

**Testimony of the Association of Legal Aid Attorneys,
UAW Local 2325**

**Presented before:
Environmental Protection Agency
2nd Meeting of the World Trade Center Expert
Technical Review Panel**

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On behalf of the Association of Legal Aid Attorneys (ALAA), UAW Local 2325, I welcome the opportunity to give testimony before the Environmental Protection Agency (EPA) 2nd Meeting of the World Trade Center Expert Technical Review Panel.

Founded in 1876, the Legal Aid Society (LAS) is the oldest and largest provider of legal services in the United States. The ALAA is comprised of over 800 attorneys who provide legal services to indigent clients in the criminal, civil, and juvenile rights areas through offices in all five boroughs of New York City. As attorneys, we annually represent some 300,000 individual client cases.

Prior to September 11, 2001, the headquarters of the LAS was housed at 90 Church Street, located just North (across Vesey Street) of the former Five World Trade Center building and just to the East (across Broadway) of the former Seven World Trade Center building. The Site was the workspace for 500 attorneys and support staff, of the approximately 2,000 employees, of the LAS. The Society occupied the entire top three floors (13-15) of the building. When Legal Aid entered into a fifteen-year lease in 1997, the class-A office space was gut renovated, from concrete slab-to-slab, to the Society's specifications with strict requirements for environmental cleanliness.

The 90 Church Street building was severely impacted by the destruction of the World Trade Center (WTC) complex. The collapse of each of the WTC towers and the related structures immediately adjacent to our Site created a contaminant-laden debris and dust cloud that caused physical damage and projected hazardous materials into our workspace, as well as the entire building. An engine from one of the airliners that collided with one of the WTC towers pierced through the roof of our Site in the southwest quadrant of the 15th floor of the building. In addition, the petroleum-fueled

collapse of WTC 7 directly across East Broadway from the Site propelled flaming debris into 90 Church Street causing fires on floors 5 and 6 of the building, and produced a third major contaminant incursion into the Site. In reaction to the fires, the building's fire-suppression system discharged sprinkler water throughout the impacted areas, and continued to discharge water until the building tanks were empty. Windows were shattered on the West and South facades of our workspace, debris and dust were projected through these windows and throughout the Site by the force of the collapse. Elevator shafts, stairwells, the HVAC system, and other airshafts within the building provided additional pathways for airborne contaminants to travel from floor to floor.

In the aftermath of September 11th, the ALAA, its employer the LAS, along with all of the other similarly situated victims in Lower Manhattan had no conception of how to handle the cleanup. The emergency response action of the EPA was delayed and ineffective in providing cleanup protocols. Irrespective of whether or not current Congressional hearings reveal if the Government had sufficient forewarning of the September 11th terrorist attack; the EPA was the most appropriate governmental agency to create immediate guidelines to be disseminated to victims who had to deal with contaminated workspace and residential space. Thus, left with no governmental guidance or assistance, the ALAA and the LAS were forced, with no financial ability to do so, to retain the services of environmental consultants to evaluate our workspace.

Our Site was contaminated by a variety of compounds that originated from the WTC collapse. Contaminants were detected on carpeting, furnishings, within the ceiling, within the HVAC ductwork, and within partition walls. Because the HVAC system serving our workspace was shut down on September 11th, humidity levels within the Site

were uncontrolled and allowed for the growth of mold and bacteria. Moreover, the ALAA learned the specific configuration of our workspace, such as the elevation of the suspended ceilings, the configuration of the partition walls and HVAC system all contributed to the thorough contamination of our Site.

Representative sampling of bulk materials revealed the presence of asbestos, heavy metals, dioxins, polycyclic aromatic hydrocarbons (PAHs), lead dust, mercury, polychlorinated biphenyls (PCBs), fiberglass dust, fungi and bacteria. Similar contamination was reported throughout every floor of 90 Church Street, including office space, common space, mechanical space, interstitial spaces, and sub-grade space.

In some areas of our Site, the dust layer contained greater than 1% asbestos. Although the ALAA was informed that published standards for acceptable levels of heavy metals within commercial office space have not been developed because the presence of these contaminants is neither normal nor an acceptable condition, we learned the exposure to many of the metals detected within our workspace, such as nickel, cadmium, chromium, and mercury have been classified by the EPA as human carcinogens. We also learned that any presence of dioxins, PAHs, and PCBs in occupied space is unacceptable. Lead dust levels throughout the Site exceeded published guidelines for abatement work area clearance.

Because of the great concern for the health and welfare of certain sensitive subpopulations of our workers, namely young pregnant women and immunocompromised individuals, as well as our clients, including mothers with young children who can easily ingest contaminated dust, the ALAA encouraged the LAS to

engage the services of an expert firm to perform a human health risk assessment to evaluate the potential impacts associated with the existing dust conditions in the Site.

The result of this evaluation indicated the dust conditions in the Site posed a significant health hazard to attorneys and support staff, as well as our clients. The risk estimates were calculated for three worker scenarios: an office worker, a pregnant office worker, and an immunocompromised worker, as well as a child scenario. The cancer risks for each of the worker scenarios were 10 to 20 times higher than the EPA's cancer risk limit. The cancer risk for the child scenario was four fold above the EPA's cancer limit.

Upon the conclusion of all testing and evaluations, all experts retained by the LAS and the ALAA concurred and recommended a gut rehabilitation project be conducted throughout the Site. A gut rehabilitation was also the stated response action planned by Boston Properties, the building property manager.

While other victims of contaminated space in the WTC area may not have been as fortunate, the LAS was insured. However, insurance companies, in the aggregate, are refusing to settle documented property claims submitted by victims of September 11th. The resolve of the insurance industry to arbitrarily and capriciously dismiss claims has been strengthened by the lack of uniformed cleaning protocols that should have been immediately promulgated by the EPA, as well as an early misleading announcement by the EPA declaring the WTC area safe.

To date, the LAS has not reoccupied its leased space at 90 Church Street. After two and a half years of being displaced, the Society only recently relocated its headquarters to 199 Water Street, on March 26, 2004. Although the LAS has the ability

to obtain *pro bono* representation from the best insurance and real estate law firms within New York City, it has yet to settle its outstanding property claim with its insurance carrier. The Society has been in protracted negotiations since September 11th that may culminate in extensive litigation.

As advocates for individuals who need assistance in navigating the complex landscape of the legal system and governmental bureaucracies, the ALAA strongly encourages this Panel to support and to ensure the environmental protection of those in need are met.