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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE WORLD TRADE CENTER LOWER : **ORDER DENYING**  
MANHATTAN DISASTER SITE LITIGATION : **DEFENDANTS' MOTIONS TO**  
: **DISMISS**  
:   
: 21 MC 102 (AKH)  
----- X  
IN RE COMBINED WORLD TRADE CENTER : 21 MC 103 (AKH)  
AND LOWER MANHATTAN DISASTER SITE :  
LITIGATION (straddler plaintiffs) :  
:   
:   
----- X  
ALVIN K. HELLERSTEIN, U.S.D.J.:

Defendants William F. Collins and Syska Hennessy Group, Inc., each move to dismiss plaintiffs' claims against them, pursuant to Fed. R. Civ. P. 12(b)(6).

Plaintiffs are construction workers who participated in the clean-up effort in the aftermath of the September 11 attacks. They complain that the contractors in areas adjacent to the World Trade Center site failed to take required safety precautions, causing plaintiffs' injuries. Plaintiffs bring their claims against approximately 350 different contracting companies and other entities for work done in or around approximately 160 buildings in lower Manhattan. Plaintiffs allege that defendants were negligent and violated New York Labor Law §§ 200, 241(6).

Two of these defendants, the moving defendants William F. Collins and Syska Hennessy Group, Inc., allege in similar motions that they were engaged as design professionals in and around the Verizon Building at 140 West Street. They allege that they did not supervise or control the worksite and thus cannot be liable for worksite safety.

Plaintiffs allege that both of these defendants, in addition to their design responsibilities, also had supervisory roles and sufficient control of their respective worksites to be charged under common law.

At oral argument, I ordered plaintiffs to supplement their complaint to show, with sufficient specificity, that they had a plausible claim against each of the two defendants. See Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 556 (2007). In response, plaintiffs submitted statements made by the two defendants and their own affidavits showing, with sufficient specificity, that the defendants acted as worksite supervisors. Defendants responded, repeating their denials.

The parties have not yet engaged in sufficient discovery to allow me to rule in a summary judgment procedure. At this point, I should not resolve the material issues that they dispute. Accordingly, defendants' motions to dismiss are denied.

The Clerk shall mark Doc. Nos. 2993 and 2997 as terminated.

SO ORDERED.

Dated: New York, New York  
June 5, 2009



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ALVIN K. HELLERSTEIN  
United States District Judge