

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE SEPTEMBER 11TH PROPERTY DAMAGE
AND BUSINESS LOSS LITIGATION

Civil No.
21 MC 101 (AKH)

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**ANSWER OF DEFENDANT GLOBE AVIATION SERVICES CORPORATION
TO FIFTH AMENDED MASTER PROPERTY COMPLAINT AGAINST
AIRLINE AND SECURITY COMPANY DEFENDANTS**

Defendant, **GLOBE AVIATION SERVICES CORPORATION** (hereinafter referred to as "**GLOBE**") by its attorneys, **JONES HIRSCH CONNORS & BULL P.C.** and **LORD, BISSELL & BROOK LLP**, as and for its Answer to Property Plaintiffs' Fifth Amended Master Liability Complaint alleges as follows:

The assertions contained in plaintiffs' Fifth Amended Master Liability Complaint under the introductory heading are not in the form of factual allegations and are not in compliance with Fed. R. Civ. P. 10(b) and Fed. R. Civ. P. 8. However, to the extent they are deemed to contain allegations, they are hereby denied.

BACKGROUND

1. The assertions contained under the heading "**BACKGROUND**" are not in the form of factual allegations and are not in compliance with Fed. R. Civ. P. 10(b) and Fed. R. Civ. P. 8. However, to the extent they are deemed to contain allegations, they are hereby denied.

2. Denies the allegations contained in paragraph 2 to the extent that it alleges any negligence, wrongdoing, carelessness, fault, omissions, commissions, willful conduct, tortious conduct and wanton disregard of defendants on the part of **GLOBE**. In further answering, **GLOBE** respectfully refers all questions of law to this Honorable Court.

JURISDICTION

3. Admits the allegations contained in paragraph 3.

4. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 and respectfully refers all questions of law to this Honorable Court.

VENUE

5. Admits the allegations contained in paragraph 5.

THE PARTIES

"Insurer Plaintiffs"

6. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6.

7. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.

8. Denies the allegations contained in paragraph 8 to the extent that it alleges any negligence, wrongdoing, carelessness,

fault, omissions, commissions, willful conduct, tortious conduct and wanton disregard of defendants on the part of **GLOBE**, and further denies knowledge or information sufficient to form a belief as to the truth of the allegation that Insurer Plaintiffs insured the Insureds for various perils including property loss, business loss and other related losses concerning the World Trade Center complex. In further answering, **GLOBE** respectfully refers all questions of law to this Honorable Court.

9. Denies the allegations contained in paragraph 9 to the extent that it alleges any negligence, wrongdoing, carelessness, fault, omissions, commissions, willful conduct, tortious conduct and wanton disregard on the part of **GLOBE**, and further denies knowledge or information sufficient to form a belief as to the truth of the allegation that Insurer Plaintiffs have paid substantial insurance proceeds to such Insureds. In further answering, **GLOBE** respectfully refers all questions of law to this Honorable Court.

"Plaintiff Consolidated Edison Company of New York, Inc."

10. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10.

11. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11.

"The Tenant Plaintiffs"

12. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12.

13. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13.

14. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14.

15. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15.

16. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16.

17. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17.

18. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18.

19. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 19.

20. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 20.

21. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 21.

22. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22.

23. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23.

24. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 24.

25. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 25.

26. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 26.

27. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 27.

28. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 28.

29. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 29.

30. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 30.

31. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 31.

32. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 32.

33. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 33.

34. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 34.

"The Asbestos Plaintiffs"

35. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 35.

36. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 36.

37. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 37.

"MVN Plaintiffs"

38. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 38.

39. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 39.

40. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 40.

41. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 41.

42. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 42.

"Cantor Fitzgerald Plaintiffs"

43. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in

paragraph 43.

44. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 44.

45. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 45.

46. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 46.

47. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 47.

48. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 48.

49. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 49.

50. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 50.

51. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 51.

52. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 52.

53. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 53.

54. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 54.

55. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 55.

56. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 56.

"The Airline Defendants"

57. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 57.

58. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 58.

59. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 59.

60. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 60.

61. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 61.

62. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 62.

63. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 63.

64. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 64.

65. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 65.

66. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 66.

67. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 67.

68. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 68.

69. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 69.

70. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 70.

71. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 71.

"The Security Company Defendants"

72. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 72.

73. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 73.

74. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 74.

75. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 75.

76. Denies the allegations contained in paragraph 76 except admits that defendant **GLOBE** is a Delaware corporation with its principal place of business in Irving, Texas and that **GLOBE** engaged in the business of providing specified airport security services pursuant to contract at Logan Airport.

77. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 77.

78. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 78.

79. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 79.

80. Denies the allegations contained in paragraph 80 except admits that defendant Burns is the parent corporation of its wholly-owned subsidiary, defendant **GLOBE**.

81. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 81.

82. Denies the allegations contained in paragraph 82 except admits that Pinkerton's is the parent corporation of its subsidiary Burns.

83. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in

paragraph 83.

84. Denies the allegations contained in paragraph 84 except admits that Securitas is the parent corporation of its wholly-owned subsidiary Pinkerton's.

85. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 85, except admits defendant **GLOBE** was a corporation engaged in the business of providing specified airport security services pursuant to contract. Defendant **GLOBE** further denies all allegations of responsibility contained herein. In further answering, **GLOBE** respectfully refers all questions of law to this Honorable Court.

"The Boeing Company"

86. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 86.

87. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 87.

88. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 88.

"Massachusetts Port Authority"

89. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in

paragraph 89.

90. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 90.

GENERAL ALLEGATIONS

91. The allegations contained in paragraph 91 are not directed at **GLOBE**; therefore, **GLOBE** makes no response. To the extent that this allegation is intended or can be construed against **GLOBE**, **GLOBE** denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 91 and respectfully refers all questions of law to this Honorable Court.

92. Denies the allegations contained in paragraph 92 except admits that defendant **GLOBE** undertook specific contractual obligations to conduct certain security checkpoint operations.

93. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 93.

94. Denies the allegations contained in paragraph 94 except admits that defendant **GLOBE** undertook specific contractual obligations to conduct certain security checkpoint operations.

95. Denies the allegations contained in paragraph 95 except admits defendant **GLOBE** on and prior to September 11, 2001 selected, hired, trained, instructed and supervised the security checkpoint screeners, metal detector and x-ray machine monitors

and others who operated specific security checkpoints at Portland Jetport and Logan Airport.

96. Denies the allegations contained in paragraph 96 in the form alleged.

97. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 97.

98. Denies the allegations contained in paragraph 98.

99. Denies the allegations contained in paragraph 99 and respectfully refers all questions of law to this Honorable Court.

100. Denies the allegations contained in paragraph 100.

101. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 101.

102. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 102.

103. Denies the allegations contained in paragraph 103.

104. Denies the allegations contained in paragraph 104.

105. Denies the allegations contained in paragraph 105.

106. Denies the allegations contained in paragraph 106.

107. Denies the allegations contained in paragraph 107.

108. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 108.

109. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 109.

110. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 110 except admits hijackers' actions resulted in the crashing of aircraft into Tower One and Tower Two of the World Trade Center.

111. Denies the allegations contained in paragraph 111. In further answering, **GLOBE** respectfully refers all questions of law to this Honorable Court.

112. Denies the allegations contained in paragraph 112.

113. Denies the allegations contained in paragraph 113.

114. Denies the allegations contained in paragraph 114. In further answering, **GLOBE** respectfully refers all questions of law to this Honorable Court.

COUNT I

CLAIM FOR DAMAGES AGAINST THE AIRLINE DEFENDANTS AND THE SECURITY COMPANY DEFENDANTS BASED ON NEGLIGENCE

115. The defendant repeats, reiterates and realleges each and every admission or denial heretofore made in response to paragraphs 1 through 114 with the same force and effect as though fully set forth herein in response to paragraph 115.

116. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 116.

117. Denies the allegations contained in paragraph 117. In further answering, **GLOBE** respectfully refers all questions of law to this Honorable Court.

118. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 118, except admits that defendant **GLOBE** undertook specific contractual obligations to conduct certain security checkpoint operations.

119. Denies the allegations contained in paragraph 119.

120. Denies the allegations contained in paragraph 120.

121. Denies the allegations contained in paragraph 121. In further answering, **GLOBE** respectfully refers all questions of law to this Honorable Court.

122. Denies the allegations contained in paragraph 122. In further answering, **GLOBE** respectfully refers all questions of law to this Honorable Court.

COUNT II

CLAIM FOR DAMAGES AGAINST MASSPORT BASED ON NEGLIGENCE

123. The defendant repeats, reiterates and realleges each and every admission or denial heretofore made in response to

paragraphs 1 through 122 with the same force and effect as though fully set forth herein in response to paragraph 123.

124. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 124.

125. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 125.

126. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 126, except admits that defendant **GLOBE** undertook specific contractual obligations to conduct certain security checkpoint operations.

127. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 127.

128. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 128.

129. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 129.

130. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 130. In further answering, **GLOBE** respectfully refers

all questions of law to this Honorable Court.

COUNT III

**CLAIMS FOR DAMAGES AGAINST THE AIRLINE
DEFENDANTS BASED ON NEGLIGENT HIRING, SELECTION,
RETENTION AND SUPERVISION**

131. The defendant repeats, reiterates and realleges each and every admission or denial heretofore made in response to paragraphs 1 through 130 with the same force and effect as though fully set forth herein in response to paragraph 131.

132. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 132.

133. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 133.

134. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 134, except admits that defendant **GLOBE** undertook specific contractual obligations to conduct certain security checkpoint operations.

135. Denies the allegations contained in paragraph 135 in the form alleged.

136. Denies the allegations contained in paragraph 136.

137. Denies the allegations contained in paragraph 137.

138. Denies the allegations contained in paragraph 138.

139. Denies the allegations contained in paragraph 139. In further answering, **GLOBE** respectfully refers all questions of law to this Honorable Court.

COUNT IV

**CLAIMS FOR DAMAGES
AGAINST MASSPORT BASED ON NEGLIGENT
HIRING, SELECTION, RETENTION AND SUPERVISION**

140. The defendant repeats, reiterates and realleges each and every admission or denial heretofore made in response to paragraphs 1 through 139 with the same force and effect as though fully set forth herein in response to paragraph 140.

141. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 141.

142. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 142.

143. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 143, except admits that defendant **GLOBE** undertook specific contractual obligations to conduct certain security checkpoint operations.

144. Denies the allegations contained in paragraph 144 in the form alleged.

145. Denies the allegations contained in paragraph 145.

146. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 146.

147. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 147.

148. Denies the allegations contained in paragraph 148. In further answering, **GLOBE** respectfully refers all questions of law to this Honorable Court.

COUNT V

**CLAIM FOR DAMAGES BASED ON RES IPSA LOQUITUR
AGAINST THE AIRLINE DEFENDANTS AND
THE SECURITY COMPANY DEFENDANTS**

149. The defendant repeats, reiterates and realleges each and every admission or denial heretofore made in response to paragraphs 1 through 148 with the same force and effect as though fully set forth herein in response to paragraph 149.

150. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 150.

151. Denies the allegations contained in paragraph 151.

152. Denies the allegations contained in paragraph 152.

153. Denies the allegations contained in paragraph 153.

154. Denies the allegations contained in paragraph 154.

155. Denies the allegations contained in paragraph 155. In further answering, **GLOBE** respectfully refers all questions of law

to this Honorable Court.

COUNT VI

CLAIM FOR DAMAGES BASED ON RES IPSA LOQUITUR AGAINST MASSPORT

156. The defendant repeats, reiterates and realleges each and every admission or denial heretofore made in response to paragraphs 1 through 155 with the same force and effect as though fully set forth herein in response to paragraph 156.

157. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 157.

158. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 158.

159. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 159.

160. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 160.

161. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 161.

162. Denies the allegations contained in paragraph 162.

COUNT VII

**CLAIMS FOR PROPERTY DAMAGE AGAINST
THE AIRLINE DEFENDANTS AND THE SECURITY COMPANY
DEFENDANTS BASED ON NEGLIGENCE PER SE**

163. The defendant repeats, reiterates and realleges each and every admission or denial heretofore made in response to paragraphs 1 through 162 with the same force and effect as though fully set forth herein in response to paragraph 163.

164. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 164.

165. Denies the allegations contained in paragraph 165.

166. Denies the allegations contained in paragraph 166.

167. Denies the allegations contained in paragraph 167. In further answering, **GLOBE** respectfully refers all questions of law to this Honorable Court.

168. Denies the allegations contained in paragraph 168.

COUNT VIII

**CLAIMS FOR PROPERTY DAMAGE AGAINST MASSPORT
BASED ON NEGLIGENCE PER SE**

169. The defendant repeats, reiterates and realleges each and every admission or denial heretofore made in response to paragraphs 1 through 168 with the same force and effect as though fully set forth herein in response to paragraph 169.

170. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 170.

171. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 171.

172. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 172.

173. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 173.

174. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 174.

COUNT IX

CLAIMS FOR DAMAGES AGAINST DEFENDANT BOEING BASED ON STRICT TORT LIABILITY

175. The defendant repeats, reiterates and realleges each and every admission or denial heretofore made in response to paragraphs 1 through 174 with the same force and effect as though fully set forth herein in response to paragraph 175.

176. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 176.

177. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 177.

178. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 178.

179. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 179.

180. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 180.

181. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 181.

COUNT X

**CLAIMS FOR DAMAGES AGAINST DEFENDANT BOEING
BASED ON NEGLIGENT DESIGN**

182. The defendant repeats, reiterates and realleges each and every admission or denial heretofore made in response to paragraphs 1 through 181 with the same force and effect as though fully set forth herein in response to paragraph 182.

183. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 183.

184. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 184.

185. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 185.

186. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 186.

187. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 187.

188. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 188.

189. Denies the allegations contained in paragraph 189, to the extent they name Globe. Otherwise, denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 189.

COUNT XI

CLAIMS FOR DAMAGES AGAINST DEFENDANT BOEING BASED ON BREACH OF WARRANTY

190. The defendant repeats, reiterates and realleges each and every admission or denial heretofore made in response to paragraphs 1 through 189 with the same force and effect as though

fully set forth herein in response to paragraph 190.

191. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 191.

192. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 192.

193. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 193.

194. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 194.

195. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 195.

196. Denies the allegations contained in paragraph 196, to the extent they name Globe. Otherwise, denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 196.

**AS AND FOR A FIRST, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

That plaintiffs' Complaint fails to state a claim upon which relief can be granted.

**AS AND FOR A SECOND, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

Public Law 107-42, "The Air Transportation Safety And System Stabilization Act," as amended by Public Law 107-71, "The Aviation and Transportation Security Act," provides an exclusive federal cause of action for all claims arising from the terrorist-related aircraft crashes of September 11, 2001. To the extent plaintiffs' Complaint asserts causes of action other than that provided for by this legislation, those causes of action must be dismissed as a matter of law.

**AS AND FOR A THIRD, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

That the Federal Aviation Act of 1958, P.L. 85-726, 72 Stat. 731, formerly codified as 49 U.S.C. 1301, et. seq., now recodified and incorporated into 49 U.S.C. 40101, et. seq., together with the amendments to same and the regulations promulgated thereunder establish the uniform and exclusive standards that must be followed with respect to aviation safety and security, and state statutory and common law standards inconsistent with or preempted by the federal standards are unenforceable.

**AS AND FOR A FOURTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

That to the extent the plaintiffs are able to assert a

colorable claim under federal law, and/or a claim that is not preempted by same, then in accordance with the provisions of Public Law 107-42 "the Air Transportation Safety and Systems Stabilization Act," §4545©) of the New York Civil Practice Law and Rules is applicable and requires that any claim for past or future costs or expenses or to be incurred for loss of earnings or other economic loss must be reduced by the amount of same that has been or can be replaced or indemnified in whole or in part by collateral sources.

**AS AND FOR A FIFTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

Plaintiffs have failed to join all necessary and indispensable parties and therefore complete relief cannot be accorded to those who are already parties to this action and, therefore, plaintiffs' action must be dismissed as plaintiffs' failure to join all indispensable parties will result in prejudice to defendant **GLOBE**.

**AS AND FOR A SIXTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

The "Air Transportation and System Stabilization Act," 49 U.S.C. 40101, as amended, directs that damages awarded against **GLOBE** shall not be in an amount greater than the limits of liability insurance coverage maintained by **GLOBE**.

**AS AND FOR A SEVENTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

That to the extent that plaintiffs are to assert a claim under federal law and/or a claim that is not preempted by same, then in accordance with the provisions of Public Law 107-42, "The Air Transportation Safety and System Stabilization Act," Article 16 of New York's Civil Practice Law and Rules limits the liability of **GLOBE** for any non-economic loss to the equitable share of its fault, if any, to be determined in accordance with the relative culpability of each and every party or non-party, causing or contributing to the total liability claimed by plaintiffs provided that **GLOBE's** liability is found to be fifty percent or less of the total liability assigned to all liable persons, including non-parties.

**AS AND FOR AN EIGHTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

That to the extent that plaintiffs are able to assert a colorable claim under federal law and/or a claim that is not preempted by same, then in accordance with the provisions of Public Law 107-42, "The Air Transportation Safety and System Stabilization Act," Section 15-108 of New York's General Obligations Law is applicable and requires that if plaintiffs release or enter into covenant not to sue or enforce a judgment with any other persons claimed to be liable for plaintiffs' damages, if any, otherwise recoverable against **GLOBE** must be

reduced by the greater of the amount stipulated by the release or the covenant, the amount of the consideration paid for it, or the amount of any released tortfeasor's equitable share of recoverable damages.

**AS AND FOR A NINTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

That the causes of action set forth in plaintiffs' Complaint fail to set forth a claim upon which relief can be granted as the answering defendant was not contractually obligated to plaintiffs.

**AS AND FOR A TENTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

Any damages suffered by the plaintiffs were caused by the unforeseeable and/or intervening and/or supervening and/or criminal acts and/or omissions of persons other than the defendant **GLOBE** who were neither under the care, custody or control nor in the employ of said defendant and for whose acts and/or omissions defendant **GLOBE** bears no responsibility.

**AS AND FOR A ELEVENTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

Plaintiffs named as claimants in the Complaint lack capacity and/or standing to maintain this action.

**AS AND FOR A TWELFTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

The alleged damages complained of were not proximately caused by any negligence or culpable conduct on the part of **GLOBE**, its agents, or employees.

**AS AND FOR A THIRTEENTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

The imposition of punitive damages in this case would violate the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution and the counterpart clause(s) of the applicable State constitution as may be derived by this Court from applicable state law because the standards for determining liability for punitive damages and the standards for determining the amount of punitive damages in the applicable State are unduly vague and subjective, and permit retroactive, random, arbitrary and capricious, excessive and disproportionate punishment that serves no legitimate government interest.

**AS AND FOR A FOURTEENTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

The imposition of punitive damages in this case would violate the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution and counterpart clause(s) of the applicable State constitution as may be derived by this Court from applicable state law because the applicable

State's post-verdict review procedures for scrutinizing punitive damage verdicts do not provide a meaningful constraint on the discretion of juries to impose punishment.

**AS AND FOR A FIFTEENTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

The imposition of punitive damages in this case, in the absence of the procedural safeguards accorded to defendants subject to punishment in criminal proceedings, including a reasonable doubt standard of proof, would violate the Fourth, Fifth, and Sixth Amendments and the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution and the counterpart clause(s) of the applicable State constitution as may be derived by this Court from applicable state law.

**AS AND FOR A SIXTEENTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

The imposition of punitive damages in this case based upon a theory of respondent superior without proof that an officer, director or managing agent of **GLOBE** acted with the requisite state of mind would violate the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution and the counterpart clause(s) of the applicable State constitution as may be derived by this Court from applicable state law.

**AS AND FOR A SEVENTEENTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

The imposition of joint and several liability for punitive damages in this case would violate the Due Process Clause of the Fifth and Fourteenth Amendments to United States Constitution and of the counterpart clause(s) of the applicable State constitution as may be derived by this Court from applicable state law.

**AS AND FOR AN EIGHTEENTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

The imposition of punitive damages in this case would violate the Excessive Fines Clause of the applicable State constitution which may be derived by this Court from applicable state law.

**AS AND FOR A NINETEENTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

The imposition of punitive damages in this case based upon evidence of defendant's wealth or financial status would violate the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution and of the counterpart clause(s) of the applicable State constitution as may be derived by this Court from applicable state law.

**AS AND FOR A TWENTIETH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

The imposition of punitive damages in this case based on the out-of-state conduct, profits and aggregate financial status of defendant would violate the Commerce Clause, the Equal Protection Clause, and the Privileges and Immunities Clause of the United States Constitution.

**AS AND FOR A TWENTY-FIRST, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

The imposition of punitive damages in this case in the absence of a showing of malicious intent to cause harm to the plaintiffs would violate the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution and of the counterpart clause(s) of the applicable State constitution as may be derived by this Court from applicable state law.

**AS AND FOR A TWENTY-SECOND, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

The imposition of punitive damages in this case pursuant to applicable state law to punish defendant for out of state conduct would violate the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution and of the counterpart clause(s) of the applicable State constitution as may be derived by this Court from applicable state law, as well as the Commerce Clause of the United States Constitution.

**AS AND FOR A TWENTY-THIRD, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

Plaintiffs' alleged damages were remote and not a reasonably foreseeable consequence of any alleged conduct by **GLOBE**; therefore, **GLOBE** owed no duty to plaintiffs as a matter of law and cannot be held liable for plaintiffs' alleged damages.

**AS AND FOR A TWENTY-FOURTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

GLOBE reserves the right to add affirmative defenses as necessary based on information obtained during investigation or discovery.

**AS AND FOR A TWENTY-FIFTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

Plaintiffs' claims are barred, in whole or in part, by contributory and comparative negligence of others, including parties, plaintiffs' decedents and other non-parties.

**AS AND FOR A TWENTY-SIXTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

Plaintiffs' claims are barred by the applicable statute of limitations.

**AS AND FOR A TWENTY-SEVENTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

Plaintiffs' claims are barred by improper service.

**AS AND FOR A TWENTY-EIGHTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

Any of plaintiffs' claims that relate to the services provided by Globe are expressly preempted by 49 U.S.C. 41713.

**AS AND FOR A TWENTY-NINTH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

GLOBE is not liable to plaintiffs because it complied with all applicable government regulations in effect at the time of the events described in the Complaint.

**AS AND FOR A THIRTIETH, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

To the extent plaintiffs' claims differ from the standards imposed by the Federal Aviation Act of 1958, P.L. 85-726, 72 Stat. 731, formerly codified as 49 U.S.C. 1301, et. seq., now recodified and incorporated into 49 U.S.C. 40101, et. seq., together with the amendments to same and the regulations promulgated thereunder, such claims place an unconstitutional burden on interstate commerce and thereby violate the Commerce Clause of the United States Constitution.

**AS AND FOR A THIRTY-FIRST, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

That to the extent the plaintiffs are able to assert a colorable claim under federal law, and/or a claim that is not

preempted by same, then applicable law requires that any claim for past or future costs or expenses or to be incurred for loss of earnings or other economic loss must be reduced by the amount of same that has been or can be replaced or indemnified in whole or in part by collateral sources.

**AS AND FOR A THIRTY-SECOND, SEPARATE AND
DISTINCT AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:**

Plaintiffs' claims are barred, in whole or in part, by provisions of the laws of the United States and/or applicable foreign statute.

WHEREFORE, defendant, **GLOBE AVIATION SERVICES CORPORATION,** demands judgment dismissing the plaintiffs' Complaint against it, together with the costs and disbursements of this action, and for any expenses incurred by it in the defense thereof, including attorneys' fees actually expended.

Dated: New York, New York
December 1, 2005

JONES HIRSCH CONNORS & BULL P.C.

Anthony C. Hom

By:

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