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Some recent visitors to our office whose future is secure because their parents took advantage of our offer.



- CORRECTION -

Volume 60 our Firefighter's Newsletter included important information for members that are arrested or issued a Desk Appearance Ticket. It mistakenly advised members to notify their officer or trustee of the incident within 24 hours of being arraigned or released. To be clear, department rules require a member to "immediately" notify the officer on duty. This obligation is not fulfilled by informing a union trustee or attorney. We apologize for any confusion regarding this important obligation for all members.

UPDATE ON THUMB CRUSH INJURIES

Thumbs down to New KME Rigs

A battery of firefighters have had their thumbs crushed by a serious design flaw in the rear compartment of new KME rigs. Last year, the New York City Fire Department began a program of replacing many of its pumper trucks with new trucks manufactured by Kovatch Mobile Equipment (KME). Soon after the trucks made their debut in New York City firehouses, firefighters began suffering crush injuries to their thumbs because of handles on the rear cab doors that are mounted too close to the edge of the doors. As firefighters grabbed the handle to close the door, their thumbs were crushed because of inadequate clearance between the handle and the door jamb. Our firm already represents 7 firefighters injured this way. The story of their accidents was picked by the New York Post and the Daily News, which called our office for information about the claims. Dana Cutting, one of the firm's attorneys spoke to reporters. She told them that normally the FDNY is needed "to respond to emergencies," but "in all these cases, *they've* become the emergency." An FDNY spokesperson responded that the handles are now being removed from rigs.

FIREFIGHTERS' NEWSLETTER



THIS DOCUMENT CONTAINS IMPORTANT INFORMATION
ABOUT FIREFIGHTER RIGHTS

BARASCH MCGARRY WINS LANDMARK VICTORY FOR FIREFIGHTER INJURED WHILE RESCUING RECKLESS AUTOMOBILE DRIVER

In January, 2010, a man named Ken Goodman was speeding through a residential neighborhood in Queens. He came to an intersection, blew through a red light, careened into a turn without ever slowing down, and lost control of his car. He narrowly missed hitting a woman who was on the sidewalk before he smashed into a utility pole.

When firefighters and other emergency responders arrived at the scene, Mr. Goodman was trapped, his leg pinned under his dashboard, and his car a twisted hunk of metal wrapped around the pole in a pool of gasoline and broken glass. He was bleeding from his head, and he was drifting in and out of consciousness, screaming and moaning in pain whenever he woke.

A team of brave firefighters frantically worked to cut the car open, fearing that Mr. Goodman might die. An EMS crew tended to Mr. Goodman through the window. For one firefighter, this run would be life changing. While Mr. Goodman survived his accident, our client badly injured his shoulder as he and other firefighters used the "jaws of life" to remove the roof of Mr. Goodman's car. As they awkwardly lifted the roof off of the vehicle, the firefighter wrenched his shoulder, causing multiple tears of the tendons and ligaments. Several surgeries followed, but our client's career was over. Ironically, after a brief hospitalization, Mr. Goodman was just fine.

Mr. Goodman's crash can hardly be called an "accident". His reckless driving put others at risk, including the woman he almost struck and the rescue workers who came to clean up the horrible mess he created. But the person who would ultimately pay the price for Mr.

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JON STEWART
JOINS FIGHT TO
EXTEND THE
ZADROGA ACT
FOR 9/11
RESPONDERS
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Jon Stewart with Mike Barasch, Richie Palmer (ret. Correction Officer) and Richie Alles (UFOA Deputy Chief and Legislative Director) at recent Daily Show taping.

Prostate Cancer Deadline

*October 21, 2015 is the deadline
for 9/11 survivors to register for compensation*

For men who were diagnosed with prostate cancer between 9/11/05 and 9/11/13, October 21, 2015 is the deadline to register a claim with the Zadroga Victim Compensation Fund. Anyone who worked at Ground Zero, the Fresh Kills Landfill, the Morgue, or aboard any of the transport vehicles, is eligible for health care and compensation under the Zadroga Health and Compensation Act (the Act is named in honor of our client, NYPD Detective James Zadroga).

The WTC Health Program has now linked 62 cancers to the WTC toxic dust. While October 21st marks the deadline

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This is the SIXTY-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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"You protect us...we protect you."

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Goodman's bad behavior, was our client.

We soon learned that Mr. Goodman's selfishness extended beyond his driving habits. Although he drove in a manner that was likely to hurt or kill someone, he had just \$25,000 in automobile liability insurance. That means, that the most that his insurance company would ever pay the firefighter who Goodman injured was \$25,000. Naturally, an asset search revealed that Goodman had no valuable property or savings to go after. Adding insult to injury, Goodman filed a handwritten answer in court expressing his view that the firefighter who blew out his shoulder, and lost his career rescuing him, should get nothing. Goodman's insurance company, thankfully, was smarter than Mr. Goodman. Recognizing that the case was indefensible, and that the \$25,000 liability insurance policy could not begin to compensate our client for his pain and suffering and lost career, it quickly offered to pay the full policy.

The story might have ended there, but it doesn't. We have long preached to firefighters about the importance of buying a significant amount of Supplementary Uninsured/underinsured Motorist ("SUM") coverage, in case they are injured by an underinsured driver like Mr. Goodman. This insurance permits you to recover compensation from *your own* auto insurer, for losses caused by an underinsured driver, where (and this is important) the injuries "arise out of the use of the motor vehicle". Since, in this case, the \$25,000 liability insurance policy was grossly inadequate to compensate our client for his injuries, pain and suffering and the loss of his career, a claim for SUM benefits was appropriate. Fortunately, our client had SUM coverage, and we filed a claim for SUM benefits with his insurance company, Encompass.

Firefighter's Own Insurance Company refuses to pay him SUM Coverage and fights to get his case dismissed

News Flash: Insurance companies are great at collecting premiums but often reluctant to pay claims. That's what happened to our client. Despite the fact that he had paid his insurance premiums for years, Encompass Ins. Co. said that it wouldn't pay the claim, because the accident "did not arise out of the use of a motor vehicle". Rather, it happened during rescue operations *after* Goodman's "use" of the motor vehicle had terminated. Relying on another case involving a rescue worker who injured his back pulling a negligent driver out of his car before it burst into flames, the judge agreed with the insurance company's position, and said that our client was *not* entitled to SUM coverage.



Attorney Dana Cutting

We refused to accept the judge's decision. Attorney Dana Cutting of our law firm appealed the judge's decision. Thankfully, Dana convinced a panel of judges on the Appellate Court that Goodman's negligence created the need for the difficult rescue operation, a doctrine known succinctly as "danger invites rescue." Goodman's dangerous driving caused a car accident so severe, that firefighters had to cut him out of the car, and, thus, the firefighter's injuries did "arise out of the use of a motor vehicle".

Ramification of this Decision: More protection for injured first responders

This victory is important because it strengthens the protections available to all

first responders. They now have the right to make a claim to their own auto insurance company if the negligent driver whom they are rescuing has insufficient insurance. But, this new right means that *it is more important than ever that you verify that you have significant SUM coverage*. As responders, you know better than most people how many Kenneth Goodmans are out on the road, driving negligently with little or no insurance coverage. There are a lot of drivers who are inattentive, who drive too fast, who fall asleep, who drink, who text, who run stop signs, who don't yield, who turn into pedestrians, and lots of them have no auto insurance or the bare minimum of \$25,000 of insurance, just like he did. As firefighters, you don't stop to think about how much insurance coverage someone has when you put yourselves in harm's way to save them. SUM coverage is therefore not optional for you. You need it, it's inexpensive, and you should have as much of it as you can afford. And please make sure that the amount of SUM coverage that you have equals the amount of liability coverage that you buy. Don't let your insurance broker tell you otherwise!

Whenever firefighters come to our office to execute their Wills (which are free by the way), we review their home and automobile insurance coverage. This may be a good time for you to do so yourself. Or, call us for a free consultation at any time.

As our motto says:
"You protect us...we protect you"!



Follow us on Twitter @BaraschMcGarry and on Facebook: Barasch McGarry Salzman and Penson.

JON STEWART AND SENATOR KIRSTEN GILLIBRAND FIGHT TO MAKE THE 9/11 ZADROGA HEALTH AND COMPENSATION ACT PERMANENT

Barasch & McGarry applauds Jon Stewart and Senator Gillibrand (D-NY) for highlighting the need to reauthorize and make permanent the programs that are helping injured and ill 9/11 responders and survivors. Mike Barasch attended the Daily Show taping with FDNY Deputy Chief and UFOA Legislative Director Richard Alles, Attorney Noah Kushlefsky, 9/11 Advocate John Feal, and several other 9/11 sick first responders. The link to the segment dealing with the importance of extending the Act is:
<http://thedailyshow.cc.com/videos/2qydv/kirsten-gillibrand-pt--1>.

"I urge you to watch it and share the link with your family, friends and other responders", said Barasch.

"Massive thanks are due to Jon Stewart and his guest, the tireless Senator from New York, Kirsten Gillibrand, for the Daily Show episode last night in which they highlighted the need to fully fund the James Zadroga 9/11 Health and Compensation Act—and make it permanent." said Richie Alles.

During the interview, Jon Stewart asked the Senator, 'Who is against this bill?' He demanded the names of those politicians who are against the bill. "This is the most galling example of legislators removed from the purpose of their job", said Stewart.

Senator Gillibrand wouldn't give Stewart the names of politicians who hadn't yet supported the extension, but she urged all citizens to call their representatives today. "This is an issue of conscience. We must stand up and do the right thing. Please call you congress members. The only time anything works in Washington is when regular people stand up and demand action", said Gillibrand.

Gillibrand reminded Stewart that the current Zadroga Act is expiring in October. "1,700 people have died since 9/11, including more police officers than the number of police who died on the day of the attacks. 4,000 others are currently suffering with horrible cancers", she said.

Alles summed it up perfectly: "We must all work to ensure that 'Never Forgetting 9/11' is not just a hollow political statement, but something that Members of Congress are in fact committed to doing," Alles said

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to register prostate cancer diagnosed prior to 2013, you can still register a cancer claim (including prostate cancer) as long as it has been less than 2 years since the date of diagnosis. In other words, cancers diagnosed after 9/11/13, including prostate cancer, must be registered within two years of the date of the diagnosis.

Don't let any sick responders miss the deadline. Please help us spread the word.

If you have any questions, or need help with your claim, feel free to contact our law firm at (888) 351-9421. All consultations are free and confidential. We represent more sick first responders than any other law firm in the country.

Victim Compensation Fund Award Determinations Update

Victim Compensation Fund Special Master Sheila Birnbaum has reported that as of June 30, 2015, the VCF has made

5,636 compensation determinations in the amount of \$1.3 billion, an average of approximately \$230,000 per claimant. Clearly, the VCF is making tremendous progress. We remind our claimants that unless Congress authorizes additional funds, there is a good chance that all claimants will have their awards ratably reduced. When Congress originally passed the VCF, it set aside \$2.7 billion to compensate all claimants; however, cancers had not yet been linked to the WTC toxic dust. Since then, the NIOSH has linked 62 cancers to the toxic dust and, as a result, over 3,000 claimants have had their cancers certified by the WTC Health Program. No one knows how many more claimants will be diagnosed and certified for cancer, but clearly, the \$2.7 billion set aside by Congress is not going to be sufficient to ensure that everyone gets paid their full compensation.

Our law firm has been lobbying Congress to do the right thing and support efforts by New York politicians to extend and re-fund the Zadroga Act so that claimants continue to receive life-saving medical treatment and get their full awards when final payments are made in 2017. Senators Schumer and Gillibrand are leading the fight in the Senate (where 27 Senators have officially supported the cause). Representatives Maloney, King, and Nadler are leading identical efforts in the House, where 125 Representatives have publically supported the extension.

For more information about the efforts to extend the Zadroga Act, please visit the Citizens for the Extension of the James Zadroga Act, a coalition of 9/11 Responders, Survivors, labor unions and dedicated public officials.

<http://www.renew911health.org>