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## TOWERS' INSURERS MUST PAY DOUBLE

METROPOLITAN DESK

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A federal jury said yesterday that the destruction of the World Trade Center constituted two separate attacks, entitling the developer Larry A. Silverstein to collect up to \$2.2 billion, or double the insurance coverage provided by nine insurers at the complex.

The jury's decision, which came at the end of 11 days of deliberation and represented a major development in the rebuilding effort, almost certainly ensures that the proposed \$1.5 billion, 1,776-foot Freedom Tower will be constructed at the trade center site, although appeals are likely and it may be some time before all the insurance money is paid out. It also ensures that Mr. Silverstein, who leased the trade center only six weeks before it was destroyed, will remain in control of the rebuilding effort for some time.

Insurance experts predicted yesterday that the verdict would send ripples through the insurance industry, with premiums for property coverage almost guaranteed to rise substantially.

Mr. Silverstein, who plans to use the money to rebuild the trade center, issued a statement yesterday saying he was thrilled with the verdict. It will "ensure a timely and complete rebuild of the World Trade Center," he said, adding that the insurers "had an obligation to pay their fair share to help make Lower Manhattan whole again."

Mr. Silverstein has argued that because two jets slammed into two towers at the trade center on Sept. 11, he was entitled to a double payment of the \$3.55 billion policy, or \$7 billion. The jury's decision yesterday related to nine insurance companies, which provided \$1.1 billion of the \$3.55 billion worth of coverage. If the verdict stands, the nine companies will have to pay \$2.2 billion.

It was Mr. Silverstein's first legal victory during the 38-month legal battle he has waged against two dozen insurers at the trade center. Last spring, a jury decided that Swiss Re and eight other insurers had provided coverage based on a policy devised by Mr. Silverstein's brokers. The court had already ruled that that policy entitled Mr. Silverstein to only a single payment. The developer also settled with five other insurers. That cut Mr. Silverstein's quest for \$7 billion to a maximum of \$4.65 billion, if he won the second trial.

The extra \$1.1 billion is needed downtown, where officials estimate that it will cost more than \$9 billion to rebuild the trade center, a complex that is owned by the Port Authority of New York and New Jersey and once included 10 million square feet of office space for investment banks and insurance companies, a retail mall, a hotel and a major rail station.

"It's a tremendous victory for Larry and for everyone else who has an interest in Lower Manhattan," said Kevin M. Rampe, president of the Lower Manhattan Development Corporation. "The funds are going to ensure that Lower Manhattan recovers in the amount of time we've laid out."

But just as Mr. Silverstein is appealing the verdict in the first trial, the nine insurance companies are expected to appeal the decision.

John Novaria, a spokesman for Industrial Risk Insurers, one of the nine companies involved in the verdict, said his company still believed that the attack on the trade center was "one occurrence." Asked whether Industrial Risk would file an appeal, he said the company was "examining its options."

In a separate element of the dispute, the final amount of insurance money is under review by a court-approved panel of three appraisers, who will determine the extent of the damages at the trade center and how much each company must pay.

Nevertheless, Robert D. Yaro, president of the Regional Plan Association, a private planning group, said that yesterday's decision ensures that the Freedom Tower, the first of four or five office towers planned for the site, will be built. But, Mr. Yaro said, the time has come for a public accounting.

"There needs to be a sorting out between Larry and the Port Authority about what needs to be built and who's going to pay for it," Mr. Yaro said.

Gov. George E. Pataki has promoted the Freedom Tower as a symbol of downtown rejuvenation. But some critics have questioned the wisdom of building a huge and costly skyscraper when there are no potential tenants in sight and the vacancy rate in Lower Manhattan is high. Some executives at the Port Authority say privately that the money would be better spent on an estimated \$1.5 billion to bring the site up to grade as it is rebuilt to ground level, so that it is ready when the real estate market improves.

According to Newmark & Company Real Estate, the vacancy rate downtown climbed to 15.9 percent in November, and could hit a nine-year high this month with the introduction of 7 World Trade Center, an office tower Mr. Silverstein is building nearby.

So far, the insurance companies paid out \$2.03 billion, and \$1.55 billion has been spent. If yesterday's verdict survives the appeal process, that would leave about \$4 billion for a reconstruction effort that might cost \$9 billion. Mr. Silverstein's legal battles have cost an estimated \$125 million, according to Port Authority commissioners.

Experts were already debating the effect of the verdict on the insurance industry. Robert P. Hartwig, chief economist for the Insurance Information Institute, a trade group, said he doubted there would be a larger precedent growing out of the case.

For example, the four recent hurricanes in Florida were treated by insurers as four occurrences because each was separated by a standard interval exceeding 72 hours, he said. If they had all struck within 72 hours, they would likely have been treated as one occurrence, he said.

Mr. Silverstein's lawyers succeeded in persuading jurors that there was some doubt about the definition of occurrence, Mr. Hartwig said, because all of the policies had not been fully negotiated.

Andy Barile, an insurance executive and litigation consultant based in Rancho Santa Fe, Calif., said the decision would "dramatically change the industry."

Agents, reinsurers and consumers will have to scrutinize their policies and some property owners may face premium increases when they renew their policies in January, he said, adding, "With companies being forced to pay out twice their policy limits, it's going to have a dramatic effect on increasing premiums."