

**New York Daily News - <http://www.nydailynews.com>****WTC suit gets boost, ill worker sees hope**

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At an age when he should be in his prime working years, Frank Priolo's life is instead consumed by pills, paperwork and desperate runs to the hospital.

"All I do is see doctor after doctor after doctor," said Priolo, 45, a former Con Edison worker whose lungs are peppered with nodules - after he toiled in the acrid dust and smoke at Ground Zero for two weeks, 16 hours a day, starting Sept. 12, 2001.

But Priolo found a sliver of hope after a federal judge ruled that a lawsuit filed by him and thousands of his fellow rescue and recovery workers now suffering from medical problems could move ahead.

"I feel ecstatic. At least my day in court will come soon," Priolo said.

The first case for failing to safeguard the health of rescue workers after 9/11 was filed three years ago against the city, its contractors and the Port Authority. Now there are more than 8,000 plaintiffs.

In a key decision Tuesday, U.S. District Judge Alvin Hellerstein said the city was only partially immune from lawsuits.

His 99-page decision also forcefully urged the two sides to resolve the case quickly. "The scar to the public interest needs to be cleansed speedily, in good time," he wrote.

But Mayor Bloomberg gave no hint yesterday that the city would give up. "The judge just said that this should go to trial," he said. "He did not dismiss any of the arguments that we made."

He also said exempting the city from lawsuits is crucial to getting emergency workers to respond to disasters.

"It would be intolerable to have them have to stop and call their lawyers before they rush in and try to bail us out," he said.

The mayor's response prompted other officials to urge the city - and the federal government - to do the right thing.

"I hope the city will stop the legal wrangling and instead focus on getting help to our ailing heroes," said Rep. Carolyn Maloney (D-N.Y.), who has introduced a bill to reopen the 9/11 Victims Compensation Fund as a way to pay for the mounting medical bills among first responders.

David Worby, the lead lawyer for the plaintiffs, called Hellerstein's ruling "a huge victory."

The judge has ordered a conference Nov. 3 to consider the appointment of a special master. If the two sides don't reach a deal, Worby estimated that a court date for the first of possibly many cases could be set as early as next spring.

But for Priolo - who has no health insurance and no income to speak of other than a meager disability check - eeking out a living while waiting for a possible settlement promises to be a bleak life.

"For two years, I've been eating macaroni and peas," Priolo said. "A middle-class life - that's all I'm asking for. I'm not talking about luxury."

**With Michael Saul**