

FIREFIGHTERS NEWSLETTER



THIS DOCUMENT CONTAINS IMPORTANT INFORMATION
ABOUT FIREFIGHTER RIGHTS

What's My Personal-Injury Case Worth (Part II)?

How much money should I expect?

One of the most common questions asked by our injured firefighter clients (those hurt in accidents both on and off duty) is "how much money should I expect?"

As we explained in a recent newsletter, this is not a simple analysis; the value of your case depends on a myriad of factors. Some of those factors include liability (proving that the defendant was negligent), comparative negligence (were *you* partially responsible for the accident?), the amount of liability insurance that the defendant has, proving that your injuries and disability were caused by this particular accident, your age and whether or not your injury is considered permanent, your past and future lost earnings, and past and future medical expenses.

Because the most common orthopedic injuries we see are to the knees, shoulders, neck and back, we thought we would give you a rundown of some awards and settlements that firefighters have received for these injuries. You will see that sometimes the injuries are career-ending, and

sometimes not. While no two injuries are the same, settlements and jury-verdict awards for similar injuries are useful guides for determining the value of a case. Examples:

Knee Injuries:

- Firefighter suffered a tear of the anterior cruciate ligament of his right knee, and lost 8 months from work, after which time he returned to full-duty firefighting. His case settled for \$150,000.
- Firefighter lost his career after rupturing his quadriceps tendon. His case settled for \$800,000.
- Firefighter tore his medial cruciate ligament, but was able to return to work. \$500,000.
- Firefighter tore his meniscus, but was able to return to full duty after surgery. \$150,000.
- Firefighter suffered cartilage damage to his knee in a firehouse accident. He was able to return to full duty. \$140,000.
- Firefighter suffered a torn meniscus and ligament damage. He subsequently

continued on page 4


BUILDING INSPECTION: YOUR FIRST LINE OF DEFENSE

Periodically, we like to take the opportunity to remind firefighters of just how important one seemingly mundane aspect of your job is: building inspection. Of course, a violation issued during building inspection might compel a dilatory owner to make necessary repairs, thereby decreasing the likelihood of firefighter injuries down the line. But some owners serially disregard violations; their buildings harbor conditions that can make your job more dangerous.

What we have learned from the cases we have handled for our firefighter clients, is that it is impossible to tell which violations will be important down the line. Firefighter cases arise in myriad ways, and it is not necessarily the major violations that can cause a firefighter's injury. While we have seen careers ended by rusted fire escapes, missing smoke detectors, and illegal alterations and uses, we have also seen careers lost because of strollers blocking a stairway, a cracked step, and even a home filled with animals.

continued on the bottom of page 2





'Tis the Season for 2009 Tax Planning

by Elaine Frank

With the end of the year approaching, your thoughts are likely turning to the holidays. But now is also the time to think about something that is decidedly less jolly - taxes. With a bit of year-end planning, tax season can go much more smoothly.

Organizing your receipts and records now can save you a headache down the line. I have assisted many firefighters through IRS audits in 2008 and 2009. Those who were able to provide the government with an auto mileage log, and receipts for things such as supplies, laundry and cleaning, and tax preparation, fared well. Those without receipts or other acceptable documentation did not, and had to pay additional Federal and State taxes. Documentation is critical.

There are some important tax-law changes for 2009 that you should be aware of. Here are a few:

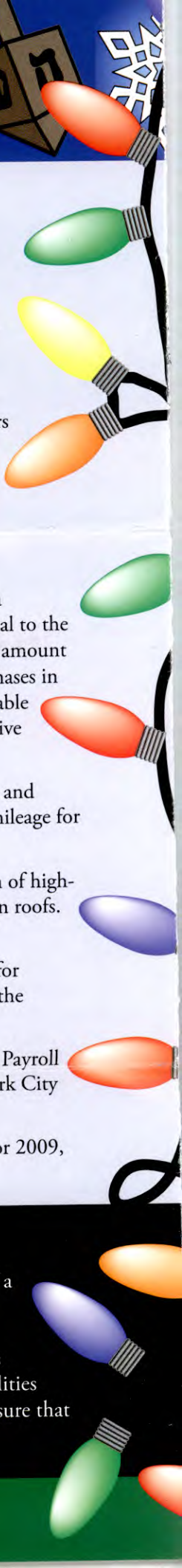
1. The first-time homebuyer credit has been extended for those who buy or enter into a binding contract to buy a principle residence on or before April 30, 2010 and close on the home by June 30, 2010. The credit amount is equal to the lesser of 10% of the purchase price of the home or \$8,000.00 for homes purchased before Dec 1, 2009. This credit amount does phase out for single taxpayers who earn over \$75,000.00 and \$150,000.00 for joint filers. For qualifying purchases in 2010, taxpayers have the option of claiming the credit on either their 2009 or 2010 return. A smaller credit is available for those who buy a replacement principle residence if they lived in the same principle residence for any 5 consecutive year period during the 8 year period that ended on the date the replacement home is purchased.
2. Standard mileage rate for the cost of operating your car for business purposes (including portal to portal travel and travel to a second job), is 55 cents per mile. The standard mileage rate for medical travel is 24 cents per mile, and mileage for charitable causes is 14 cents per mile.
3. Taxpayers can receive a non-business energy property tax credit of up to \$1500.00 in 2009, for the installation of high-efficiency heat pumps, air conditions water heaters, energy efficient windows, doors, insulation material, and certain roofs. (A tax credit is an amount that directly reduces your taxes).
4. More people will be eligible to receive an education tax credit this year because the credit begins to phase out for modified adjusted gross incomes over \$80,000.00 for individuals and \$160,000.00 for joint filers. Be sure to keep the 1098-T that you receive from the educational institution.

Finally, you should consider enrolling in the New York City Health Care Flexible Spending Account (HCFSA). Payroll deductions are pre-tax dollars (similar to 457 or 401(k) plans). Once enrolled, you submit medical bills to New York City for reimbursement. To enroll, please visit: http://nyc.gov/html/olr/html/flex_spending/flex_spending.shtml

I wish you an easy tax-planning season. As always, if you have any questions regarding changes in the tax law for 2009, please consult your tax advisor, or call me at Barasch McGarry Salzman & Penson.

continued from "Building Inspection" page 1

In any personal-injury case, the plaintiff must usually prove that the defendant had some degree of notice of a dangerous condition. As you might imagine, evidence that a building owner was previously served with a violation order for the very condition that led to the firefighter's injury, is extremely compelling evidence. Therefore, our firm always requests the FDNY building file for any building where one of our firefighter clients was injured. Building inspection is a prime opportunity to stop building owners from shirking their responsibilities under the law. For those owners who persist in violating the law, building inspection is your opportunity to ensure that they are answerable to the firefighters injured by their negligence.





WTC UPDATE: LEGAL AVENUE OPENS UP FOR SICK 9/11 RESCUE WORKERS

On September 16, 2009, Governor Patterson signed "Jimmy Nolan's Law". The new law opens a one-year window for the filing of otherwise time-barred claims against New York City and State, by people who became sick as a result of their work at Ground Zero.

Under New York law, people seeking to sue the City for illnesses caused by exposure at Ground Zero are required to file a notice of claim within 90 days of the time that they know, or should have known, that they were made sick as a result of their exposure. Many people were unable to file in time, and did not seek leave to file a late notice claim. As a result, their cases were thrown out of court, simply for being too late. The Jimmy Nolan law aims to restore the rights of rescue workers who would otherwise be denied their day in court.

The Legislature's justification for introducing the legislation is telling. The sponsors point out that the brave men and women who worked at Ground Zero "were advised and reassured that they were working in safe environments. Among other hazards, we know now that they suffered exposure to many types of contaminants, including caustic dust, toxic products of combustion and carcinogens. More than seven years later, thousands of World Trade Center workers have developed disabling respiratory illnesses and other injuries at rates that greatly exceed those of the general population."

A Better Choice: Reopen the Victims Compensation Fund

The Jimmy Nolan bill is certainly a huge step in the right direction, but it does not address all of the concerns sick rescue workers have. The bill offers rescue workers the opportunity to take part in prolonged, expensive, and adversarial litigation. While it is fair and just that these heroes be afforded an opportunity to seek redress for their injuries, it would be preferable to offer them an alternative to the mass litigation currently pending. In short, they should be given an opportunity to submit a claim to the 9/11 Victims Compensation Fund, which closed prematurely on December 22, 2003.

Our firm supports the passage of the James Zadroga act. This bill, which recently passed the House Judiciary Committee, would reopen the Victims Compensation Fund to those workers whose illnesses did not surface until after the Fund closed. We believe this option is in the best interest of rescue workers. It would put an end to the pending litigation in Federal Court. We will keep you updated on the progress of this bill as it moves through Congress.

As always, we are here to answer your legal questions.



This is the FORTY-FIRST edition of the BARASCH McGARRY SALZMAN & PENSON NEWSLETTER...attorney advertising which presents topics of interest to firefighters. For questions, additional copies, or more information about topics raised in this newsletter, call or write:

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continued from "Personal Injury" page 1

required a total-knee replacement and was disabled. \$775,000.

Shoulder Injuries:

- Firefighter suffered a torn labrum in his right (dominant) shoulder. Disabled. \$400,000.
- Firefighter suffered a tear to the acromioclavicular joint in his right (non-dominant) shoulder. Not disabled. \$120,000.
- Firefighter suffered a non-disabling right (non-dominant) rotator cuff injury. \$150,000.
- Firefighter suffered a disabling right (dominant) shoulder injury with shoulder impingement syndrome. \$850,000.
- Firefighter suffered a tear of the rotator cuff of the right (dominant) shoulder. \$450,000.

Neck/back Injuries:

- Firefighter suffered multiple disc herniations in his neck with surgery. Disabled. \$1.3 million.
- Firefighter suffered multiple disc herniations in his neck after a ceiling collapsed on his head. Disabled. \$875,000.
- Firefighter struck by falling ceiling, suffered disc herniation at C5-6, requiring cervical fusion. Disabled. \$850,000.
- Firefighter suffered bulging discs in the neck, and aggravation of a prior back injury, but was able to return to work. \$125,000.

We hope that this information helps you understand some of the issues that determine what an injury is worth. Whether you choose to use our law firm or any other,

please bear in mind that there are strict time limits within which to commence a lawsuit. Make sure that you discuss your injuries with an attorney so that you know those time limits and understand your legal rights. Please feel free to call our office anytime --- 1-888-FIRELAW (888-347-3529) for a free consultation to discuss your potential injury claim. We are always happy to give you a free "second opinion" if you or your friend already has a lawyer. Stay safe!

Season's Greetings

The attorneys and staff at
Barasch McGarry Salzman
& Penson wish you and yours
a happy and safe new year.

