

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>12/30/10</u>

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

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IN RE WORLD TRADE CENTER DISASTER	:	<u>ORDER DISMISSING CASES</u>
SITE LITIGATION	:	<u>WITH PREJUDICE</u>
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IN RE LOWER MANHATTAN DISASTER	:	21 MC 100 (AKH)
SITE LITIGATION	:	21 MC 102
-----	:	21 MC 103
IN RE COMBINED WORLD TRADE CENTER	:	
AND LOWER MANHATTAN DISASTER SITE	:	
LITIGATION	:	
-----	X	
ALVIN K. HELLERSTEIN, U.S.D.J.:		

WHEREAS the Settlement Process Agreement, As Amended, agreed to by Plaintiffs' Liaison Counsel, Defendants' Counsel, and Counsel for the WTC Captive Insurance Company on June 10, 2010 and approved by this Court as fair and reasonable on June 23, 2010, provided a period for individual consideration by each Plaintiff, whether to accept or reject the settlement; and

WHEREAS, during that period, and after two informational hearings conducted by the Court, numerous communications by Plaintiffs' Liaison Counsel to each of the Plaintiffs, and the additional assistance provided by the Special Counsel, the Plaintiffs identified in the attached exhibit expressed their intentions neither to enter into the settlement nor to continue with their cases, but to dismiss their cases; and

WHEREAS the attorneys have made clear to each said Plaintiff that this Court would treat such dismissals as being with prejudice, see, e.g., Order Appointing Special Counsel, Doc. No. 2257, 21 MC 100 (S.D.N.Y. Nov. 24, 2010); therefore,

IT IS ORDERED that pursuant to Federal Rule of Civil Procedure 41(a)(2), this Court dismisses the cases listed in the attached exhibit with prejudice for all claims that were brought or could have been brought in the individual Plaintiffs' existing pleadings, but without

prejudice in relation to a second injury to the extent permitted by New York state law, see, e.g., Golod v. Hoffman La Roche, 964 F. Supp. 841 (S.D.N.Y. 1997) (“Under the two-injury rule [in New York], diseases that share a common cause may nonetheless be held separate and distinct where there biological manifestations are different and where the presence of one is not necessarily a predicate for the other’s development.”) (internal quotation omitted)), and as may be defined by any court having jurisdiction over any such later-filed complaint. The dismissals are without costs.

The Clerk shall close the cases noted in the attached exhibit.

SO ORDERED.

Dated: December ~~30~~ 2010
New York, New York


ALVIN K. HELLERSTEIN
United States District Judge

**WTC Special Counsel Project
Eligible Plaintiffs to Discontinue as of 12/29/2010**

	Last Name	First Name
1	Antonacci	Anthony
2	Bergmann	Christopher
3	Calantjis	Stacy
4	Calender	Melvin
5	Camiolo	Andrew
6	Campisi	Dominick
7	Candido	Joseph
8	DeMartino	Michael
9	DeSanti	John
10	Downs	Joseph
11	Driscoll	Timothy
12	Duckworth	Eugene
13	Farrell	James
14	Festa	Anthony
15	Finn	James
16	Fuhrmann	William
17	Garofalo	Christopher
18	Gipson	Bill
19	Goldberg	Darren
20	Golembiowski	David
21	Griffiths	David
22	Gupta	Raj
23	Harmon	Chris
24	Hartnett	Peter
25	Johnson	Gerard
26	Johnson	Joseph
27	Lalli	Anthony
28	Lisanti	Ralph
29	Lusardi	Joseph
30	Maggio	Jason
31	Mangan	Edward
32	Matos	Agapito
33	Matty	John
34	McLaughlin	John
35	McRae	Lisa
36	Miller	Robert
37	Milne	Michael
38	Minena-Soriano	Rosemary
39	Murray	Donald
40	Muschitiello	Christine
41	Musto	Frank
42	Perli	Alexander
43	Rodriguez	Julio
44	Rotuh	Marc
45	Ruddick	Michael
46	Valente	Gregory
47	Wenzel	John

WTC Special Counsel Project
Eligible Plaintiffs to Discontinue as of 12/29/2010

48	Woltmann	Edward
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