

# FIREFIGHTERS' NEWSLETTER



THIS DOCUMENT CONTAINS IMPORTANT INFORMATION ABOUT FIREFIGHTER RIGHTS

## The Zadroga 9/11 Health and Compensation Act of 2010

*Making sure no firefighters slip through the cracks*

On January 2, 2011, President Obama signed the James Zadroga bill, putting into law a \$4.3 billion commitment to provide health care and compensation to sick 9/11 rescue workers. The act, named for our client Detective James Zadroga, reopens the Victim Compensation Fund (VCF), which closed its doors almost six years ago.

Recently, lawyers from Barasch & McGarry were invited to Washington to meet with Department of Justice (DOJ) lawyers in charge of implementing the Zadroga Act. They are in the early stages of selecting the new special master and drafting the regulations that will apply. Ultimately, those regulations will determine whether certain cancers are covered, whether post traumatic stress disorder is compensable, and whether prior claimants can bring supplemental claims for their latent injuries and subsequent disabilities. We delivered the message to the DOJ's lawyers, that it would be nothing short of an injustice to deny those rescue workers who recovered small awards from the original Victim



Michael Barasch meets with Ben Chevat, Congresswoman Carolyn Maloney's Chief of Staff, to lobby on behalf of injured firefighters.

Compensation Fund the right to supplement their applications for subsequent illnesses and disabilities.

Here are some highlights of the Zadroga Act that impact active and retired members who were injured as a result of their exposure to the toxic dust and air.

### Compensation to Injured Rescue Workers

For a number of reasons, many members never filed claims under the

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## WTC Injuries and Deaths: The Toll Mounts

With the 10-year anniversary of the September 11th attacks approaching, this is an appropriate time to look at some of the collateral damage sustained by New York's Bravest and the real toll. Naturally, the first thing outsiders talk about when discussing the enormity of the loss that day is the 2,968 people who died, including 343 firefighters. However, according to the Board of Trustees, from 2002-2008 an additional 21 firefighters were granted line of duty death benefits specifically as a result of the illnesses that they contracted during their rescue and recovery work at the WTC. More LOD death applications are pending.

During the first few years after the attacks, the majority of the rescue workers who exhibited respiratory symptoms were diagnosed with the generic "World Trade Center cough." For many, the "cough" was the prelude to more serious conditions including asthma, chronic obstructive pulmonary disease (COPD), reactive airways disease (RADS) and interstitial lung disease. A look at how and when the members of the FDNY developed their respiratory illnesses due to their toxic exposure at Ground Zero is illustrative

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From time to time we ask experts in other fields to share their expertise with firefighters. Vinny Lanzante is an active NYC firefighter, who works with certified financial planners. His article is one in a continuing series. If you have any questions about this topic or financial planning, feel free to call him at 347-661-6234.

## Why Financial Planning is Important for every FDNY Member and their Family

by Vincent Lanzante

Personal financial planning is important for many reasons. With proper planning, FDNY members can make the most of the pension and benefits that the City provides. While we are out protecting the lives and property of the people of New York City, who is protecting our family’s financial security? A financial planner can make sure that you are armed with the knowledge you need to realize your financial goals. A trained professional can empower you, and make sure that the financial decisions you make are in line with your ambitions. A financial planner is similar to a coach in sports. Tiger Woods is one of the greatest golfers in the world, but he still uses a swing coach to help him understand what he can do to improve his swing, and to help him stay at the top of his game.

Another analogy is a GPS in a vehicle. When you first turn a GPS on, it tells you where you currently are. You then put in a destination of where you would like to go, and the GPS will guide you in the most efficient manner to your desired destination. If you were to make any wrong turns or mistakes along the way, the GPS would recalculate your route to get you back on track. Without the GPS, you would be relying on your personal navigation skills, hoping to arrive at your desired destination. A Financial Planner works in a similar way; acting as your personal GPS. A Financial Planner can help you assess your current financial situation (current location on the map), and develop a strategy (directions) to obtain financial security (your final destination). To start this process, I suggest that you honestly answer the following questions:

- How important is money to you? (Scale of 1-10)
- How well have you managed your finances in the past? (Scale of 1-10)
- Do you think there is room for improvement? Would you like to close the gap?
- Would you like to be able to take your maximum possible pension when you retire?

A good financial plan will also help you and your family with: goal setting; financial education; avoiding potential threats; future pension options; fulfilling current obligations; taking advantage of opportunities

If these topics interest you, feel free to follow me at [www.nypensionplanner.blogspot.com](http://www.nypensionplanner.blogspot.com) for weekly articles about financial planning for FDNY members.



“Nothing Bad is Ever Going to Happen to Me”  
—firefighter who questions need for a Will

## WHY WE CONTINUE TO DO FREE WILLS

BARASCH MCGARRY IS PROUD TO ANNOUNCE THAT WE HAVE PREPARED OVER 1,000 FREE WILLS FOR NEW YORK CITY’S FIREFIGHTERS AND THEIR FAMILIES!

Wills are not the only free service that we offer to firefighters; we also prepare health-care proxies and living wills. A health-care proxy is different from a living will, and you are entitled to have both. Under New York law, you have the right to appoint someone you trust, a proxy, to make decisions about medical care and treatment for you, in the event that you lose the ability to make those decisions for yourself. Hospitals, doctors, and other medical providers must follow your proxy’s directions as if they were your own. You have the right to give the proxy as much or as little power as you choose.

A living will, on the other hand, documents your wishes about medical treatment in the event that you develop an irreversible condition and are unable to provide instructions at the time medical decisions need to be made.

### WE WILL REGISTER YOUR LIVING WILL

We will prepare and register your health-care proxy and living will so that they are available to medical providers online in the event they are needed. You will be provided with a sticker for your driver’s license indicating to your doctors that these documents are available to them online.

By registering your living will, you ensure that your wishes will be communicated to those responsible for your care, at a time when you would otherwise have no voice. We’re here to help you protect your legal rights, and it’s our pleasure to offer these services at no cost. As we always say: “you protect us...we protect you”!

We are proud to have represented thousands of firefighters over the years for various on-the-job injuries, and we will not rest until everyone of you has protected your family! Please take advantage of this free offer. It takes just 10 minutes to execute these documents.

Please stop procrastinating – call us. Let us draft a simple will and a health proxy for you now. Call us today at 212-385-8000.



*continued from “WTC Injuries”*

of how insidious these latent diseases are. In the years following the attacks, the New York City Fire Department retired firefighters in record numbers for what its doctors determined to be World Trade Center-related respiratory illnesses. In fact, according to The World Trade Center Health Impacts on FDNY Rescue Workers, A Six-Year assessment: September 2001 – September 2007, nearly four times as many firefighters were retired due to their WTC illnesses after the VCF closed than before. They continue to be found disabled as a result of their exposure. In fact, last year more firefighters were found disabled due to their WTC illnesses than in any of the prior 8 years!

According to the study, in the three years prior to and including 2001, an average of 49.6 NYC firefighters retired each year for respiratory disabilities under the City’s “Lung Bill.” In stark contrast, the following statistics support the fact that exposure

to the toxic WTC dust and air has caused a two to five-fold increase in disabling respiratory illnesses. These illnesses have continued to manifest over the decade:

- 2002: 132 firefighters were retired for their lung-related illnesses (83 more than the pre-9/11 average)
- 2003: 183 firefighters were retired for their lung-related illnesses (133 more than the pre-9/11 average)
- 2004: 153 firefighters were retired for their lung-related illnesses (103 more than the pre-9/11 average)
- 2005: 134 firefighters were retired for their lung-related illnesses (84 more than the pre-9/11 average)

In June 2005, Governor Pataki signed a WTC presumptive bill for rescue workers (the September 11th Disability Bill). Starting in 2006, NYC firefighters who had worked at Ground Zero, and developed disabling respiratory illnesses, were retired under either the WTC Bill or the Lung Bill.

2006: A total of 160 firefighters were retired for their lung-related illnesses—135 under the Lung Bill and an additional 25 under the new WTC Bill. This was 110 more than the pre-9/11 average.

2007: 152 firefighters were retired under the WTC Bill

2008: 191 firefighters were retired under the WTC Bill

2009: 188 firefighters were retired under the WTC Bill

2010: 269 firefighters were retired under the WTC Bill

Altogether, over 1,500 NYC firefighters have been found disabled as a result of their WTC-caused injuries. This includes more than 60 firefighters who have been retired for their Post Traumatic Stress Disorder (PTSD). And, since 9/11, 21 firefighters have had their deaths related to the attacks. Clearly, the final toll is not yet known. Please rest assured that we will continue to fight for your rights and the recognition of the sacrifice that you and your men made.

*continued from “Zadroga”*

original VCF. In some cases, members felt that the fund was primarily set up for the deceased victim’s beneficiaries or were paralyzed by survivor’s guilt. Still others had relatively minor conditions that they hoped were transient. Claims had to be filed by December 22, 2003, and a firefighter who did not begin to show signs or symptoms of an illness until after that date was *not* eligible to file a claim. It is clear, that the aim of the Zadroga act is to include all of these members.

The original VCF was fairly restrictive. It was only available to members who were present at the attack sites at the time

of the attacks or immediately thereafter, and suffered *physical* harm or death as a result. In order to be eligible, the person had to have received medical care for the injury within 72 hours of the attacks. If rescue workers failed to seek medical care within 72 hours, the VCF excluded them, even if they later became ill as a result of their exposure to the toxins. We fought to have that rule changed, and, ultimately, it was.

The Zadroga Act defines the “immediate aftermath” more liberally. The time frame starts with the attacks on September 11<sup>th</sup> 2001, and ends on May 30<sup>th</sup> 2002. It also extends the time during

which rescue workers must have received treatment. In addition, the act expands the geographical areas covered, and now includes the buildings and surrounding areas affected by fire, explosions, falling debris and any area related to or along the routes of debris removal like the barges and Fresh Kills landfill on Staten Island. It is designed to include *all* people who are ill or injured as a result of work related to the 9/11 attacks.

For members and retirees who did not file a claim under the original VCF, but have since become ill as a result of their exposure at the WTC and its aftermath, now is the time. For members who filed

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claims with the original VCF for relatively minor illnesses and subsequently became seriously ill or disabled, we invite you to call us to discuss your legal rights. Please rest assured that we are lobbying passionately for you to have the right to supplement your original claims.

### **Medical Monitoring and Health Care**

The Zadroga Act also provides an additional five years of funding for the World Trade Center Medical Monitoring Program. Since many of the illnesses suffered by responders are the type that might not show up immediately, medical monitoring allows them to be watched by doctors over a period of time, so that ailments can be detected very early and treated aggressively.

Any rescue worker who worked at an approved site between September 11, 2001 and July 31, 2002 is eligible for inclusion in the Medical Monitoring Program. The list of approved sites includes the following: World Trade Center, Chief Medical Examiner's office or the temporary morgue locations, Fresh Kills landfill, Staten Island Homeport, World's Fair Ground staging area, and the WTC Barges. The program will continue to provide free medication for certain conditions.

The Bureau of Health Services suggests that members, both active and retired, have a WTC medical once a year. To schedule an appointment for a medical exam or for further information regarding medical treatment, please call the WTC members' hot line at FDNY at (718) 999-1858.

### **No Man Left Behind**

The Marines live by the motto: "Until they are home, no man left behind." It was in that spirit that our rescue workers, dug and dug to make sure that the remains of all those murdered on September 11, 2001 were returned to their loved ones. They did this without concern for their own health and safety. With the passage of the Zadroga Act, the nation has sent a powerful message to the rescue workers who toiled at the site; you have not been forgotten. We will continue to fight for a fund that is inclusive, and that enables each and every victim to seek compensation for the true measure of his damages. To do otherwise would mean leaving our heroes behind. And that, we cannot abide.



**This is the FORTY-FIFTH 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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