



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, Corporation Counsel

Press Release

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For Immediate Release

**FEDERAL COURT DISMISSES DEUTSCHE BANK'S
SEPT. 11TH-RELATED CLAIMS AGAINST THE CITY**

***COURT RULES BANK HAS NOT STATED CLAIMS FOR NEGLIGENCE
ARISING OUT OF THE CITY'S RECOVERY EFFORTS;
DEUTSCHE BANK HAD SOUGHT MORE THAN \$500 MILLION***

Contact: Kate O'Brien Ahlers, Communications Director, (212) 788-0400, kahlers@law.nyc.gov

New York, August 28, 2003 – Federal District Judge Alvin K. Hellerstein late yesterday dismissed two lawsuits brought by Deutsche Bank and its affiliates which sought to hold New York City responsible for more than \$500 million for damage to its 40-story office building at 130 Liberty St. The property, which is being considered as part of a redevelopment site for the World Trade Center, was severely damaged when it was struck by debris falling from the South Tower of the World Trade Center after the terrorist attacks of Sept. 11, 2001. In the lawsuits, Deutsche Bank also claimed damages to property it owned at 4 Albany St. and property it leased at 4 World Trade Center. (The suit formally names the Taunus Corp, which is a holding company of Deutsche Bank.)

In its lawsuit, Deutsche Bank claimed that the City had been negligent in its inspection, occupancy and control of 1, 2, 4 and 7 World Trade Center. The complaint had charged that the negligence included improper placement of diesel fuel tanks in 7 World Trade Center which, Deutsche Bank argued, exploded and caused 7 WTC's collapse, resulting in a dust and debris plume that damaged the Bank's building. Deutsche Bank also claimed that the City's alleged negligence in the recovery and cleanup efforts in the "Frozen Zone" around the site after the attacks caused extensive damage to its property.

The Court ruled that the plaintiffs could not make any claim regarding the storage of diesel fuel at 7 World Trade Center, as they had failed to include that claim in their notice of claim filed pursuant to the New York State General Municipal Law. (The timely filing of a notice of claim is a required precondition before a lawsuit can be filed against the City.) The Court also dismissed Deutsche Bank's claim that before Sept. 11th, the City had negligently inspected, occupied and controlled 1, 2 and 4 World Trade Center and that after Sept. 11th, the City had damaged the Bank's own property during the clean-up operation. The Court held that the plaintiffs had failed to allege any facts showing that the City owed the plaintiffs a "duty of care by reason of a special relationship," a requirement for suing a municipality for negligence in the performance of a governmental function.

Similarly, the Court dismissed the plaintiffs' claim for private nuisance for failure to allege facts showing a special relationship giving rise to a duty of care. Judge Hellerstein also dismissed the claim for public nuisance on the ground that the plaintiffs did not allege that they suffered damages greater or different in kind than other businesses located in the Frozen Zone, which encompassed Lower Manhattan in the weeks after Sept. 11th. The Judge granted the plaintiffs leave to replead those latter claims by September 19, 2003. However, Jesse I. Levine, one of the City's lead attorneys on the case, noted: "Our investigation of the facts suggests that Deutsche Bank has no legal basis to replead its case against the City."

In response to the dismissal of the actions, Corporation Counsel Michael A. Cardozo stated: "We are pleased the Court has dismissed Deutsche Bank's complaints. We believe these complaints have absolutely no factual or legal merit." He continued, "Even if Deutsche Bank decides to replead some of its claims, we will continue to vigorously oppose any effort by the company to blame New York City for damages that were, in fact, caused by the terrorists who attacked the World Trade Center – not by the City, who itself was also a victim."

In a separate lawsuit brought against its insurers, Deutsche Bank is claiming that the building at 130 Liberty St. must be demolished. It also claims total damages of well over \$1 billion.

The case was successfully litigated by members of a special department of the New York City Law Department's Tort Division, called the World Trade Center Unit. Assistant WTC Chief Jesse I. Levine and Deputy WTC Chief Jay L. Cohen were the lead attorneys. The law firm of L'Abbate, Balkin, Colavita & Contini LLP in Manhattan also worked on the case.

The World Trade Center Unit, headed by Unit Chief Kenneth Becker, was created in August 2002 to defend all tort damage claims against the City arising from the Sept. 11th tragedy. More than 2,300 claims totaling more than \$12 billion have been filed, including major property damage claims like the Deutsche Bank case, and many personal injury claims by firefighters, construction workers and others who allegedly sustained injury on or after Sept. 11th. The Unit is staffed by 25 lawyers and 14 support personnel who defend these claims on a full-time basis.

The Deutsche Bank win is the biggest victory to date for the World Trade Center Unit. "This decision helps establish momentum. I'm optimistic that there will be further important decisions in dismissing other World Trade Center litigation," Becker said.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and the top three largest public law offices in the country. Tracing its roots back to the 1600's, the Department's 650-plus lawyers handle more than 90,000 cases and transactions each year in 17 separate legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. Its web site can be accessed through the City government home page at www.nyc.gov or via direct link at www.nyc.gov/html/law/home.html.

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