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**After 3 Months: It's Still Not Business as Usual
Rebuilding in America's New 'Ground Zero' Business Reality
(December 2001)**

With the September 11 terrorist attacks came the collapse of business-as-usual across America and the emergence of nebulous requirements to live in new ways in this era of uncertainty. We all must acquire new behaviors and new thinking, both in the world of business and in our personal lives, in order to preserve our enviable freedoms. President Bush recently urged Americans to adopt a new vigilance, stating that "we have new responsibilities, both for the government and for our people." His statement underscores the need for Americans and our government institutions to be nimble and adapt quickly to survive terrorism's evolving threats.

Across the country, Americans are accepting these new responsibilities and are doing what Americans do best: rising to meet the requirements of a demanding situation. In fact, on September 11, America's defiant response was firmly established by legions of heroes; New York City's police, firefighters, emergency medical personnel, and numerous unsung heroes and volunteers became national role models. These individuals set a high standard of spontaneous altruism and self-sacrifice for those involved in the next stage: the construction, architectural, and engineering businesses now toiling at Ground Zero and who are spearheading the cleanup and rebuilding efforts.

These businesses too demonstrated patriotism by virtue of their spontaneous arrival at Ground Zero, volunteering in recovery and cleanup. These construction-related firms continue to exhibit their heroism through their unselfish 24/7 labor in a hostile terra incognita—a worksite replete with uncertainties stemming both from the physical destruction and from the legal precariousness of the situation. For example, their workers are exposed to degraded air quality, exceptional psychological demands, non-air-borne toxins, and other hazards that could have long-term impacts. While these firms are taking needed precautions (e.g., carefully monitoring toxins and suspended particulate matter in the air, making psychological counseling accessible to grateful employees, and employing exceptional safety measures), the firms remain highly exposed from a legal standpoint to future claims relating to injuries and adverse impacts on health.

To alleviate these exceptional legal vulnerabilities, the construction, architectural, and engineering firms are not seeking economic handouts; rather, they seek simple protections against long-term claims of liability that could arise in these unusual conditions. If such protections are not forthcoming, these businesses could easily become future casualties of the September terrorist attacks. Formal indemnification by the State or City of New York would allow these firms' contribution to America's recovery to not be their own undoing should law suits emerge in the future. And, establishing a business-as-usual environment (newly adapted to terrorist threat) is an important step to move the nation toward economic recovery.

What is needed is a gallant legislative sponsor to champion this emergency-related legislation. At the federal level, the post-September 11 business reality is being met with responsive new legislation. For example, the new laws and initiatives taking shape in air transportation safety, law enforcement, and other domains reflect adaptations conducive to survival. Similarly, state-level leadership is needed to codify indemnification so as to not discourage emergency-related responses by firms engaged in rebuilding America's physical infrastructure during this period of war on terrorism. Federal Emergency Management Administration employees currently enjoy such protections, and physicians are covered by state Good Samaritan laws when they administer brief-duration unpaid aid to someone in need.

Among the terrorists' objectives is instilling chaos into free societies and destabilizing their economies. They will be able to claim more victories, if construction-related firms become fatally consumed by lawsuits and lose their businesses. The effects of the terrorists' deeds could thereby continue to reverberate loudly through our economy, but we must thwart needless negative economic repercussions, including the very real possible future loss of the

firms that are responding so appropriately and altruistically to New York's current need. Firms that have put need above their own security, and community above profit.

At the same time, these very firms, while being paid by the City, labor in the absence of formal contracts, which places them in a most uncertain financial predicament. In contrast, firms working on the Pentagon recovery effort had contracts from the federal government within four days of beginning work. But, the key issue, indemnification, remains unresolved at the Pentagon site as well. The current insurance policy put in place by the New York City government is a welcome comfort, but it does not adequately protect these firms with sufficient levels of coverage and does not appropriately indemnify against the effects of pollution.

One powerful antidote to the chaos that terrorists cultivate is quick but thoughtful legislation to address the vulnerabilities of our nation's Good Samaritans in construction, architecture, and engineering. These firms are not asking for a license to engage in malpractice, but rather for a business environment that doesn't give another victory to the terrorists and ensure damage to American business.

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