



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**IN RE WORLD TRADE CENTER** :  
**DISASTER SITE LITIGATION** :  
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**CASE MANAGEMENT ORDER  
NO. 6**  
  
**21 MC 100 (AKH)**

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**THIS DOCUMENT APPLIES TO ALL** :  
**WORLD TRADE CENTER DISASTER** :  
**SITE LITIGATION** :  
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ALVIN K. HELLERSTEIN, U.S.D.J.

This Order is intended as a supplement to Case Management Order No. 4 dated May 12, 2005 ("CMO 4"), which governs the use of master pleadings in the above-captioned litigation. Accordingly, this Order should be read in conjunction with CMO 4.

IT IS HEREBY ORDERED THAT:

1. All Check-Off Complaints identified in the November 30, 2007 listing submitted by Plaintiffs' counsel shall be filed and served no later than December 15, 2007.
2. Defendants shall file Master Answers in response to the Amended Master Complaints by January 15, 2008. Accompanying these Master Answers will be a list of those Check-Off Complaints deemed Answered by operation of Paragraph 12 of this Order.
3. No Defendant shall be named in a Check-Off Complaint who is not named in a Master Complaint.
4. Notwithstanding the requirement of CMO 4 that "[e]very plaintiff commencing an action . . . shall do so by the filing of the Complaint by Adoption" (Check-Off Complaint),

Plaintiffs may file in this Court an “Initiating Complaint” that does not contain the specificity required by CMO 4, provided that:

- a. Plaintiffs use the form of Initiating Complaint appended to this Order as Appendix A;
- b. Plaintiffs file a completed Check-Off Complaint which meets the requirements of CMO 4 and any other applicable Orders of this Court within sixty (60) days of the filing of the Initiating Complaint under the same civil action number in which the Initiating Complaint was filed; and
- c. Plaintiffs follow all other applicable Rules and Orders governing the filing of initial pleadings in this Court.

Failure to comply with these procedures may result in the dismissal of the Initiating Complaint pursuant to the procedures detailed in Paragraph 6 of this CMO. The Clerk of the Court is hereby Ordered to accept these Initiating Complaints as he would with any other initial pleading. Plaintiffs must serve a Check-Off Complaint filed subsequent to an Initiating Complaint pursuant to the terms of this Order or the Federal Rules of Civil Procedure. As of November 28, 2006, Plaintiffs have ceased filing Summonses with Notice in New York Supreme Court.

**5.** Any amended pleadings subsequent to any first-amended pleading shall be numbered in their captions (e.g., “Second Amended Check-Off Complaint”). This applies both to master pleadings as well as Check-Off Complaints. Plaintiffs are required to seek leave of Court for any future Amended Master Complaints beyond those filed on or about August 18, 2006.

**6.** Individual actions that had previously been filed using a “traditional” Complaint and that are re-filed as Check-Off Complaints are not themselves considered to be “amended.”

Similarly, Check-Off Complaints filed without a unique docket number, such as those filed in cases improperly naming multiple Plaintiffs under the same docket number, are hereby deemed to be a nullity and, therefore, are also not considered to be “amended.” Such Check-Off Complaints shall therefore not contain the “amended” description in their captions.

7. No Defendant shall seek dismissal against any Plaintiff for failure to: (a) provide the required specific allegations in that Plaintiff’s particular Check-Off Complaint; (b) timely file a Check Off Complaint after service and filing of the Initiating Complaint; or (c) file a Plaintiff’s particular Check-Off Complaint under its own unique civil action number unless and until a Defendant or Defendants’ Liaison Counsel has contacted counsel for that Plaintiff in writing detailing the deficiencies in that Plaintiff’s pleadings and demanding filing of a compliant pleading regarding that Plaintiff and 20 days have passed from that written demand without Plaintiff having filed such a compliant Check-Off Complaint. Compliance with the procedures in this paragraph shall not prejudice the Defendants’ interests, including any claimed failure to timely move for dismissal of a given Plaintiff’s action pursuant to the Federal Rules of Civil Procedure.

8. Counsel for Defendants shall inform Plaintiffs’ Co-Liaison Counsel on an ongoing basis of the names of the Defendants for whom they have been authorized to accept service. For Counsel that have agreed to accept service of Check-Off Complaints on behalf of certain Defendants, service shall be complete upon Plaintiffs’ delivery of a CD or set of CDs containing searchable adobe acrobat (“.pdf”-format) copies of the Check-Off Complaints to such defense Counsel, provided that Plaintiffs include a list describing which Defendants are being served with which Check-Off Complaint(s) and include one (1) waiver of service form

encompassing all Check-Off Complaints contained on that CD. Plaintiffs will use separate .pdf files for each Check-Off Complaint.

9. Except as otherwise provided for herein, with respect to Defendants for whom their Counsel have not previously accepted service of process, Plaintiffs and Defendants must continue to comply with the Federal Rules of Civil Procedure, this Court's local rules, and any procedures particular to this litigation such as those set forth in CMO 4. Defendants upon whom service of process has previously been accepted by counsel, or for whom service was done in a manner negotiated with Plaintiffs' Liaison Counsel, such as the Bovis Defendants (for which counsel Mound Cotton Wollan & Greengrass has accepted service), Turner Defendants and the Turner/Plaza joint venture (for which counsel London Fischer LLP has accepted service), AMEC, Tully and various other contractor Defendants (for which counsel Patton Boggs LLP has accepted service), as well as the Port Authority of New York and New Jersey and the "World Trade Center Defendants" (as defined in the various submissions made on behalf of those Defendants by their counsel), will continue to receive service of process in the manner previously established.

10. In lieu of the procedures set forth in Paragraph 7, Plaintiffs may also elect to serve the appropriate parties with two hard-copies of each Check-Off Complaint in accordance with the Federal Rules of Civil Procedure and CMO 4.

11. Nothing herein shall be deemed to relieve a Plaintiff or Plaintiffs from the requirement under the Federal Rules of Civil Procedure and under the United States Constitution that jurisdiction over a particular Defendant in a particular action must be effected by service of an appropriate summons on that Defendant by that Plaintiff. However, in light of the volume of Plaintiffs and Defendants, the parties are encouraged to discuss and agree to alternative

arrangements for service of such process so as to render the effectuation of such service both efficient and economical for the parties.

12. In recognition of the volume of Check-Off Complaints that Defendants already have received and that Defendants likely will receive in the coming months, following a Defendant's filing of a Master Answer, a Defendant will be deemed to have answered all Check-Off Complaints brought against it by general denials plus all affirmative defenses contained in the appropriate Master Answer.

13. A Defendant may elect to forgo the procedure in Paragraph 12. Upon proper service on a given Defendant (in a manner permitted both by the Federal Rules of Civil Procedure and by the provisions of CMO 4 or as provided in Paragraphs 7, 8, and 9) of a Check-Off Complaint in a specific action, that Defendant, intending to answer the Check-Off Complaint, may thereafter serve and file a "Notice of Adoption of Master Answer" in the specific case in which the Check-Off Complaint was served upon it. Such Notice of Adoption of Master Answer shall adopt the appropriate Master Answer served by that Defendant in this litigation as its answer in the specific case in which that Notice of Adoption of Master Answer is filed. Such Notice of Adoption of Master Answer shall be captioned in that specific case and shall be filed under the Civil Action No. for that specific case. Automatic ECF notice of such filing shall be provided only to the filing party and to Plaintiffs' Co-Liaison Counsel and to Defendants' Co-Liaison Counsel so that all other parties are not deluged with ECF notices of these potentially numerous filings. Any party not receiving such notice can request to receive such notice from the Court and, upon such request, shall be so provided.

14. Should a Defendant elect to forgo the procedure in Paragraph 12, that Defendant shall serve and file a Notice of Adoption of Master Answer within 60 days of receiving proper service of the Check-Off Complaint.

15. When filing a Notice of Adoption of Master Answer, a Defendant need not comply with Fed. R. Civ. P. 7.1 if that Defendant has previously filed a Rule 7.1 Statement in the 21-MC-100 litigation.

16. Plaintiffs shall not serve a Check-Off Complaint using the Docket Number of a multiple-Plaintiff action (i.e., an action in which there is more than one Plaintiff and in which the claims of the other Plaintiffs are not derivative of the claims of the Plaintiff alleged to have suffered a respiratory injury). To the extent that Defendants have been previously served with a Check-Off Complaint of this kind, Defendants are not required to respond to any such Check-Off Complaint unless and until a Plaintiff-specific Check-Off Complaint is served upon Defendants bearing a unique Civil Action No. for each Plaintiff, except for the first named Plaintiff in each multiple Plaintiff case who may continue to use that civil action number. Such multiple-Plaintiff actions are not subject to the procedure outlined in Paragraph 12.

17. All provisions of CMO 4, unless specifically superseded by this order, remain in effect.

18. Any party objecting to the entry of this Order shall file such objection by no later than December 20, 2007.

SO ORDERED.

Dated: New York, New York

Dec. 13, 2007



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ALVIN K. HELLERSTEIN  
United States District Judge