

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE SEPTEMBER 11, 2001 LITIGATION : :  
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21 MC 97 (AKH)

**MASSACHUSETTS PORT AUTHORITY'S ANSWER TO  
CROSS-CLAIMS BY THE PORT AUTHORITY OF NEW YORK/NEW JERSEY  
AGAINST CERTAIN DEFENDANTS IN PLAINTIFFS'  
AMENDED FLIGHT 175 MASTER LIABILITY COMPLAINT**

Defendant Massachusetts Port Authority ("Massport"), by its attorneys, answers the Cross-Claims by the Port Authority of New York/New Jersey Against Certain Defendants in Plaintiffs' Amended Flight 175 Master Liability Complaint ("Cross-Claims") as follows:

1. - 6. With respect to paragraphs 1 through 6 of the Cross-Claims, no responsive pleading is required of Massport.

**JURISDICTION**

7. Massport admits that this Court has exclusive subject matter jurisdiction under Section 408(b)(3) of the Air Transportation Safety and System Stabilization Act, Pub. L. 107-42, § 408(b)(3), 115 Stat. 230 (2001) (codified as amended at 49 U.S.C. § 40101 note) ("ATSSSA").

8. The allegations contained in paragraph 8 of the Cross-Claims are not allegations of fact but rather conclusions of law, which do not require a responsive pleading.

**PARTIES TO THE CROSS-CLAIMS**

**Cross-Claim Plaintiffs**

9. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 9 of the Cross-Claims.

10. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 10 of the Cross-Claims.

11. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 11 of the Cross-Claims.

**Cross-Claim Defendants**

12. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 12 of the Cross-Claims.

13. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 13 of the Cross-Claims.

14. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 14 of the Cross-Claims.

15. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 15 of the Cross-Claims.

16. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 16 of the Cross-Claims.

17. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 17 of the Cross-Claims.

18. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 18 of the Cross-Claims.

19. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 19 of the Cross-Claims.

20. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 20 of the Cross-Claims.

21. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 21 of the Cross-Claims.

22. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 22 of the Cross-Claims.

23. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 23 of the Cross-Claims.

24. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 24 of the Cross-Claims.

25. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 25 of the Cross-Claims.

26. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 26 of the Cross-Claims.

27. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 27 of the Cross-Claims.

28. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 28 of the Cross-Claims.

29. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 29 of the Cross-Claims.

30. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 30 of the Cross-Claims.

31. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 31 of the Cross-Claims.

32. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 32 of the Cross-Claims.

33. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 33 of the Cross-Claims.

34. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 34 of the Cross-Claims.

35. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 35 of the Cross-Claims.

36. Massport admits that pursuant to Mass. Gen. Law Ann. 91 App. §§ 1-2, Massport is a public instrumentality created and existing under the laws of Massachusetts and that Massport maintains its principal place of business in Massachusetts.

37. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 37 of the Cross-Claims.

**AS AND FOR A FIRST CROSS-CLAIM AGAINST  
THE CROSS-CLAIM DEFENDANTS**

38. With respect to paragraph 38 of the Cross-Claims, Massport repeats and re-alleges the answers contained in paragraphs 1 through 37 above as if fully set forth herein.

39. To the extent that the allegations contained in paragraph 39 of the Cross-Claims are not allegations of fact but rather conclusions of law, they do not require a responsive pleading. However, to the extent that any responsive pleading is required, Massport denies the allegations set forth in paragraph 39. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations with respect to the other defendants in paragraph 39.

40. To the extent that the allegations contained in paragraph 40 of the Cross-Claims are not allegations of fact but rather conclusions of law, they do not require a responsive pleading. However, to the extent that any responsive pleading is required, Massport denies the

allegations set forth in paragraph 40. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations with respect to the other defendants in paragraph 40.

**AS AND FOR A SECOND CROSS-CLAIM AGAINST  
THE CROSS-CLAIM DEFENDANTS**

41. With respect to paragraph 41 of the Cross-Claims, Massport repeats and re-alleges the answers contained in paragraphs 1 through 40 above as if fully set forth herein.

42. To the extent that the allegations contained in paragraph 42 of the Cross-Claims are not allegations of fact but rather conclusions of law, they do not require a responsive pleading. However, to the extent that any responsive pleading is required, Massport denies the allegations set forth in paragraph 42. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations with respect to the other defendants in paragraph 42.

**AS AND FOR A THIRD CROSS-CLAIM AGAINST  
THE CROSS-CLAIM DEFENDANTS**

43. With respect to paragraph 43 of the Cross-Claims, Massport repeats and re-alleges the answers contained in paragraphs 1 through 42 above as if fully set forth herein.

44. Massport denies the allegations set forth in paragraph 44 of the Cross-Claims, except admits that, on September 11, 2001, One World Trade Center, Two World Trade Center, Four World Trade Center, Five World Trade Center, Six World Trade Center, the World Trade Center PATH Station, and the World Trade Center Retail Concourse were destroyed and PATH properties and the World Trade Center Marriott Hotel were damaged.

45. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 45 of the Cross-Claims.

46. To the extent that the allegations contained in paragraph 46 of the Cross-Claims are not allegations of fact but rather conclusions of law, they do not require a responsive pleading. However, to the extent that any responsive pleading is required, Massport denies the

allegations set forth in paragraph 46. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations with respect to the other defendants in paragraph 46.

## DEFENSES

### FIRST DEFENSE

47. Defendant and cross-claim plaintiff The Port Authority of New York and New Jersey and additional cross-claim plaintiffs, WTC Retail LLC and The Port Authority Trans-Hudson Corporation (collectively, "Cross-Claim Plaintiffs") fail to state a cause of action upon which relief can be granted.

### SECOND DEFENSE

48. Cross-Claim Plaintiffs lack capacity and/or standing to maintain this action.

### THIRD DEFENSE

49. The Air Transportation Safety and System Stabilization Act, Pub. L. 107-42, § 405(c)(3)(B)(i), 115 Stat. 230 (2001) (codified as amended at 49 U.S.C. § 40101 note) ("ATSSSA") establishes a federal cause of action as the exclusive remedy for damages arising from the terrorist-related aircraft crashes of September 11, 2001. To the extent the Cross-Claims contain causes of action other than that provided for by this legislation, those causes of action must be dismissed as a matter of law.

### FOURTH DEFENSE

50. The Cross-Claims should be dismissed because they have been improperly pleaded.

### FIFTH DEFENSE

51. Any damages sustained by the Cross-Claim Plaintiffs and Additional Cross-Claim Plaintiffs were caused by the negligence and/or intentional conduct of parties other than Massport and for whom Massport is not responsible; therefore, Massport is not liable to the

Cross-Claim Plaintiffs and Additional Cross-Claim Plaintiffs or, in the alternative, Massport's liability, if any, should be reduced or eliminated in accordance with applicable law.

WHEREFORE, Massport hereby requests that judgment be entered dismissing the claims alleged in Cross-Claims By The Port Authority of New York/New Jersey Against Certain Defendants In Plaintiffs' Amended Flight 175 Master Liability Complaint with prejudice and awarding Massport its costs and fees, including reasonable attorneys' fees, and such other and further relief as the Court deems just and proper.

Dated: New York, New York  
November 18, 2005

MASSACHUSETTS PORT AUTHORITY

By: W. Mark Wood

W. Mark Wood (admitted *pro hac vice*)  
John L. Altieri, Jr. (JA 3955)  
O'MELVENY & MYERS LLP  
Times Square Tower  
7 Times Square  
New York, New York 10036  
(212) 326-2000

Christopher D. Moore (admitted *pro hac vice*)  
GOODWIN PROCTER LLP  
Exchange Place  
Boston, Massachusetts 02109-2881  
(617) 570-1000

TO: Keith E. Harris, Esq.  
Chief Legal Counsel  
PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
225 Park Avenue South, 18<sup>th</sup> Floor  
New York, New York 10003  
(212) 435-3437  
*Attorneys for Defendant-Cross-Claim Plaintiff  
Port Authority of New York and New Jersey and  
Additional Cross-Claim Plaintiffs WTC Retail LLC and  
The Port Authority Trans-Hudson Corporation*

James B. Eisenberg, Esq.  
FLEMMING, ZULACK & WILLIAMSON, LLP  
One Liberty Plaza, 35<sup>th</sup> Floor  
New York, New York 10006-1404  
(212) 412-9500  
*Attorneys for Defendant-Cross-Claim Plaintiff  
Port Authority of New York and New Jersey and  
Additional Cross-Claim Plaintiffs WTC Retail LLC and  
The Port Authority Trans-Hudson Corporation*

Marc S. Moller, Esq.  
KREINDLER & KREINDLER  
100 Park Avenue  
New York, New York 10017  
(212) 687-8181  
*PI/WD Plaintiffs' Liaison Counsel*

Robert A. Clifford, Esq.  
CLIFFORD LAW OFFICES  
120 North LaSalle Street  
Chicago, Illinois 60602  
(312) 899-9090  
*PD/BL Plaintiffs' Liaison Counsel*

Desmond T. Barry, Jr., Esq.  
CONDON & FORSYTH LLP  
Times Square Tower  
7 Times Square  
New York, New York 10036  
(212) 894-6770  
*Defendants' Liaison Counsel*

Richard A. Williamson, Esq.  
FLEMMING, ZULACK & WILLIAMSON, LLP  
One Liberty Plaza, 35<sup>th</sup> Floor  
New York, New York 10006-1404  
(212) 412-9500  
*Ground Defendants' Liaison Counsel*

Beth D. Jacob, Esq.  
SCHIFF HARDIN LLP  
623 Fifth Avenue, 28<sup>th</sup> Floor  
New York, New York 10022  
(212) 753-5000  
*7 World Trade Center Ground Defendants' Liaison Counsel*

Sarah S. Normand, Esq.  
Elizabeth Goldman, Esq.  
Assistant U.S. Attorneys  
Southern District of New York  
UNITED STATES DEPARTMENT OF JUSTICE  
86 Chambers Street  
New York, New York 10007  
(212) 637-2709  
*Counsel for Intervenor*  
*THE UNITED STATES OF AMERICA*

All Defense Counsel of Record

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