

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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ORDER SCHEDULING
STATUS CONFERENCE
21 MC 103 (AKH)

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

This master docket was created for those plaintiffs whose allegations straddled the allegations in master dockets 21 MC 100 and 21 MC 102, because they performed work at the World Trade Center site and at other sites.

On September 27, 2013, I entered an Order suggesting that master docket 21 MC 103 should be closed and that any remaining cases should be transferred to 21 MC 102 because the cases in master docket 21 MC 100, which covers those who performed work at the World Trade Center, have all settled or been dismissed. On October 17, 2013, Gregory J. Cannata and Robert A. Grochow indicated to me, by the attached letter, that some plaintiffs have remaining claims relating to work performed at the World Trade Center site against some of the 21 MC 100 defendants. Cannata and Grochow also indicated that some cases, which are currently docketed under 21 MC 102, properly belong in 21 MC 103.

Accordingly, I will hold a status conference in this case on November 18, 2013 at 4pm in Courtroom 14D, 500 Pearl Street, New York, NY, 10007 to address the status of the remaining 21 MC 103 claims relating to work at the World Trade Center site. In preparation for the conference, and by November 12, 2013, Cannata and Grochow will identify the defendants in 21 MC 100 against whom the claims, identified

in Categories C and D of their letter, remain. Cannata and Grochow shall be prepared at conference to explain the nature and substance of the claims that remain.

The 21 MC 100 master docket will be reserved for any future claims filed relating to work at the World Trade Center. It should be unnecessary to have a 21 MC 103 master docket and I intend to close it.

SO ORDERED.

Dated: October 29, 2013
New York, New York


ALVIN K. HELLERSTEIN
United States District Judge

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October 17, 2013

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

Re: WTC Litigation, 21MC103 (AKH), Order dated September 27, 2013

Dear Judge Hellerstein:

In response to the Court's Order dated September 27, 2013, we have reviewed the list of 21MC103 cases therein referenced. Of those cases itemized on said Order, the following are cases (Cannata/Grochow) being prosecuted by this firm. The other cases on the Order are not this firm's cases.

Cannata/Grochow case list:

Case Number	Short Title
05-cv-04081-AKH	Urso v. 1 World Trade Center, LLC et al
08-cv-09720-AKH	Espinoza v. Abatement Professionals et al
09-cv-05233-AKH	Kacperski et al v. 111 Wall Street LLC et al
10-cv-01372-AKH	Chapman et al v. AMEC Construction Management Inc. et al
10-cv-06882-AKH	Kowalewski v. 100 Church LLC et al
10-cv-06900-AKH	Perzynska v. The City of New York et al
10-cv-06902-AKH	Espinoza v. Battery Park City Authority et al
10-cv-06903-AKH	Galazka et al v. The City of New York et al
10-cv-06906-AKH	Kacperski et al v. The Battery Park City Authority et al
10-cv-06907-AKH	Cardenas et al v. Battery Park City Authority et al

10-cv-06908-AKH	Chapman et al v. The City of New York
10-cv-06926-AKH	Acosta v. Battery Park City Authority et al

For the sake of clarity, we have categorized our response into four separate categories.

Category A:

From the above Cannata/Grochow list, the following cases, although originally commenced against both 21MC102 and 21MC100 defendants, no longer have any 21MC100 defendants remaining as a result of a settlement with the captive insured. Therefore these cases, below, should be transferred to the 21MC102 Docket. We therefore request the Court issue an order directing the Clerk to so transfer the following cases from the 21MC103 docket to the 21MC102 docket.

Case Number	Short Title
10-cv-06906-AKH	Kacperski et al v. The Battery Park City Authority et al
10-cv-06907-AKH	Cardenas et al v. Battery Park City Authority et al
10-cv-06903-AKH	Galazka et al v. The City of New York et al
10-cv-06926-AKH	Acosta v. Battery Park City Authority et al

Category B:

From the Cannata/ Grochow case list, for these below listed cases, prior Court Orders (attached for reference as Exhibit 1) have already directed their transfer to 21MC102. We believe the Clerk has thus far inadvertently not so transferred them. We therefor request the Court to direct the Clerk to comply with the directive of those prior Orders and transfer the following cases to the 21MC102 docket and/or that the Court again direct the Clerk to transfer these cases to the 21MC102 docket.

Case Number	Short Title
10-cv-01372-AKH	Chapman et al v. AMEC Construction Management Inc. et al
10-cv-06882-AKH	Kowalewski v. 100 Church LLC et al
10-cv-06908-AKH	Chapman et al v. The City of New York

Category C:

From the Cannata/Grochow case list, the following cases currently are and should remain on the 21MC103 docket. These cases include both 21MC102 and 21MC100 defendants. Although subsequent settlements were reached with the captive insured, such settlement was only with those entities referenced on Exhibit A of the settlement plan. Therefore a small number of defendants with reference to the 21MC100 aspect of the litigation did not participate in the settlement. Because there still remain some non-settling defendants, and because these cases are also very viable and being fully prosecuted with reference to 21MC102 defendants as well, these below cases should remain in the 21MC103 docket.

Further, as to those remaining 21MC100 defendants, we are seeking clarification from defense counsel and the captive insured's counsel if some of those defendants remaining, due to varying corporate structures and/unity with settling defendants were meant to be included in the settlements and discontinuances. We are also reviewing whether any then remaining limited number of 21MC100 defendants can be disposed of either by settlement or discontinuance.

Alternatively, if the Court is seeking to now close out the 21MC103 docket, then these cases should also be transferred to the 21MC102 docket.

Case Number	Short Title
05-cv-04081-AKH	Urso v. 1 World Trade Center, LLC et al
08-cv-09720-AKH	Espinoza v. Abatement Professionals et al
09-cv-05233-AKH	Kacperski et al v. 111 Wall Street LLC et al
10-cv-06900-AKH	Perzynska v. The City of New York et al
10-cv-06902- AKH	Espinoza v. Battery Park City Authority et al

Category D:

Additionally, in reviewing our firm's total World Trade Center caseload, we have found several cases that are listed as 21MC102 in the ECF system, however should have been listed as 21MC103 in the docket. Upon review of the pleadings subsequent to the initial pleading and other legal filings with Court and with the ECF system, such cases were notated as 21MC103. Apparently an original 21MC102 designation remained in the ECF system.

As indicated with reference to the Category C cases above, although subsequent settlements were reached with the captive insured in these Category D cases below, such settlement was only with those entities referenced on Exhibit A of the settlement plan. Therefore a small number of defendants with reference to the 21MC100 aspect of the litigation did not participate in the settlement. Because there still remain some non-settling defendants, and because these cases are also very viable and being fully prosecuted with reference to 21MC102 defendants as well, these below cases should be designated in the 21MC103 docket.

Further, and similar to the Category C cases, as to those remaining 21MC100 defendants, we are seeking clarification from defense counsel and the captive insured's counsel if some of those defendants remaining, due to varying corporate structures and/or unity with settling defendants were meant to be included in the settlements and discontinuances. We are also reviewing whether any then remaining limited number of 21MC100 defendants can be disposed of either by settlement or discontinuance.

Alternatively, if the Court is seeking to now close out the 21MC103 docket, then these below cases, should simply remain in the 21MC102 docket.

Case Number	Short Title
06-cv-05335-AKH	Acosta v. Tribeca Landing L.L.C. et al
08-cv-01334-AKH	Acosta v. 176 Broadway Builders Corp et al
09-cv-00681-AKH	Cardenas et al v. 233 Broadway Owners, LLC et al
08-cv-06805-AKH	Czerwinski v. 2 Broadway, LLC et al
06-cv-05343-AKH	Galazka et al v. New Liberty Plaza L.P. et al
06-cv-05345-AKH	Perzynska v. Brookfield Properties Corporation et al
06-cv-01524-AKH	Zalewski v. The Bank of New York Company, Inc. et al
06-cv-01525-AKH	Zalewski v. 1 World Trade Center LLC et al

In summary, none of the cases should be dismissed nor should the Court enter dismissals against those remaining non-settling 21MC100 defendants. Some of the cases, as indicated herein, should be on the 21MC103 docket, while efforts will continue to settle or discontinue as to the limited remaining 21MC100 defendants therein. Alternatively, if the

Court is seeking to close the 21MC103 docket, all remaining 21MC103 cases should be transferred to the 21MC102 docket.

As always, we remain available to the Court for any discussion or clarification on these issues.

Respectfully submitted,

____s/_____

Gregory J. Cannata

____s/_____

Robert A. Grochow