

New York Law Journal (Jan.1, 2018)

Judge Mulls If New Law Allows 9/11 Victims' Claims

Against Saudi Arabia

By Andrew Denney

The judge presiding over long-running litigation regarding the Sept. 11, 2001, attacks questioned during oral arguments on Thursday if Saudi Arabia could be sued under a recently passed U.S. statute allowing parties to sue foreign governments for acts of terrorism.

U.S. District Judge George Daniels of the Southern District of New York sparred with an attorney representing insurance companies and businesses seeking damages from the Kingdom of Saudi Arabia for the attacks on New York City and Washington, D.C., which took the lives of almost 3,000 people, over whether or not plaintiffs **could bring claims against the Saudi government under the Justice Against Sponsors of Terrorism Act, or JASTA.**

The plaintiffs argue that Al-Qaeda was empowered to carry out the attacks, which included a commercial airliner crashing in a field in Pennsylvania, by Saudi Arabian money funneled through charities and that the hijackers who carried out the attacks were helped by agents of the state.

“It was Saudi Arabia that enabled Al-Qaeda to build its network,” said plaintiffs attorney Sean Carter, a Philadelphia-based member of Cozen O’Connor who also represents victims and survivors of the attacks.

But Daniels questioned if the plaintiffs have proved that providing funding to the group specifically caused it to carry out the 9/11 attacks and if the Saudi government could be held liable for all attacks conducted under the banner of Al-Qaeda.

“Even if you have sufficient allegations that the kingdom is funneling money to Al-Qaeda, the second question is what are they doing with that money and was it used for the terrorist attacks on 9/11,” Daniels said.

Fifteen of the 19 hijackers were Saudis but, after the United States investigated some individuals with ties to the Saudi government who knew hijackers after they arrived in the United States, the 9/11 Commission concluded there was no evidence that the Saudi government funded the attacks.

“There’s no reason to believe Saudi Arabia directly supported Al-Qaeda generally or the 9/11 attacks in particular,” said Michael Kellogg of the Washington, D.C.-based firm Kellogg, Hansen, Todd, Figel & Frederick, who presented oral arguments on Saudi Arabia’s behalf.

Daniels, who appeared alongside U.S. Magistrate Judge Sarah Netburn, did not issue a ruling after a day of oral arguments from various parties in the case.

Daniels previously dismissed plaintiffs’ claims against Saudi Arabia in 2015, but new life was breathed into plaintiffs’ claims against Saudi Arabia after Congress signed JASTA into law in 2016 after overriding then-President Barack Obama’s veto.