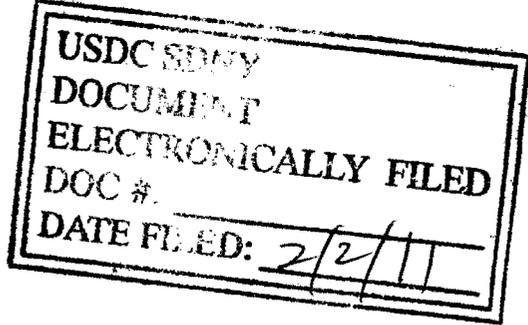


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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:
IN RE COMBINED WORLD TRADE CENTER :
AND LOWER MANHATTAN DISASTER SITE :
LITIGATION :
:
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ALVIN K. HELLERSTEIN, U.S.D.J.:

SUMMARY ORDER
21 MC 102 (AKH)

Yesterday, I held a conference to address the status of litigation in the above-captioned master calendar. The conference addressed how the litigation should proceed now that the James Zadroga 9/11 Health and Compensation Act of 2010 (“Zadroga Act”), H.R. 847, 111th Congress (2010) has been signed into law. The parties made several motions in this respect, and I ruled on them in the following fashion.

Defendants’ Liaison Counsel sought a stay of all motion practice and discovery. Defendants’ Liaison Counsel noted that the Zadroga Act (i) reopens the Victim Compensation Fund (“VCF”) and funds it with some \$2.8 billion; and (ii) provides VCF compensation to individuals who worked in a geographic zone that may well encompass most of the 21 MC 102 Defendants’ buildings. Whether and to what extent the geographic reach of the VCF encompasses the 21 MC 102 Defendants appears to be a matter that will be clarified by regulations drafted by the VCF Special Master, who must promulgate such regulations by July 1, 2011. If a Defendant’s property is covered by the VCF, that Defendant may be unwilling to settle any claims against it, for the Plaintiffs could obtain their compensation from the VCF instead of through a lawsuit. The 21 MC 102 Defendants are unwilling to continue in settlement discussions until they have some clarity on this issue. I agreed with their view, and stayed all motion practice and discovery, with a narrow exception. My Order of December 22, 2010, directed Plaintiffs’ Liaison Counsel to satisfy its discovery obligations in this Master Calendar.

Order Granting Request to Compel Discovery and Allow Motions to Dismiss, 21 MC 102, Doc. No. 3692 (S.D.N.Y. Dec. 22, 2010). I directed the parties to complete these core discovery obligations.

Plaintiffs' Liaison Counsel objected to the request for a stay of all motion practice in this docket. They sought to continue briefing on the issue whether this Court possesses subject-matter jurisdiction over the cases in the 21 MC 102 Master Calendar, and to hold oral argument as scheduled. At the previous conference, I ordered briefing and oral argument on this issue; Plaintiffs' Liaison Counsel has filed an opening brief, seeking to dismiss for lack of jurisdiction. Order Regulating Status of Future Proceedings in Non-City, Non-World Trade Center Disaster Site Cases, 21 MC 102, Doc. No. 3923 (S.D.N.Y. Dec. 7, 2010). Since the last conference, however, I have had an opportunity to review the placement of the various buildings in downtown Manhattan as well as the language of the Zadroga Act, and to consider the nature of the claims being brought by Plaintiffs in this Master Calendar. It has become evident to me that the various issues of law and fact surrounding the jurisdictional question are quite complex, and are incapable of resolution at the present time. I therefore denied the motion to dismiss without prejudice to renewal at a later date.

Plaintiffs' Liaison Counsel also objected to the stated intention of Defendants' Liaison Counsel to refuse continuing settlement talks, contending it would prejudice the Plaintiffs in this Master Calendar. I declined to consider the issue, for it is a matter of private debate between the parties and not a conflict suitable for judicial review.

Finally, counsel for Worby Groner Edelman & Napoli Bern LLP ("Napoli Bern") expressed a desire to select ten cases from the 21 MC 102 Master Calendar and prepare them for trial, continuing and completing discovery and making appropriate pretrial motions. Counsel for

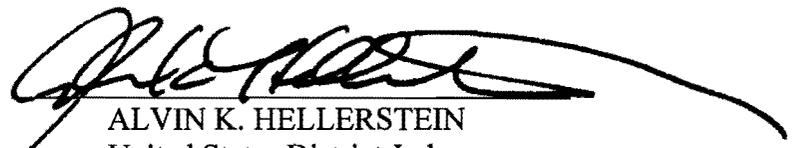
Napoli Bern noted that proceeding in this fashion could assist the entire population of Plaintiffs in choosing whether to persist in their cases or dismiss voluntarily and apply to the VCF for compensation. Counsel for the City of New York objected, arguing that such a procedure would be prohibitively expensive for all Defendants, and would likely not provide the suggested clarity. I agreed with the City's counsel. Exercising my discretion under Federal Rule of Civil Procedure 16, I deny the request by Plaintiffs for an exception to the stay.

With the exception of the core discovery obligations, all proceedings in this Master Calendar are stayed until July 26, 2011, and the pending motion to dismiss for lack of subject-matter jurisdiction denied without prejudice. The parties shall appear for a status conference on July 25, 2011, at 2:30pm, to discuss how to proceed in light of the Zadroga Act regulations, along with any other issues that arise. Defendants' Liaison Counsel and Plaintiffs' Liaison Counsel shall submit letters apprising the Court of their respective views of the regulations by 5:00pm on July 21, 2011. If circumstances arise that warrant a conference before July 25, 2011, the parties may inform the Court by letter.

My rulings as to the 21 MC 102 Master Calendar relate also to the 21 MC 103 Master Calendar, to the extent that the issues are the same.

SO ORDERED.

Dated: February 2, 2011
New York, New York


ALVIN K. HELLERSTEIN
United States District Judge