

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE WORLD TRADE CENTER  
DISASTER SITE LITIGATION

**ORDER CONCERNING PROTECTIVE  
ORDERS FOR CORE DISCOVERY**

21 MC 100 (AKH)

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

The parties have submitted to me, for approval, two forms of protective order, and a dispute concerning an appropriate sanction should there be a breach of confidentiality. This order constitutes my rulings on the issues submitted to me.

1. **Sanction for breach of confidentiality**

The parties have been ordered to make discovery on certain identified issues (“core discovery”), according to a set schedule. See Clarifying Order Regulating Discovery, dated November 27, 2007 (“Core Discovery Order”). Among the items that have to be produced, defendants are required to disclose their insurance coverage. Many of the defendants regard this information as competitively sensitive, and contend that inappropriate disclosures could prejudice their bids and awards on future contracts.

I ruled that this competitive sensitivity would be respected, and that a protective order could regulate that sensitivity. The parties differ concerning a potential sanction. Defendants propose punishment for breach by civil and criminal contempt, and a \$50,000 liquidated damages provision. Plaintiffs contend that sanctions would be arbitrary and excessive.

I rule that unauthorized and inappropriate breaches of confidentiality should entitle the aggrieved party to initiate a civil contempt procedure, with the court having discretion to order remedies commensurate with the nature and quality of the breach, including reasonable

monetary sanctions. The parties may submit an agreed clause, or their separate suggestions for such a clause.

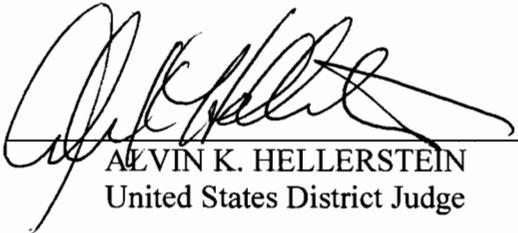
2. **Protective Orders**

The parties propose elaborate protective orders covering such insurance information, and covering confidential information generally. I fear that orders of the type suggested will complicate the core discovery, cause delays, add expense, and generally interfere with the procedures that I ordered. Simple procedures requiring that confidential matter be respected should suffice. There should be no provision for filing papers under seal without a specific court order so providing. Counsel should have the obligation to retain exhibits and other materials that are submitted to the court.

The parties should prepare simplified orders, discuss the terms with the Special Masters to assure that the interests of efficient and economical processing of information are not unduly compromised, and then submit their revised orders to me for review and signature.

SO ORDERED.

Dated: February 20, 2008  
New York, New York



ALVIN K. HELLERSTEIN  
United States District Judge