

Greenbaum's Financial Incentives Chair on the Economic Recovery Act and 'Market Responsive' Niche Practice Groups

Firms launching niche practice areas should "address a specific, timely and focused area... that has the potential to impact a significant segment of its roster of client," practice group chair Steven Mlenak says.

By David Gialanella

Greenbaum, Rowe, Smith & Davis recently formed a financial incentives and economic development practice group in response to the New Jersey Economic Recovery Act of 2020 being signed into law early in 2021. According to the firm, the new practice group is an outgrowth of the work already being done for clients, but is nevertheless a specialized practice area. The new group is chaired by partner Steven G. Mlenak, of the firm's real estate and redevelopment and land use departments.

The below answers, provided by Mlenak, were edited lightly for style.

Why did the firm decide to make this a distinct practice group?

The Greenbaum firm has historically provided both strategic and

practical guidance associated with the pursuit of financial incentive programs at both the state and federal levels. Even so, we immediately recognized that the programs enabled or extended under the Economic Recovery Act of 2020 (ERA) represent a game-changing development, in that they collectively address a significant void in New Jersey's economic development offerings with new and exciting opportunities for business owners, property owners, investors and entrepreneurs looking to establish or deepen a footprint in the New Jersey market. The programs under the ERA are broad in scope, and many go well beyond what would be considered as squarely "real estate" or "corporate" facing. Accordingly, they present potential opportunities to offset project costs and related expenses for a significant segment of the Greenbaum



Courtesy photo

Steven Mlenak of the Roseland, New Jersey, office of Greenbaum, Rowe, Smith & Davis.

client base, including real estate developers and redevelopers, venture capitalists, health-care entities, solar energy firms, institutions of higher education, and others. In order to best meet the distinct needs of the diverse clients who rely on our counsel, we embarked on this new practice group as an initiative that would pool the full resources of the firm in a cohesive and multidisciplinary fashion. The group provides a structure for assembling a collaborative and dedicated resource

that spans our practice, maximizes our ability to best service our valued clients, and facilitates the key goal of helping our clients bring their projects to fruition in a cost-effective manner.

What key issues must lawyers handling this type of work look out for in the coming months?

As lawyers providing guidance in this space, it goes without saying that the bottom line is always to be on the lookout for ways to assist a client with capitalizing on opportunities while minimizing exposure to risk. It is essential to avoid potential pitfalls by maintaining compliance with all program conditions, applicable laws and regulatory requirements in order to accomplish that—and the new incentives under the ERA are no exception. In the coming months, then, the first steps are those in which our team members are already deeply engaged. The initial focus must be on understanding the specific components of each program, including how the various incentives will be structured and what types of projects will be eligible. Beyond that, it is anticipated that the NJ Economic Development Authority (EDA) will soon be issuing regulations and application materials for

the programs that fall under the ERA, and legal advisors must familiarize themselves with the regulations and come up to speed quickly on the process of applying under each program. It is further expected that some minor additional legislation may be forthcoming with the intention of “cleaning up” and clarifying certain portions of the ERA, and it will be important to monitor these developments and their potential impacts. Finally, lawyers must be cognizant of the obligations imposed upon the recipients of incentives under the various programs in order to best counsel their clients as to whether the benefit of a particular incentive outweighs the obligations imposed.

What are some of the important considerations for law firms in launching niche practice groups?

Generally speaking, a niche practice area at a law firm should seek to address a specific, timely and focused area of the firm’s practice that has the potential to impact a significant segment of its roster of client. Firms should consider the characteristics of their client base, along with their needs and expectations related to support on legal issues, with the end goal of providing clarification as to the

firm’s ability to support the client’s business priorities while providing additional value in the delivery of service. In the case of Greenbaum, our niche practice groups are “market responsive” and forward-thinking, in that they are closely tied to breaking developments in the law, significant or trending issues for New Jersey’s business community, and/or areas of specialized focus carved out of the core areas of our practice. At our firm, a niche practice group represents the strength and interdisciplinary nature of our expertise and experience, as well as the collaborative nature of our practice. That is likely a good model for any law firm to follow when considering the manner by which they communicate their service offerings to the outside world, as long as the firm has the qualifications to back it up in a substantive manner.

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