

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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: **REVISED ORDER**  
: **REGULATING DISCOVERY &**  
: **TRIALS OF CASES SELECTED**  
: **BY SPECIAL MASTERS; AND**  
: **ORDERING CASE**  
: **MANAGEMENT PLAN**

: 21 MC 102 (AKH)  
: :  
: x

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ALVIN K. HELLERSTEIN, U.S.D.J.:

Nine 21 MC 102 plaintiffs have been selected for early discovery and trial. They are:

Plaintiff	Docket Number	Originally Selected By
Barbosa, Virginia	06cv1649	Defendants
Dabrowski, Mieczyslaw	07cv5283	Plaintiffs
Diaz, Ruth	07cv1601	Plaintiffs
Gallegos, Walter	07cv4467	Special Masters
Kwasnik, Wladyslaw	07cv11291	Plaintiffs
Mendoza, Gustavo	07cv4494	Special Masters
Muszkatel, Jerzy	08cv5285	Defendants
Sanchez, Alex	05cv1091	Plaintiffs
Vynar, Mykhalo	08cv6809	Defendants

The following are the dates when the relevant events will commence and be completed for this group:

Group I (10 plaintiffs)

- A. February 22, 2012: The Court will provide names of plaintiffs chosen by the Special Masters. Parties will have until February 24, 2012 at 3:00 p.m. to object to the choices.
- B. February 27, 2012: The names of the ten plaintiffs will be finalized as of 5:00 p.m.
- C. March 2, 2012: Status Conference to plan discovery will be held in Courtroom 14D at 1:00 p.m. Agendas and a joint plan are to be submitted by noon, March 1, 2012.
- D. March 5, 2012: Discovery begins for Group I plaintiffs.
- E. August 3, 2012: Discovery is completed for Group I plaintiffs.
- F. August 15, 2012: Status Conference will be held at 2:30 p.m. to plan next steps. Agendas are to be submitted by noon, August 14, 2012.

At a status conference of March 2, 2012, the parties jointly submitted a case management plan that further details the discovery process for these Plaintiffs. I so ordered this plan, and it is attached to this Order as CMO 2012 #1.

Later Groups

When discovery for the first set of ten plaintiffs is completed, the process will begin for a second set of 15 plaintiffs. Following that, discovery will begin for a third set of 15 plaintiffs. The Special Masters will fill in the names for each successive set of plaintiffs at least two weeks before discovery in that set is scheduled to commence. A status conference will be held on March 15, 2013, if necessary, to further address issues that arise during the process. The second two groups will follow the following schedules:

Group II (15 plaintiffs)

- A. July 2012: The Special Masters will provide names of chosen plaintiffs.
- B. August 2012: Discovery begins for Group II plaintiffs.

- C. January 2013: Discovery is completed for Group II plaintiffs.
- D. March 2013: All pre-trial motions will have been heard and resolved.
- E. May 2013: Group II trials commence.

Group III (15 plaintiffs)

- A. December 2012: The Special Masters will provide names of chosen plaintiffs.
- B. January 2013: Discovery begins for Group III plaintiffs.
- C. June 2013: Discovery is completed for Group III plaintiffs.
- D. August 2013: All pre-trial motions will have been heard and resolved.
- E. October 2013: Group III trials commence.

As noted above, the next conference will take place on August 15, 2012, 2:30 p.m.,  
in Courtroom 14D.

So Ordered.

Dated: March 2, 2012  
New York, New York

  
ALVIN K. HELLERSTEIN  
United States District Judge

GREGORY J. CANNATA & ASSOCIATES  
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March 1, 2012

*CNO #1 for 2012*

Honorable Alvin K. Hellerstein  
United States District Court for the Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: World Trade Center, 21MC102 (AKH) Proposed Expedited Discovery

Dear Judge Hellerstein

On February 28, 2012, Special Masters Twerski and Henderson, plaintiffs' liaison and defense liaison met to formulate a discovery plan consistent with the Court's February 22, 2012 Order.

A. Scope of Discovery

The Court and Special Masters originally selected ten plaintiffs for Group I expedited discovery. This number was reduced by one and the parties agreed, subject to the Court's approval, to proceed with nine plaintiffs in Group I. This discovery plan anticipates completing the requisite discovery for trial with respect to these nine plaintiffs.

On average, each plaintiff worked in 7.5 buildings. Thirty seven unique buildings are involved in the nine Group I cases, each with one to six plaintiffs having worked in the respective building. These nine plaintiffs sued numerous entities associated with each building including in most cases the owners, managing agents and contractors. There are approximately 200 defendants named in these nine cases, a significant number of which will be produced for deposition. Discovery will also be needed from non-parties, including employers, safety contractors, general contractors, and other contractors for each building.

We have estimated that there are approximately 100 days available in which to conduct depositions and medical examinations over the next five months.

#### B. Plaintiffs' Depositions

Defendants will notice depositions of the plaintiffs and also request physical examinations of plaintiffs. Plaintiffs will make reasonable efforts to comply with defendants' requested schedule. Due to the complexity of the depositions and the frequent need for translators, the parties agree that the depositions can proceed in excess of a single day, if necessary.

#### C. Defendant Depositions

Plaintiffs will notice the defendants for depositions according to plaintiffs' schedule. Defendants will advise which witness will appear for each defendant and use reasonable efforts to comply with plaintiffs' requested schedule. Due to the complexity of the depositions, the parties agree that the depositions can proceed in excess of a single day, if necessary.

#### D. Non-Party Depositions

Plaintiffs will subpoena non-party liability witnesses such as employers and contractors. Defendants may also subpoena non-party liability witnesses. Defendants will subpoena plaintiffs' treating physicians and other non-parties as necessary. Defendants will work with the plaintiffs and non-party witnesses and will try to minimize multiple depositions of the same physician.

#### E. Notice

1. PLC and DLC shall meet by conference call weekly commencing on March 12, 2012 for the purpose of discussing upcoming proposed deposition discovery dates.
2. Prior to the first such meeting, PLC shall distribute to DLC a proposed schedule of deposition dates for defendants and non-parties, and DLC shall distribute to PLC a proposed schedule of deposition dates for plaintiffs and of dates for defense requested physical examinations.
3. After each weekly call, DLC shall reach out to the broader defense group for the purposes of confirming defendant depositions and shall confirm same with PLC immediately upon receiving such confirmation (or if problems with dates that information will be conveyed with alternative dates). PLC will be responsible for determining the availability of plaintiffs and non-party

witnesses and shall confirm same with DLC immediately upon receiving such confirmation (or if problems with dates that information will be conveyed with alternative dates). As the discovery progresses the parties will revise this procedure as appropriate to advance the litigation within the time allotted by the Court.

4. A Master Calendar of WTC depositions shall be maintained and shall be available to all plaintiff/defense counsel in the 102 docket.

F. Supervision by the Special Masters

The parties recognize that a great deal of discovery must be completed in five months and the success of this proposal relies on the cooperation of all parties. The Special Masters have agreed to meet with liaison counsel on March 27, 2012 and on a continuing basis to review the progress of discovery and to correct any shortcomings. The PLC and DLC agree to work with the Special Masters in an effort to resolve disputes, if any, regarding scheduling issues.

G. Experts

In analyzing this substantial discovery undertaking, the parties will work expeditiously to conclude the above referenced discovery within the time frame allotted by the Court. However, it is not until completion of the above depositions and a period of review that plaintiffs or defendants can reasonably be expected to formulate and exchange appropriate expert responses.

~~The parties therefore request a 60 day period following August 3, 2012 to exchange expert reports and to depose opposing experts. The parties will agree on a schedule with the assistance of the Special Masters. The parties further request the October 5, 2012 and the November 13, 2012 deadlines be modified to reflect the above extension.~~

The subject will be discussed  
at a status conference to be held Aug. 15,  
2012, 2<sup>30</sup> pm.

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*(Signature)*

The parties have jointly formulated this proposal and will continue to refine its points as necessary to meet the Courts deadlines.

Respectfully submitted:

\_\_\_\_\_/s/\_\_\_\_\_  
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Gregory J. Cannata,  
Plaintiff Liaison  
GREGORY J. CANNATA & ASSOCIATES

\_\_\_\_\_/s/\_\_\_\_\_  
\_\_\_\_\_

Robert A. Grochow  
Counsel, Plaintiff Liaison  
ROBERT A. GROCHOW, P.C.

*Defense Liaison Committee in 21 MC 102 and 21 MC 103 Dockets*

/s Lee Ann Stevenson  
Lee Ann Stevenson  
KIRKLAND & ELLIS LLP

/s Richard E. Leff  
Richard E. Leff  
MCGIVNEY & KLUGER, P.C.

/s Philip Goldstein  
Philip Goldstein  
MCGUIRE WOODS

/s Stanley Goos  
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HARRIS BEACH PLLC

/s Thomas A. Egan  
FLEMMING ZULACK  
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/s William J. Smith  
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/s James E. Tyrrell, Jr.  
PATTON BOGGS LLP

John M. Flannery  
WILSON ELSER MOSKOWITZ  
EDELMAN & DICKER LLP

*So Indef  
March 2, 2012  
John M. Flannery*