conduct, some unit owners or other CTS decision makers may also be appropriate Fabre defendants. As additional information is developed, 8701 Collins will supplement this response, if necessary.

2. Terra Group, LLC; Terra World Investments, LLC:

Currently, TG and TWI cannot realistically assess the likelihood of allocating fault to any other defendant or nonparty at this time.

3. John Moriarty & Associates of Florida, Inc.:

It is highly likely that additional parties will be added, or fault allocated to non-parties. This may include, but not be limited to, the Town of Surfside, the City of Miami Beach, Brieterman Jurado & Assoc., William M. Friedman & Assoc., Nattel Construction, Inc., Jorge Batievsky and Alfred Weisbrod, Association board members and/or unit owners, Premier Fire Alarms & Integration, Inc., ASAP Installations, Inc., Florida Civil, Inc., GeoSonics USA, Inc., Fortin, Leavy, Skiles, Inc., Campany Roof Maintenance Roofing Division, LLC, A. Tomassi Roof Testing, Inc., Essig Pools, Inc., J Le Electric, LLC, Randall Fowler Engineering, Inc., Rhett Roy Landscape Architecture, LLC, Roof Surveys, Inc., Securitas Security Services USA, Inc., JJI Supply, LLC, Scott R. Vaughn, PE, LLC, SmartLink, LLC, Complete Pump Service Co., Inc., Reinforced Structures, Inc., Craig A. Smith & Assoc., Can-Fla Development, Sannat Investments, Inc., Kobi Karp Architecture and Interior Design, Inc., Scott D. Dyer, P.A., H. Vidal & Associates, Inc., Keller Group, PLC, HJ Foundation Co., Thomas E Henz, PE, Inc., Western Waterproofing Company, Inc., Wilcott Engineering, Inc., Concrete

Protection & Restoration, Inc., Irish Tower, LLC, O&S Associates, Inc., Reinforced Structures, Inc., CDPW, Inc., City Engineering Contractors, Inc., West 8 Urban Design & Landscape Architecture, PLLC.

JMAF does not know the identity or role of all non-parties who may be at least partially responsible for the Plaintiffs' damages, including: (a) all other nonparty owners, developers, architects, design consultants, engineers, contractors, subcontractors and other persons or entities involved in the construction of CTS and/or repair work performed at CTS; (b) all nonparty persons and entities involved in renovations of buildings adjacent to CTS; (c) all nonparty persons and entities involved in the Surfside beach re-nourishment project(s); and (d) all nonparty persons and entities involved in any vibration-generating activity on or near the vicinity of CTS from the date the building was constructed up to and including the date of the collapse on June 24, 2021. JMAF reserves the right to identify additional nonparties to whom it may seek to allocate fault as discovery proceeds, evidence is made available and further facts become known and/or evaluated.

4. NV5, Inc.:

Breiterman Jurado & Associates, Consulting Engineers; William M. Friedman & Associates Architects, Inc.; Nattel Construction, Inc.; Can-Fla Development; Sannat Investments, Inc.; Stantec Architecture, Inc.; Kobi Karp Architecture and Interior Design, Inc.; ASAP Installations, Inc.; GeoSonics USA, Inc.; Florida Civil, Inc.; Fortin, Leavy, Skiles, Inc.; Town of Surfside; City of Miami-Beach; Scott D. Dyer, P.A; H. Vidal & Associates, Inc.; Campany Roof Maintenance Roofing Division, LLC; A. Tomassi Roof Testing, Inc.; Essig Pools, Inc; J Le Electric, LLC; Keller Group PLC; Premier Fire Alarms & Integration, Inc., Randall Fowler Engineering, Inc.; Rhett Roy Landscape Architecture, LLC; Roof Surveys, Inc.; Securitas Security Services USA, Inc.; Thomas E. Henz, PE, Inc.; Western Waterproofing Company, Inc.; Willcott Engineering, Inc; CEI, LLC; Concrete Protection and Restoration, Inc.; Greg Batista, PE; Irish Tower, L.L.C.; JJI Supply, LLC; M.J. Harrison Leasing, Inc. d/b/a Harrison Crane Service; O&S Associates, Inc.; Randall Fowler Engineering, Inc.; Sammet Pools, Inc.; Scott R. Vaughn, PE, LLC; Smartlink, LLC; Craig A. Smith and Associates, Inc.; Complete Pump Service Co., Inc.; Reinforced Structures Inc. NV5 reserves the right to supplement this response as discovery progresses and to incorporate any nonparties identified by any parties to this matter.

5. DeSimone Consulting Engineers, LLC:

Breiterman Jurado & Associates, Consulting Engineers; William M. Friedman & Associates Architects, Inc.; Nattel Construction, Inc.; Can-Fla Development; Sannat Investments, Inc.; Stantec Architecture, Inc.; Kobi Karp Architecture and Interior Design, Inc.; Holdings Limited; ASAP Installations, Inc.; GeoSonics USA, Inc.; Florida Civil, Inc.; Fortin, Leavy, Skiles, Inc.; Town of Surfside; City of Miami-Beach; Scott D. Dyer, P.A; H. Vidal & Associates, Inc.; Campany Roof

Maintenance Roofing Division, LLC; A. Tomassi Roof Testing, Inc.; Essig Pools, Inc.; J Le Electric, LLC; Keller Group PLC; Premier Fire Alarms & Integration, Inc.; Randall Fowler Engineering, Inc.; Rhett Roy Landscape Architecture, LLC; Roof Surveys, Inc.; Securitas Security Services USA, Inc.; Thomas E. Henz, PE, Inc.; Western Waterproofing Company, Inc.; Willcott Engineering, Inc; CEI, LLC; Concrete Protection and Restoration, Inc.; Greg Batista, PE; Irish Tower, L.L.C.; JJI Supply, LLC; M.J. Harrison Leasing, Inc. d/b/a Harrison Crane Service; O&S Associates, Inc.; Randall Fowler Engineering, Inc.; Sammet Pools, Inc.; Scott R. Vaughn, PE, LLC; Smartlink, LLC; LLC; Craig A. Smith and Associates, Inc.; Complete Pump Service Co., Inc.; Reinforced Structures Inc. DeSimone reserves the right to supplement this response as discovery progresses and to incorporate any nonparties identified by any parties to this matter.

6. Morabito Consultants, Inc.

Breiterman Jurado & Associates; Nattel Construction, Inc.; Western Waterproofing Company of America; Nonparty unit owners of CTS and/or CTS board members; The Town of Surfside and its officials and employees.

7. Becker & Poliakoff, P.A.

Becker cannot realistically assess the likelihood of allocating fault to any other defendant or nonparty at this time, given the early stage of assessment concerning the cause of the collapse. Undoubtedly, as those issues become clear, the likelihood of an allocation of fault as to both existing defendants and nonparties will become more likely. Becker therefore reserves the right to supplement this response as discovery progresses.

8. Receiver, Michael Goldberg, on behalf of Champlain Towers South Condominium Association:

Breiterman Jurado & Associates; CEI, LLC; Champlain Towers South Associates (Liquidated), G.P.; Managing partners: CAN-FLA Development, Inc. (dissolved 11/9/1990); SANNAT Investments, Inc. (dissolved 10/13/1989); Nathan Reiber (deceased) and Stephen Gonda, were the President and Secretary, respectively, of CAN-FLA Developments, Inc.; Concrete Protection and Restoration, Inc.; Greg Batista, PE; Irish Tower, LLC; JLE Electric, LLC; JJI Supply; MJ Harrison Leasing; Nattel Construction, Inc. (owned by Nathan Reiber); O&S Associates; Randall Fowler Engineering, Inc.; Sammet Pools, Inc.; Scott R. Vaughn, PE, LLC; Smartlink, LLC; Tanenbaum Harber of Florida, LLC; Tong Lee P.E. Western Waterproofing Protection; William Friedman & Associates Architects, Inc.

9. Plaintiffs:

Plaintiffs agree with the Receiver's identification of potential additional parties, with the addition of the Town of Surfside.

C. The name of lead counsel responsible for handling this action on behalf of each Defendant

1. 8701 Collins Development, LLC:

Greenberg Traurig, P.A.
Michael Thomas, Christopher Barnett
333 S.E. 2nd Avenue, Suite 4400
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Telephone: (305) 579-0506
thomasmic@gtlaw.com; barnettch@gtlaw.com

David Weinstein
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Tampa, FL 33602
Telephone: (813) 318-5700
weinsteind@gtlaw.com

2. Terra Group, LLC; Terra World Investments, LLC:

Greenberg Traurig, P.A.
Michael Thomas, Christopher Barnett
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Miami, Florida 33131
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Coffey Burlington, P.L.
Paul J. Schwiep, Scott A. Hiaasen
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Miami, Florida 33133
Telephone: (305) 858-2900
PSchwiep@CoffeyBurlington.com; SHiaasen@CoffeyBurlington.com

3. John Moriarty & Associates of Florida, Inc.:

Jonathan E. Kanov, Esq.
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jekanov@mdwgcg.com

Seth Schimmel, Esq.
Phelps Dunbar
100 N Ashley Dr.
Suite 2000
Tampa, FL 33602

4. NV5, Inc.:

George Truitt and Ryan Charlson
Cole, Scott & Kissane
9150 S Dadeland Blvd, Suite 1400
Miami, Florida

5. DeSimone Consulting Engineers, LLC:

Michael K. De Chiara and Jaimee L. Nardiello
Zetlin & De Chiara LLP
801 Second Avenue, 16th
New York, NY 10017
212-682-6800
MKD@zdlaw.com; jnardiello@zdlaw.com

6. Morabito Consultants, Inc.:

David M. Wells, Esq.
1 Independent Drive, Suite 2300
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600 Brickell Avenue, Suite 3500
Miami, Florida 33131
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7. Becker & Poliakoff, P.A.:

Robert M Klein
Klein, Park & Lowe
9130 S. Dadeland Blvd., Suite 2000
Miami Florida, 33156
kleinr@kleinpark.com
305 – 670 – 3700

8. Receiver, Michael Goldberg, on behalf of Champlain Towers South Condominium Association:

For the Receiver's claims against all parties other than Becker & Poliakoff:
Akerman, by:
Andrew P. Gold
Brenda Radmacher
Christopher S. Carver

For the Receiver's claims against Becker & Poliakoff:
Berger Singerman, by:
Paul Steven Singerman
Anthony J. Carriuolo

9. Plaintiffs:

N/A

D. A preliminary estimate of the time required for trial

1. 8701 Collins Development, LLC:

12–20 weeks for liability and damages, depending on structure of damages trials.

2. Terra Group, LLC; Terra World Investments, LLC:

12–20 weeks for liability and damages, depending on structure of damages trials.

3. John Moriarty & Associates of Florida, Inc.:

We would preliminarily estimate that a class trial limited to liability between the parties presently involved in the case would take between 12-16 weeks.

4. NV5, Inc.:

8 weeks

5. DeSimone Consulting Engineers, LLC:

8 weeks

6. Morabito Consultants, Inc.:

7. Becker & Poliakoff, P.A.:

12 to 16 weeks

8. Receiver, Michael Goldberg, on behalf of Champlain Towers South Condominium Association:

Liability only: 4-6 weeks. Liability and damages: 12-14 weeks

9. Plaintiffs:

Liability only: 4-6 weeks.

E. A good faith estimate of the total attorney's fees and costs to be incurred by each party (or its insurers) through trial and potential appeals

1. 8701 Collins Development, LLC:

8701 Collins objects to this request as it requests information that is or may be protected by the attorney client privilege and work product doctrine. However, it will provide this information in camera or under seal in the Court's discretion.

2. Terra Group, LLC; Terra World Investments, LLC:

TG and TWI object to this request as it requests information that is or may be protected by the attorney client privilege and work product doctrine. However, they will provide this information in camera or under seal in the Court's discretion.

3. John Moriarty & Associates of Florida, Inc.:

JMAF will provide this information in camera to the Court, as it has concerns that the information is protected by attorney-client and work product privileges.

4. NV5, Inc.:

\$1.7 million

5. DeSimone Consulting Engineers, LLC:

DeSimone's best estimate is a potential range of costs and fees to be in the approximate range of \$3 million to \$5 million subject to adjustment.

6. Morabito Consultants, Inc.:

MCI estimates that the total attorneys' fees and costs that it will incur to pursue this matter through trial will exceed Two Million Dollars (\$2,000,000).

7. Becker & Poliakoff, P.A.:

Becker estimates that it will incur \$4-5 million in fees and costs, assuming the case is tried, and including appeals.

8. Receiver, Michael Goldberg, on behalf of Champlain Towers South Condominium Association:

\$5-7 million through trial; \$500,000 - \$1 million for post-trial appeals.

9. Plaintiffs:

Plaintiffs are represented by counsel appointed by the Court to lead the putative class action on the condition that they do so without a legal entitlement to receive any attorneys' fees and recognizing the possibility that they will not be compensated for the time expended in this case. As reflected in the Court's August 29, 2021 Case Management Order, the Court may determine – in its sole discretion—that an award of attorneys' fees for authorized common benefit work will be paid. To date, Plaintiffs' appointed counsel have expended more than 5,200 hours working on matters on behalf the putative classes. At this relatively early stage of the litigation, it is difficult to estimate the total number of hours that may be required, but Plaintiffs' appointed counsel anticipate that more than 30,000 hours will be expended through the trial scheduled for March 2023.

Respectfully submitted,

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

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By: /s/Jonathan Kanov

Jonathan E. Kanov, Esq.

Florida Bar Number 091413
Matthew J. Wildner, Esq.
Florida Bar Number 085580
JEKanov@mdwcg.com;
MJWildner@mdwcg.com;

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that a true and correct copy of the foregoing has been provided via Florida's E-filing Portal and/or electronic mail to all parties of record, on this 19th day of January, 2022.

By: /s/*Jonathan Kanov*
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Matthew J. Wildner, Esq.
Florida Bar Number 085580