

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
JOHN R. WALCOTT, *et al.* :

Plaintiffs, :

v. :

WTC CAPTIVE INSURANCE
COMPANY, INC., *et al.* :

Defendants. :

07 Civ. 7072 (AKH)

**MEMORANDUM OF LAW
IN SUPPORT OF MOTION TO SEAL
PRIVILEGED MATERIALS PENDING
RESOLUTION OF MOTION TO
STRIKE PRIVILEGED MATERIALS**

----- X

The WTC Captive Insurance Company, Inc. (“WTC Captive”) moves the Court to seal the documents filed with this Court by Paul Napoli on November 8, 2007, which documents were disclosed without the WTC Captive’s authorization. *See* Declaration of David Biester ¶¶ 2-7.¹ These confidential documents, upon information and belief, include privileged invoices for legal services, which are protected by the attorney-client privilege and protected as attorney work product. *Id.*

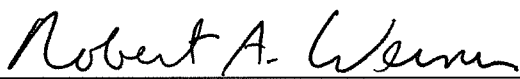
This Court requires a showing that the sealing of court records “is essential to preserve higher values and is narrowly tailored to serve that interest.” Rule 4(A) of the Individual Rules of The Honorable Alvin K. Hellerstein (Oct. 4, 2007) (citing *The Hartford Courant Co. v. Pellegrino*, 380 F.3d 83 (2d Cir. 2004)). Immediate sealing of the privileged documents at issue is essential to preserve the higher values served by the attorney-client privilege and attorney work product doctrine. Additionally, this motion to seal is also narrowly tailored, as it seeks to

seal only those documents disclosed without the WTC Captive's authorization and filed subsequently with the court by Mr. Napoli.

Accordingly, the WTC Captive respectfully requests the Court to immediately seal the documents filed by Mr. Napoli on November 8, 2007, pending resolution of the motion to strike these materials from the record and return them to the WTC Captive.

Dated: November 14, 2007

McDERMOTT WILL & EMERY LLP

By: 
Robert A. Weiner (RW-3381)
Elliot Silverman (ES-9591)
340 Madison Avenue
New York, NY 10173-1922
212-547-5400

Margaret H. Warner
M. Miller Baker
McDERMOTT WILL & EMERY LLP
600 13th Street, N.W.
Washington, DC 20005-3096
202-756-8000

Attorneys for the WTC Captive
Insurance Company, Inc.

¹ The WTC Captive so moves out of an abundance of caution, because it is unclear whether the documents transmitted by Mr. Napoli to the Court are actually under seal, notwithstanding Mr. Napoli's request that these documents be placed under seal.