

10 Years Later: Most Settled

But, what will happen next time....?

Victoria Arbitrio, P.E., SECB

On November 19, 2010, Judge Alvin Hellerstein announced that over 95 percent of Plaintiffs in the World Trade Center disaster site litigation had opted in, accepting the settlement proposal to end the lawsuits against the City of New York.

But these suits were not just against the faceless bureaucracy of city government. The suits named businesses – large and small, contractors, subcontractors and engineers – who worked for the city to rescue, recover and clean up downtown Manhattan after planes destroyed the World Trade Center on September 11, 2001. Twenty-two of these businesses are Structural Engineering firms, hired to assess the structural stability of the surrounding buildings and the massive debris pile that, in areas, reached the height of a ten-story building. They performed this task successfully, as no serious injury or fatality resulted from structural instability.

Unfortunately, the fewer than 100 remaining lawsuits against these firms do not relate at all to their work as professional engineers; rather, the plaintiffs allege illness due to toxic exposures. Understanding that air quality has been subsequently linked to certain lung and heart diseases in the disaster workers, and that these individuals may be entitled to be recompensed for their resulting health problems, how is it that structural engineers can be held liable for work performed well outside their normal scope of work?

The engineering profession is committed to public safety and integrity, but its responsibility to the public can only extend to the areas in which they are knowledgeable. The lawsuits pertaining to air quality at Ground Zero are exacerbating to these firms, hired to assess structural matters. Not only are the lawsuits themselves expensive, but they also called into question whether firms can afford to offer their services in the event of future catastrophes. Following Hurricane Katrina, there were virtually no engineering volunteers from New York because of their fear



World Trade Center, New York 9-13-2001. Smouldering fires continue amidst the wreckage at the World Trade Center. Courtesy of Andrea Booher/FEMA Photo News.

of litigation. It is unfortunate that litigation regarding health effects at Ground Zero would prevent engineers from aiding in catastrophic situations, where their expertise is not only helpful, but necessary.

In aggregate, engineering firms have spent countless dollars in legal fees and lost hours providing materials to defend their actions at Ground Zero. They did not have the luxury of evaluating potential risks and factoring them into whether or not they should respond to the attack. Instead, they were on-site immediately after the attacks and provided professional expertise relating to structural matters, 24 hours a day, seven days a week, for close to ten months. It was an amazing and heroic effort, with not one fatality during the arduous recovery and cleanup process.

The need for an Emergency Responder Legislation has not diminished since November. Knowing the inevitability of periodic catastrophes, the American Council of Engineering Companies of New York (ACEC New York) and SEAoNY strongly support emergency responder legislation to prevent

future misguided lawsuits against engineering firms for on-site conditions that are entirely outside their assigned responsibility. Unlike Good Samaritan Laws, which protect only unpaid volunteers for a brief period of time from liability for work performed during state or national disasters, emergency responder legislation would provide design firms immunity from lawsuits that attempt to make engineers responsible for work outside their scope. Emergency responder legislation would ensure that engineering firms would be available and able to respond to future emergencies. The time to push is now; we cannot afford to wait for the next disaster. ■

Victoria Arbitrio, P.E., SECB (vickiarbitrio@gmsllp.com), is currently a Director for the Applied Technology Council (ATC), the American Council of Engineering Companies of New York (ACEC-NY) Metropolitan Region Board of Directors and a Past-President of the National Council of Structural Engineers Associations (NCSEA).

Structural Forum is intended to stimulate thoughtful dialogue and debate among structural engineers and other participants in the design and construction process. Any opinions expressed in Structural Forum are those of the author(s) and do not necessarily reflect the views of NCSEA, CASE, SEI, C³ Ink, or the STRUCTURE® magazine Editorial Board.