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Navillus Receives Approval to Exit Bankruptcy

By [Betsy Kim](#) | October 15, 2018 at 04:00 AM

- NEW YORK CITY—Navillus was granted approval to exit Chapter 11 bankruptcy protection. The construction company reached a settlement with union benefit funds and trustees in August. This was approved by Judge Sean H. Lane on Thursday. The construction company has agreed to pay \$25.7 million in a single payment by the end of the month to the union parties, according to the attorney representing the funds, Thomas Kennedy of Cohen, Weiss & Simon.
- In 2014, the union parties filed a lawsuit. Last year in September, the chief judge in the US District Court for the Southern District of New York, Colleen McMahon, found that the company had created non-union “alter ego” companies, ACS, TSC and HDK to avoid union obligations. She ordered Navillus to pay \$76 million to the plaintiffs. As a result, Navillus filed for bankruptcy.
- Navillus, which is largely known for its concrete and masonry, has been working on some of New York City’s largest, most visible projects. This includes SL Green’s One Vanderbilt and Brookfield’s One Manhattan West. The week before announcing its emergence from bankruptcy, Navillus notified the press that it completed the masonry, granite pavement, and tile installation at the Cortlandt Street subway station, near the World Trade Center.
- “Throughout this process our work has continued uninterrupted and we’ve remained focused on executing New York’s biggest projects for our clients,” says Donal O’Sullivan, founder and CEO of Navillus Contracting.
- At a [speaking panel in February, SL Green’s CEO Marc Holliday](#) stated that Navillus was fully bonded by Liberty Insurance. He noted their work continued at the East Midtown tower under Tishman.
- When asked about the bankruptcy proceedings, Ed Piccinich, SL Green’s COO tells [GlobeSt.com](#), “Navillus has continued to work uninterrupted since the judgement and Chapter 11 announcements, never skipping a beat.” He says O’Sullivan and the Navillus team have followed through on all commitments since starting the project and continue to push to keep One Vanderbilt ahead of schedule.

- Kennedy explains there are two types of bankruptcies. With Chapter 7 bankruptcy, there is a liquidation, which typically would not involve a firm continuing to perform work other than to close out matters in which it was engaged. The other alternative, Chapter 11, is to allow the company to continue to operate and to develop a plan under which it will be able to emerge from bankruptcy and continue its operations.
- As part of the bankruptcy proceedings, Navillus retained a firm to appoint a chief restructuring officer. Company finances were open and available through the creditors' committee to participating unions and benefit funds that filed claims, notes Kennedy. "In the mediation, we determined the amount that we settled for, \$25.7 million, was what Navillus could afford to pay towards the judgment," he says. "That was a fair allocation of available Navillus resources."
- The September 2017 verdict noted that there was no evidence in the record of overt anti-union animus. Judge McMahon wrote, "The evidence is to the contrary—Navillus is a strongly pro-union company, but it and Donal O'Sullivan did not want to be shut out of the increasingly non-unionized market for residential real estate construction in New York City."
- It's easy to create an alter ego fund, Kennedy comments. "This difficulty is if unions and benefit funds find out and bring an action to collect the contributions or wages that should have been paid if the work had been done Union, you end up with very significant financial consequences for making that choice."
- In the announcement, O'Sullivan reaffirmed his appreciation for what he describes as the tens of thousands of union workers Navillus has employed in its 30-year history. Kennedy concluded his [GlobeSt.com](https://www.globe.st.com) interview saying, "They are exiting from bankruptcy as a union contractor and we wish them well."