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The Voice of the Community

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Editorial: Bush moves to halt 9-11 lawsuits

By By Joe Baker, Senior Editor

The “compassionate conservatives” in Washington are telling those Americans who lost family or relatives in the 9-11 attacks the same thing they’ve said to the rest of us: “Sit down, shut up and wave your flag.”

Independent investigative reporter Tom Flocco obtained a copy of a confidential letter to a New York federal judge spelling out the Bush administration’s intent to quash lawsuits seeking to get the truth about what happened on that terrible day.

U.S. Assistant Attorney General Robert McCallum, Jr. and the U.S. Attorney for the Southern District of New York, James Comey advised U.S. District Judge Alvin Hellerstein in the letter that the U.S. Justice Department plans to intervene in his court to gain control of access to all evidence and documents related to all private litigation before the court concerning the 9-11 attacks.

The two attorneys cite national security concerns as their reason. They told Judge Hellerstein they intend to obtain a global discovery order to control evidence obtained from any country.

It would require the Transportation Security Administration to be served with all requests for discovery, that is, to have prior access to such information and that defendants and others not a party to the lawsuits must submit all proposed responses that may contain sensitive security information to the TSA before it can be released to the plaintiffs. Thirdly, the TSA would have the opportunity to review such information and withhold any security information from the victim-family attorneys.

One litigant said family members have not yet asked for internal memos, e-mail, faxes and documents that would shed some light on what must have been extraordinary legal maneuvers.

The family member said: “...now the White House is trying to control or block the evidence we need to prove our negligence cases in court.” The source said the legal moves likely involve the offices of Mayer-Brown, attorneys for United Airlines, lead attorney Michael Feagley of the TSA, Bush Attorney General John Ashcroft’s Justice Department, Judge Hellerstein’s district court, and the White House counsel’s office.

Flocco says the June 20 letter to Hellerstein takes on added significance in light of the August 6, 2001 presidential intelligence briefing before the attacks and the secret FBI memo of July, 2001.

The Justice Department letter to Judge Hellerstein reveals the officials of Bush’s TSA have been contacting witnesses already subpoenaed by plaintiffs’ attorneys and telling them they should send all evidence and documents to the TSA before cooperating with their attorneys and the district court.

That raises questions as to why the court is allowing Bush administration bureaucratic appointees to tamper with witnesses and evidence in private civil actions by U.S. citizens.

There are 33 families that have turned down settlements from the victim compensation fund authorized by Congress in favor of pursuing justice and accountability.

The lawsuits filed by these families seek to recover damages for negligence, ticket contract safeguards, and failure to prevent the attacks, just as more evidence of prior knowledge by the Bush administration is becoming public.

The letter also said Ashcroft's office will try to get its lead counsel appointed in order to maintain supervisory control over all plaintiff attorneys and seeks to adopt uniform discovery requests.

Informed sources told Flocco the moves by the Justice Department will dilute and trivialize the more important cases which are trying for answers to many of the questions about security, negligence and prior knowledge of the attacks.

These efforts will appear to some as helping Bush attorneys shut down victim family access to important federal documents which could lead to the justice and accountability the families want. Other victim families are watching while trying to decide whether to file their own legal actions against airlines or other government units.

That letter to Judge Hellerstein also disclosed some peculiar machinations by Special Master Kenneth Feinberg and the September 11 Victim Compensation Fund. The government has been advised the court is setting up a procedure by which all plaintiffs in Sept. 11 Tort Litigation must formally acknowledge the consequences of pursuing legal action instead of filing a claim with the fund.

Such a step would allow Feinberg to force these families to listen to his attempts to convince them to drop their lawsuits, accept his reduced settlement offers and just shut up. So far, however, only 10 of 3,200 families have taken the bait.

The Bush administration also is not above making not-so-veiled threats against these litigants. It wants the court to include a statement in any final protocol stating that enforcement of non-disclosure rules on security information may have serious consequences for all plaintiffs.

We should all remember the words of George H. Bush, Sr., who advised his sons: "Don't become too enamored of the truth. There's no money in it."

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