



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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: **ORDER SUMMARIZING**
IN RE WORLD TRADE CENTER DISASTER : **DECEMBER 1, 2014 STATUS**
SITE LITIGATION : **CONFERENCE**
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: 21 MC 100 (AKH)
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ALVIN K. HELLERSTEIN, U.S.D.J.:

A status conference was held on December 1, 2014:

1. There are two newly-filed claims related to debris removal, *Lombardo v. A Russo Wrecking, Inc.*, No. 14-cv-3060, and *Holgerson v. A Russo Wrecking, Inc.*, No. 14-cv-3061. The parties shall meet to ascertain if settlement discussions might be useful. The next status conference is scheduled for January 6, 2015 at 10:30 a.m. A ruling regarding the procedures to govern these claims, including whether Case Management Order No. 10 will apply, is postponed to that date without prejudice.

2. Upon remand, the Second Circuit ordered the Court to consider extrinsic evidence, if any, of the parties' intent to pay Bonus Payments in the Settlement Process Agreement, as amended. Counsel shall meet to agree to procedures to develop such evidence, and to ascertain if settlement discussions might be useful. Counsel shall submit a written proposal by December 22, 2014. A status conference is scheduled for January 6, 2015 at 10:30 a.m.

3. Plaintiffs' counsel is eligible for a reasonable attorneys' fee, suitably supported, for all future work performed on the issue of Bonus Payment calculation. *See Victor v. Argent*

Classic Convertible Arbitrage Fund L.P., 623 F.3d 82, 86 (2d Cir. 2010). Application for any such fee is to be made at the end of the relevant proceedings.

4. Counsel for the WTC Captive Insurer also updated the Court with respect to disbursements owed to the “Tier IV Plaintiffs” pursuant to the Settlement Process Agreement, as amended, following the Second Circuit’s mandate and opinion in *In re World Trade Center Disaster Site Litigation*, 754 F.3d 114 (2d Cir. 2014):

a) First, the Fourth Contingent Payment amounting to \$5 million is owed to the Tier 4 Plaintiffs on January 20, 2015 because the threshold for newly-filed claims has not been exceeded.

b) Second, amounts equal to reserves for disputed attorneys’ fees relating to the Second and Third Contingent Payment, said to amount to approximately \$2.1 million, are to be paid to the Tier IV Plaintiffs. The Court of Appeals held that the plaintiffs were not entitled to the First Contingent Payment, mooting any claim for attorneys’ fees as to the First Contingent Payment. Plaintiffs’ counsel has leave to file a motion by December 9, 2014 seeking fees related to the Second through Fourth Contingent Payments, and the Fifth Contingent Payment upon it becoming due, if at all.

c) Third, amounts equal to reserves for disputed attorneys’ fees relating to the Bonus Payments, said to amount to approximately \$3.1 million, were withheld from the Tier IV Plaintiffs pending resolution by the Second Circuit of my September 8, 2011 Order denying plaintiffs’ counsel such attorneys’ fees. *See* Summary Order Denying Objection to Bonus Payments, 21-mc-100, ECF No. 2523 (Sept. 8, 2011).

5. Counsel for the WTC Captive Insurer and the Garretson Resolution Group shall provide to the Court by January 6, 2015 a precise accounting of the amount of attorneys' fees previously withheld from, and now potentially due to, the Tier IV Plaintiffs.

6. All distributions are to be paid to the Tier IV Plaintiffs by January 20, 2015. All counsel shall take care that further proceedings will not delay that date, or interfere with the efficient and transparent administration of the distributions.

SO ORDERED.

Dated: New York, New York
December 2, 2014



ALVIN K. HELLERSTEIN
United States District Judge