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## Federal Court Limits Aviation Defendants' Potential Liability in 9/11 World Trade Center Litigation

January 30, 2009

Judge Alvin K. Hellerstein of the United States District Court for the Southern District of New York has issued an opinion limiting the damages World Trade Center lessee Larry Silverstein can recover from airlines and others in a lawsuit arising from the September 11th, 2001 terrorist attacks. The lawsuit by Silverstein's World Trade Center Properties seeks the alleged replacement value of \$16.2 billion for the two destroyed towers and other buildings in the complex. The Court, however, limited any permissible recovery to, at most, \$2.8 billion, the fair market value of the 99-year lease on the complex. The case is still in the discovery stage and liability has not been determined.

In its decision, the Court cited the New York rule that a plaintiff suing for property damage can recover its replacement cost or the decrease in market value, whichever is less. The Court also held that any recovery for losses based on the market value of the lease is potentially subject to offset by the \$4.1 billion in insurance payments the plaintiff has already received. Resolution of the issue of offset is currently before the Court.

The defendants in the case include units of UAL Corp. (UAUA), US Airways Group Inc. (LCC), Delta Air Lines Inc. (DAL), Continental Airlines Inc. (CAL), AirTran Holdings Inc. (AAI), Boeing Co. (BA) and the Massachusetts Port Authority. Richards Kibbe & Orbe LLP attorneys Brian S. Fraser, Neil S. Binder, H. Rowan Gaither IV and Grace C. Wen represented Boeing on the Motion.

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