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Ruling in 9/11 Property Damage Litigation May End Larry Silverstein's Pursuit of Billions in Damages

October 2, 2009

On October 1, 2009, the United States District Court for the Southern District of New York, which is presiding over all of the wrongful death and property damage claims arising from the terrorist attacks on 9/11, issued a ruling that could make it impossible for plaintiff Larry Silverstein's World Trade Center Properties ("WTCP") to recover against the aviation defendants (the airlines, security companies and aircraft manufacturer). Earlier this year, the Court issued an opinion limiting WTCP's \$12 billion damages claim against the aviation defendants to, at most, \$2.8 billion, the fair market value of WTCP's 99-year lease on the World Trade Center complex as of 9/11. In its most recent ruling, the Court held that the \$4.1 billion in insurance proceeds WTCP received from its insurers will be presumed to have covered WTCP's business interruption losses and replacement costs, which would make the \$4.1 billion available for offset against WTCP's maximum \$2.8 billion in damages. Because WTCP's insurance recoveries exceed its maximum damages by \$1.3 billion, under New York law, offset would reduce WTCP's damages claims to zero in the litigation.

RK&O attorneys Brian Fraser, Rowan Gaither and Grace Wen briefed and argued the motion on behalf of our client The Boeing Company and the other aviation defendants.