

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 WORLD TRADE CENTER PROPERTIES ENTITIES  
AGAINST CERTAIN DEFENDANTS IN PLAINTIFFS'  
AMENDED FLIGHT 175 MASTER LIABILITY COMPLAINT**

Defendant Massachusetts Port Authority ("Massport"), by its attorneys, answers Cross-Claims by the World Trade Center Properties Entities Against Certain Defendants in Plaintiffs' Amended Flight 175 Master Liability Complaint (the "Cross-Claims") as follows:

1. - 4. With respect to paragraphs 1 through 4 of the Cross-Claims, no responsive pleading is required of Massport.

**JURISDICTION**

5. 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")

6. The allegations contained in paragraph 6 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**

7. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 7 of the Cross-Claims.

8. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 8 of the Cross-Claims.

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.

**Cross-Claim Defendants**

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.

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. With respect to paragraph 14 of the Cross-Claims, no responsive pleading is required of Massport.

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. With respect to paragraph 16 of the Cross-Claims, no responsive pleading is required of Massport.

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. With respect to paragraph 29 of the Cross-Claims, no responsive pleading is required of Massport.

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 is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 36 of the Cross-Claims.

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.

38. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 38 of the Cross-Claims, except admits that certain of the Security Company Defendants provided passenger screening services at Logan International Airport. Massport further admits that there are separate airline and airport security systems.

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. To the extent that any responsive pleading is required, Massport denies the allegations set forth in paragraph 39, except 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; that Massport maintains its principal place of business in Massachusetts; that Massport owns the airport premises and operates certain portions thereof; and that, in accordance with federal law, controls certain areas and activities at Logan Airport.

40. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 40 of the Cross-Claims.

**CROSS-CLAIM ONE FOR NEGLIGENCE**

**THE WTCP ENTITIES AGAINST THE AIRLINE CROSS-CLAIM DEFENDANTS,  
THE NON-CARRIER AIRLINE CROSS-CLAIM DEFENDANTS,  
THE SECURITY COMPANY CROSS-CLAIM DEFENDANTS AND MASSPORT**

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. Massport denies the allegations set forth in paragraph 42 of the Cross-Claims, except admits that there are separate airline and airport security systems. 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.

43. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 43 of the Cross-Claims.

44. Massport admits that United operated regularly scheduled flights from Logan International Airport and that United operated Flight 175 on September 11, 2001. Massport further admits, upon information and belief, that Flight 175 was hijacked and thereafter intentionally crashed by the hijackers into Two World Trade Center on September 11, 2001. Massport is without knowledge or information sufficient to admit or deny the truth of the remaining allegations set forth in paragraph 44 of the Cross-Claims.

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, except admits that Colgan and US Airways operate regularly scheduled flights from Logan International Airport.

46. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 46 of the Cross-Claims, except admits that US Airways Flight 5930 operated between Portland International Airport and Logan International Airport on September 11, 2001.

47. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations set forth in paragraph 47 of the Cross-Claims, except admits that there are separate airline and security systems.

48. Massport denies the allegations set forth in paragraph 48 of the Cross-Claims, except admits that there are separate airline and airport security systems. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations with respect to the other defendants in paragraph 48.

49. Massport denies the allegations set forth in paragraph 49 of the Cross-Claims. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations with respect to the other defendants in paragraph 49.

50. Massport admits that, upon information and belief, hijackers took control of the subject aircraft and crashed it into Two World Trade Center on the morning of September 11, 2001. Massport denies that hijackers penetrated the airport security system. Massport is without knowledge or information sufficient to admit or deny the remaining allegations set forth in paragraph 50 of the Cross-Claims.

51. To the extent that the allegations contained in paragraph 51 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 51. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations with respect to the other defendants in paragraph 51.

52. To the extent that the allegations contained in paragraph 52 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 52. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations with respect to the other defendants in paragraph 52.

53. To the extent that the allegations contained in paragraph 53 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 53. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations with respect to the other defendants in paragraph 53.

**CROSS-CLAIM TWO FOR NEGLIGENT SELECTION**

**THE WTCP ENTITIES AGAINST THE AIRLINE CROSS-CLAIM  
DEFENDANTS, THE NON-CARRIER AIRLINE  
CROSS-CLAIM DEFENDANTS AND MASSPORT**

54. With respect to paragraph 54 of the Cross-Claims, Massport repeats and re-alleges the answers contained in paragraphs 1 through 53 above as if fully set forth herein.

55. To the extent that the allegations contained in paragraph 55 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 55. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations with respect to the other defendants in paragraph 55.

56. To the extent that the allegations contained in paragraph 56 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 56. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations with respect to the other defendants in paragraph 56.

57. Massport denies the allegations set forth in paragraph 57 of the Cross-Claims.

58. To the extent that the allegations contained in paragraph 58 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 58. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations with respect to the other defendants in paragraph 58.

59. To the extent that the allegations contained in paragraph 59 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 59. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations with respect to the other defendants in paragraph 59.

**CROSS-CLAIM THREE BASED ON *RES IPSA LOQUITUR***

**THE WTCP ENTITIES AGAINST THE AIRLINE CROSS-CLAIM  
DEFENDANTS, THE NON-CARRIER AIRLINE  
CROSS-CLAIM DEFENDANTS, THE SECURITY COMPANY  
CROSS-CLAIM DEFENDANTS AND MASSPORT**

60. With respect to paragraph 60 of the Cross-Claims, Massport repeats and re-alleges the answers contained in paragraphs 1 through 59 above as if fully set forth herein.

61. To the extent that the allegations contained in paragraph 61 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 61, except admits that there are separate airline and airport security systems. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations with respect to the other defendants in paragraph 61.

62. To the extent that the allegations contained in paragraph 62 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 62. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations with respect to the other defendants in paragraph 62.

63. To the extent that the allegations contained in paragraph 63 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 63. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations with respect to the other defendants in paragraph 63.

#### **CROSS-CLAIM FOUR BASED ON STRICT LIABILITY**

##### **THE WTCP ENTITIES AGAINST THE BOEING COMPANY, UNITED AND UAL**

64. With respect to paragraph 64 of the Cross-Claims, Massport repeats and re-alleges the answers contained in paragraphs 1 through 63 above as if fully set forth herein.

65. – 69. With respect to paragraphs 65 through 69 of the Cross-Claims, no responsive pleading is required of Massport.

**CROSS-CLAIM FIVE FOR NEGLIGENT DESIGN AND/OR MANUFACTURE**

**THE WTCP ENTITIES AGAINST THE  
BOEING COMPANY, UNITED AND UAL**

70. With respect to paragraph 70 of the Cross-Claims, Massport repeats and re-alleges the answers contained in paragraphs 1 through 69 above as if fully set forth herein.

71. – 75. With respect to paragraphs 71 through 75 of the Cross-Claims, no responsive pleading is required of Massport.

**CROSS-CLAIM SIX FOR CONTRIBUTION**

**WTC PROPERTIES LLC AGAINST THE CROSS-CLAIM DEFENDANTS**

76. With respect to paragraph 76 of the Cross-Claims, Massport repeats and re-alleges the answers contained in paragraphs 1 through 75 above as if fully set forth herein.

77. To the extent that the allegations contained in paragraph 77 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 77. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations with respect to the other defendants in paragraph 77.

**CROSS-CLAIM SEVEN FOR INDEMNIFICATION**

**WTC PROPERTIES LLC AGAINST THE CROSS-CLAIM DEFENDANTS**

78. With respect to paragraph 78 of the Cross-Claims, Massport repeats and re-alleges the answers contained in paragraphs 1 through 77 above as if fully set forth herein.

79. To the extent that the allegations contained in paragraph 79 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 79. Massport is without knowledge or information sufficient to admit or deny the truth of the allegations with respect to the other defendants in paragraph 79.

## DEFENSES

### FIRST DEFENSE

80. Defendant and cross-claim plaintiff World Trade Center Properties LLC and additional cross-claim plaintiffs 2 World Trade Center LLC and 4 World Trade Center LLC (collectively “Cross-Claim Plaintiffs”) fail to state a cause of action upon which relief can be granted.

### SECOND DEFENSE

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

### THIRD DEFENSE

82. 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

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

### FIFTH DEFENSE

84. 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 World Trade Center Properties Entities 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.

New York, New York  
November 18, 2005

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