

NEW YORK JUDGE SLAMS 9/11 WIDOW

New York, NY (11/16/07)--Ellen Mariani is vowing to appeal a November federal court order preventing her from having a direct role in the 9/11 wrongful death action arising from her husband's murder on United Airlines Flight 175, which was hijacked and flown into the World Trade Center more than six years ago.

The November 5 order of Judge Alvin Hellerstein has temporarily derailed Mariani's attempt to challenge the mysterious settlement of her deceased husband's claims against United Airlines, says California attorney Bruce Leichty. But Leichty says his advocacy on behalf of Mariani's interests has just begun, and that Hellerstein's order shows blatant prejudice against the 9/11 widow.

"This New York federal court is supposed to be one of the most distinguished in the nation," says Leichty, "but it doesn't take any more than a glance at this order to see its utter intellectual bankruptcy, and one could reasonably suspect that the true motivation for the order is to suppress Ellen Mariani's ongoing efforts on behalf of 9/11 truth."

Mariani retained Leichty in September 2007 to advise her on a tangled legacy of ineffective and disloyal legal counsel and to protect her remaining interests as both a beneficiary of her husband's estate and a 9/11 truth advocate, she says.

Shortly after she retained Leichty, Mariani was informed that the claims of her husband's Estate had been settled without her participation, says Leichty. "The timing was very curious," says Leichty. "Judge Hellerstein also took the unusual steps of closing both the case that Ellen had filed in 2001—the first wrongful death case filed against the airlines after 9/11—and the case that had been filed by her stepdaughter, Lauren Peters."

These two cases were closed subject to the condition that any party who objected by October 31 could ask the judge to restore them to his calendar, notes Leichty. When Mariani objected, however, she was rebuffed.

Federal court cases are usually not "closed" at all until there is either a judgment or a dismissal, which can be entered after a settlement, says Leichty. But Leichty says neither a judgment nor a dismissal was entered in the most active of the two Mariani cases that Judge Hellerstein closed.

"When I saw the Judge's order closing these two cases and spoke

with Ellen, and I realized that she had not been provided any details on a settlement, we both smelled a rat,” Leichty says. He says he recognized that Judge Hellerstein might not regard Mariani as a party in her deceased husband’s action. She is a beneficiary of her husband’s Estate, but the administrator of that Estate has the responsibility for litigating her late husband’s claims.

Leichty says he prepared a motion, which was filed on October 31 with the cooperation of New York lawyer Carl E. Person, to explicitly make Mariani a party in the pending New York 9/11 litigation. That motion for intervention was backed up by Mariani’s testimony about how Mariani was deprived of a voice in the litigation in 2004, and by evidence that Mariani’s own claim for her loss of spousal consortium had nonetheless survived intact and needed to be protected by direct intervention by Mariani.

But Hellerstein on November 5 ruled that the intervention motion would be denied on the sole ground that Mariani was not a party. “This is circular logic and nonsense since all intervention motions are filed by persons who are not yet parties,” Leichty says.

Leichty says that Mariani has the option of appealing this order and also of protesting the way that the Estate’s claims have been handled in New Hampshire Probate Court, where Mariani says that the current administrator has squandered his opportunity to get at the truth about 9/11 and also the value of her claims and those of the Estate, by never seriously preparing for trial.

“The New Hampshire administrator is a lawyer named John Ransmeier who has repeatedly turned a blind eye to Ellen’s requests since his appointment,” according to Leichty. Mariani was essentially forced to step down from her position as administrator of the estate in 2004 under “highly questionable circumstances” after she began investigating possible U.S. government complicity in the events of 9/11 and their cover-up, says Leichty. At the time her attorney in New Hampshire was a prominent former gubernatorial candidate, Paul MacEachern, who suggested Ransmeier as a replacement administrator.

“First MacEachern failed to protect Ellen’s claim, but even after that, based on a clear order of the New Hampshire probate court, John Ransmeier had his own duty to join Ellen as his co-plaintiff or to at least protect her consortium claim, which he has failed and refused to do,” says Leichty.

Instead Ransmeier’s attorneys entered into an engagement agreement without Mariani’s consent with Donald Migliori, an attorney

from a large South Carolina law firm, Motley Rice, which employs one of Mariani's former attorneys as a 9/11 plaintiff's litigator—former Bush (Sr.) Department of Transportation appointee Mary Schiavo. Mariani had accused Schiavo of convening a secret meeting with defendants' counsel without her knowledge, after which Schiavo terminated Mariani as a client. Schiavo has the highest security clearance permitted to plaintiffs' attorneys in the 9/11 litigation. Leichty says his complaints about this conflict of interest have fallen on deaf ears.

As of November 16, Leichty says that the Estate and its attorneys have confirmed to him that there is nothing yet in writing, more than eight weeks after the alleged settlement, to show that the case of Mariani's deceased husband has indeed been settled, except for a single line written by attorney Donald Migliori. Leichty says that he also discovered that when Migliori purported to settle the case for the Estate, Migliori was the last remaining "plaintiffs' liaison" attorney in the consolidated New York litigation—and the liaison attorneys had assumed responsibility for conducting any trials required. Migliori told Judge Hellerstein in September that he settled 13 other cases along with Mariani's.

"Speaking as someone who has both tried and settled cases, the circumstances raise the question about what kind of pressure Ransmeier and Migliori were under to agree to whatever settlement the airline and security company defendants were offering at the time," notes Leichty. While Ransmeier is defending the value of the settlement, Leichty and Mariani say the proposed amount is much smaller than what one would expect from a wrongful death action arising out of an event as epic as 9/11.

Hellerstein has made it clear at various points in the 9/11 litigation that he does not favor trials but that plaintiffs should settle and "move on" with their lives, says Mariani. "Money is the universal lubricant," he said at one hearing.

Leichty says that the litigation in Hellerstein's courtroom has been stacked against truth advocates from the inception, because much of the evidence discovered is subject to confidentiality orders, or has been kept from view by the government by being labeled "sensitive security information," and also because Congress capped the liability of the airline and security company defendants at the amount of their insurance policies. That in turn has created a limited pool of money for claimants, who have reason to fear that if they wait for a trial, the pool will be

exhausted. Furthermore, only law firms with the ability to finance the huge cost of the litigation could meaningfully participate—and for that reason they also have a built-in incentive to settle rather than risk trials. Leichty says that plaintiffs’ attorneys including Mariani’s attorneys have not argued the constitutionality of the secrecy and cap provisions as they should have.

“The probate administrator may still need Ellen’s consent to finalize his settlement, so she is not powerless,” observes Leichty, “but the hour for truth advocates is late.”

Mariani has resisted the pressure to simply “play along” at considerable cost to herself and at some future risk, notes Leichty. Mariani says she is dependent on the efforts of 9/11 truth advocates to continue battling the various elements who would like to simply buy off gadflies and sweep the events of 9/11 under the rug forever.

“I will never give up,” says Mariani. “With enough support, I intend to do whatever I can to get to the truth of what happened to my husband on September 11, 2001, and to hold accountable all of those responsible.”