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## **Preliminary Assessment, for Public Consumption, of the August 2, 2022 Federal Court Decision Dismissing Architects & Engineers for 9/11 Truth's Lawsuit Against NIST**

On August 2, 2022, the U.S. District Court for the District of Columbia issued a decision dismissing, on the basis of the doctrine of standing, a lawsuit filed by the nonprofit organization Architects & Engineers for 9/11 Truth, Inc. (AE), eight family members of people killed on September 11, 2001 (9/11), and ten architects and structural engineers (Plaintiffs). This lawsuit, Case No. 1:21-cv-2365, was filed against the federal agency National Institute for Standards and Technology (NIST). The lawsuit alleged that NIST violated three federal statutes in failing to correct its Report regarding the cause of the collapse on 9/11 of World Trade Center (WTC) Building 7 (WTC 7). WTC 7 was the third steel-framed WTC high-rise building to completely collapse on 9/11, the only building of the three to have not been struck by an airplane. Because the District Court clearly erred in dismissing AE's and its co-plaintiffs' lawsuit, as explained below, AE has decided to appeal this decision to the U.S. Court of Appeals for the District of Columbia Circuit.

NIST asserted in its WTC 7 Report that the likely technical cause of the complete collapse of WTC 7 on 9/11 was fire caused by debris falling from the collapsing North Tower of the WTC (WTC 1). WTC 7 and the WTC Towers, had NIST's Report been correct, would have been the first occurrences in history, all three on the same day, 9/11, of fire induced complete collapses of steel-framed high-rise buildings. However, Plaintiffs presented in their IQA Request for Correction (RFC) to NIST, and in their lawsuit, a scientifically and logically irrefutable case based on careful documentation of dispositive evidence clearly showing that the collapse of WTC 7 on 9/11 was not due to fires as NIST had falsely concluded, but rather due to the use of explosives and incendiaries. Plaintiffs demonstrated in their RFC and spelled out in their lawsuit that NIST's WTC 7 Report was more than just wrong, it was so factually inaccurate, illogical, methodologically unreliable, scientifically unsound, and biased that it blatantly violated the National Construction Safety Team Act (NCSTA), the Information Quality Act (IQA), and the Administrative Procedures Act (APA). NIST ignored publicly available eyewitness accounts of explosions at the WTC, including at WTC 7, mischaracterized and failed to replicate the actual behavior of the WTC 7 building during its collapse, such as the sudden initiation of 2.5 seconds of symmetric free fall, and eliminated from its computer modelling and analysis one or more known-to-be-present components of the WTC 7 structure (that would have strengthened the structure). NIST has also kept the details of its analysis and computer modelling secret. NIST's WTC 7 investigation and resulting report was a bad faith biased effort intended to achieve a predetermined false outcome.

The District Court clearly erred as a matter of law in several ways in dismissing AE's and AE's co-plaintiffs' lawsuit on standing grounds. First, the District Court failed to note the key facts that relate to Plaintiffs' informational standing to sue here, as distinguished from the facts of two prior AE lawsuits on which the District Court relied to conclude, erroneously, that Plaintiffs, including AE, lack standing in the present case.

In the first of these two earlier AE cases, the AE case against the FBI brought in the U.S. District Court for the District of Columbia and later appealed to the U.S. Court of Appeals for the D.C. Circuit, both the District Court and the Circuit Court of Appeals concluded that the federal law at issue there, an appropriations bill that created the 9/11 Review Commission in 2013, said nothing about the obligation of the federal agency there (the FBI in that case) to issue a report to the public (or even to Congress). The courts in that prior FBI case decided that the legislative history that made clear Congress' intent that such a report be issued, at least to Congress, was of no legal consequence because the silence of the appropriations act there, not legislative history, controlled the issue of the public's right to information, or lack thereof, and therefore controlled the question of whether AE as a plaintiff in that case had informational standing to sue. But in the current AE case against NIST, the NCSTA makes clear in the language of the statute itself that NIST must issue a public report and that report must include an analysis of the likely technical cause of the building collapse at issue. Thus, the rationale used by the DC Circuit in the earlier case involving the FBI actually supports Plaintiffs' arguments for standing in the current AE case. That prior FBI case was clearly distinguishable from AE's current case against NIST regarding the WTC 7 Report, but the District Court erred in concluding otherwise.

In the second of these two earlier AE cases on which the District Court relies now to deny AE and all Plaintiffs standing, AE and its numerous co-plaintiffs sought to have the U.S. District Court for the Southern District of New York (SDNY) issue an order requiring the United States Attorney there to deliver Plaintiffs' petition reporting the evidence of bombing (controlled demolition) crimes at the WTC on 9/11 to the federal Special Grand Jury. The U.S. Attorney had refused to deliver the petition of the plaintiffs there to the grand jury, a petition submitted pursuant to the First Amendment as well as under the federal Special Grand Jury Statute. The SDNY dismissed AE's case there on standing grounds on the rationale that the Special Grand Jury Statute, although it did impose a mandatory duty on the U.S. Attorney to submit citizen reports of federal crimes to the grand jury, did not clearly create a right in citizens to enforce that duty and did not establish citizen standing to bring such an enforcement action (a mandamus lawsuit). The SDNY ignored the issue of the standing of the plaintiffs in that case to bring their First Amendment violation claim (regarding the U.S. Attorney's obstruction of citizens' right to petition the grand jury as an entity of the federal government). That case is now before the U.S. Court of Appeals for the Second Circuit having been fully briefed and argued and the Second Circuit may well find that AE and the other plaintiffs there had standing to sue. Regardless, the facts and the underlying federal statute at issue in that New York case now pending on appeal are clearly distinguishable from AE's current case because, as noted, here AE has the benefit of the NCSTA which does impose an explicit obligation on NIST to issue a report to the public that presents an analysis of the likely technical cause of WTC 7's collapse. This provides a basis for the informational standing to sue of AE and its co-plaintiffs, and the District Court here erred in holding otherwise.

In AE's current case against NIST, it is clear that the NCSTA created a right in the public to receive a report with an analysis of the likely cause of WTC 7's collapse (a right to information) from NIST. NIST's refusal to correct its scientific sham WTC 7 Report pursuant to the IQA, NCSTA, and the APA, to include the required analysis of the likely technical cause of

WTC 7's collapse, caused injury to AE and its co-plaintiffs which included 9/11 family members as well as professional architects and engineers. Consequently, the District Court erred in concluding that AE and its co-plaintiffs lacked informational standing.

The District Court in the current case acknowledged that the NCSTA required issuance of a public report, a public report that included an analysis of the likely technical cause of WTC 7's collapse. But nonetheless the District Court, in a reading of the federal statutory mandate in the NCSTA that can only be described as disturbing, held that it was legally irrelevant to the standing issue and to the issue of NIST's alleged violation of the NCSTA, IQA, and APA, whether NIST's report was a scientific sham or even an outright fraud. The District Court concluded, in clear error, that all the federal statute required was that a report be issued, not that it be an accurate, scientifically competent, or even an honest report prepared in good faith. The District Court's rationale and reading of the NCSTA would allow NIST (and other federal agencies implementing other statutory mandates from Congress) to be deemed to be in compliance with law by simply publicly releasing a document that pretends and purports to be the analysis required by statute, even though it clearly is not, and even though the agency knows it is not. That is, only the appearance of compliance with the mandate from Congress is required in the District Court's view, not actual substantive compliance. The District Court here has created a dangerous rule of law that allows agencies to commit fraud on the Congress and the public with impunity, and at great expense to taxpayers and with other horrendous consequences, as here in concealing the truth of the bombing crimes at the WTC on 9/11 that resulted in such a tragic death toll. The District Court here also, inexplicably, asserts that AE and its co-plaintiffs "admit" that all the NCSTA requires is issuance of a report to the public regardless of its content or integrity, but AE's Complaint and legal brief clearly assert the contrary.

The District Court here also erred in failing to follow and properly interpret and apply binding legal precedent from the D.C. Circuit regarding standing doctrines. As one prime example, regarding informational standing, Circuit precedent requires the District Court, in deciding the issue of informational standing, to accept the plaintiffs' reading of the statute at issue, in this case the NCSTA, regarding the public's right to agency reports and information. Although the District Court acknowledged this binding Circuit case law, the District Court concluded that it did not need to adopt AE's reading of the NCSTA here because the District Court asserted that AE's reading of that law was not "plausible." But AE's reading of the mandate from Congress in the NCSTA is just that NIST must issue a public report in good faith that is not a scientific sham or a fraud, that actually presents NIST's analysis of the likely technical cause of WTC 7's collapse. The District Court's reading of the same NCSTA is, in contrast, that any kind of sham report by NIST will suffice if it simply purports to address the likely technical cause of WTC 7's collapse (even a cause known to be scientifically impossible) and even if NIST's analysis underlying its clearly erroneous and scientifically impossible conclusions is maintained as a "black box" computer model kept secret from the public and from Congress. It is not AE's reading of the NCSTA that is not "plausible." It is the District Court's.

As a second prime example of the District Court's failure to follow and properly interpret and apply binding legal precedent from the D.C. Circuit on standing doctrines, in this case regarding organizational standing, Circuit precedent recognizes that a nonprofit organization will have organizational standing if the agency defendant's conduct has significantly interfered with

the performance of the organizational plaintiff's nonprofit mission. The District Court here creatively, but clearly erroneously, concluded that even if Plaintiffs' Complaint allegations are taken as true (as they must be under the federal procedural law in deciding a defendant's motion to dismiss, as here) that NIST's issuance of a scientific sham WTC 7 Report, that ignored the evidence of use of explosives and provided a false narrative of collapse due to fires alone, actually promoted AE's nonprofit mission rather than obstructed it because it gave AE a reason to prepare and present to the public a critique of NIST's false report.

This rationale by the District Court represents a cynical view of a nonprofit's public interest mission, one that equates a nonprofit's mission to that of a profit-making corporation whose goal is to bring in money and maintain its own survival. But AE's nonprofit mission concerns getting the full truth of the 9/11 tragedy. The issuance by NIST of a WTC 7 Report that is at best a scientific sham and knowingly false in no manner promotes AE's nonprofit mission but rather has forced AE to spend an inordinate amount of time and money just to cut through the public fog created by NIST's published false information which unfortunately has misled many because it has the government's stamp (of presumed credibility) on it. Had NIST simply issued a truthful and scientifically competent report (which given the evidence would have to have acknowledged the use of explosives on 9/11 at the WTC), AE would not have incurred such extreme costs in time and money and AE could have used NIST's honest and competent report to significantly further its above stated mission priorities. If NIST had issued no report at all, that would have been less an obstruction of AE's mission than its false WTC 7 Report.

As a result of these judicial errors, the injustice done to 9/11 Family Members and to First Responders by NIST's false WTC 7 Report remains uncorrected. Plaintiffs have therefore decided to appeal to the U.S. Court of Appeals for the D.C. Circuit. The substantive issues involved in this case are of too great importance for public safety and for government integrity for Plaintiffs to not appeal, even beyond the obvious significance and injustice of denying the truth to 9/11 Family Members and First Responders. Should Plaintiffs win this appeal and obtain a court order requiring the correction of the NIST WTC 7 Report, the resulting correction required by the evidence is a government finding that the complete collapse of WTC 7 on 9/11 was not caused by fires but by pre-planted explosives, i.e., a controlled demolition.

A corrected WTC 7 Report would have huge implications. Efforts by architects, engineers, and building owners would, of necessity, change focus from being concerned with illusory design defects thought to create vulnerability to fire-induced collapse in steel-framed high-rise buildings to the real threat. That real threat is that steel-framed high-rise buildings are (only) vulnerable to collapse if terrorists or other criminals (whether foreign or domestic) breach security and can access the weight bearing structures of the building to plant explosives and incendiaries. This is a threat that is preventable, but to date remains largely unrecognized due to NIST's false report. The protective measures needed to guard against another such attack using explosives may never be implemented absent a corrected WTC 7 Report.

Further, once NIST admits that the scientific evidence and First Responder eyewitness reports show that the real cause of WTC 7's collapse involved use of explosives, the resulting congressional and criminal investigations could identify and hold accountable those responsible for the destruction of all three WTC buildings and the resulting tragic loss of life. The 9/11 WTC

casualties included almost three thousand deaths on 9/11, and an even greater number of deaths thereafter due to exposures to the residual toxic WTC dust. Until NIST admits the real cause of the WTC 7 collapse, the Department of Justice and Congress may continue to delay and avoid such investigations, and the perpetrators will remain at large. NIST's WTC 7 Report and its decisions on Plaintiffs' RFC and appeal amount to a whitewash and coverup of critical evidence regarding one of the most horrible and despicable bombing crimes in history. The Plaintiffs have decided that they must appeal the District Court's mistaken application of the legal doctrine of standing to prevent that judicial error from effectively immunizing NIST from judicial review and accountability for its misconduct.

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