

WHY WE SHOULD ALL HAVE A WILL

OUR FIRM HAS PREPARED OVER 3500 FREE WILLS FOR ACTIVE AND RETIRED FIREFIGHTERS

Vol. 68

A funny anecdote to convince you to let us prepare a FREE Will and Health Care Proxy

Dan was a single guy living at home with his father and working in the family business. When he found out he was going to inherit a fortune when his sickly father died, he decided he needed a wife with whom to share his fortune.

One evening at an investment meeting he spotted the most beautiful woman he had ever seen. Her natural beauty took his breath away.

"I may look like just an ordinary man," he said to her, "but in just a few years, my father will die, and I'll inherit 20 million dollars." Impressed, the woman obtained his business card. Three days later, she became his stepmother.

Women are so much better at estate planning than men!

TAKE CARE OF YOUR FAMILY - NOW!
CALL US - FOR A FREE WILL KIT: 1-888-FIRELAW



These brothers may not realize the benefit of their parents getting a Will, but at least they look good in their Barasch McGarry tee shirts!

FIREFIGHTERS' NEWSLETTER

WHAT ARE MY PENSION RIGHTS IF I GET SICK AFTER I RETIRE?

Presumptive Bills and your right to reclassification
By Richard Alles, Deputy Chief FDNY, Ret.

Firefighters have long known that they are at increased risk for certain diseases. Exposure to smoke and toxins puts firefighters at risk. Beginning in 1969 the Legislature formally recognized this when it enacted the Lung Bill, the first in a series of "presumptive bills" that were enacted to protect pension rights for sick firefighters.

The Lung Bill creates a presumption that diseases of the lungs were incurred in the line of duty. Twenty-five years later, in 1994, the Cancer Bill became law. Like the Lung Bill, it creates a presumption that any cancer affecting the lymphatic, digestive, hematological, urinary or prostate systems, or melanoma, was incurred in the line of duty.

After 9/11, there was tremendous concern that first responders who worked in the epicenter of the disaster would again disproportionately suffer health consequences. A power struggle ensued between the NYC government, which sought to shield itself from liability, and the medical community, first responders, and their unions working to



Albert Connolly and Michael Barasch at UFA seminar

get needed protections in place through the NYS legislature. After years of discussion and debate in Albany, in late 2005, the NYS WTC Presumptive Law was enacted.

Like the Lung and Heart Bills that came before it, the WTC Presumptive Law creates a presumption that certain illnesses were caused by exposure at the WTC site. The law covers cancer, lung disease, or a qualifying psychological condition including post-traumatic

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9/11 VICTIM COMPENSATION FUND ISSUES ITS ANNUAL STATUS REPORT

On March 13, 2017, the September 11th Victim Compensation Fund (VCF) issued its Fifth Annual Status Report. Congress requires the VCF to publish the amount of awards that it has given out every year. The most recent report confirms that as of December 31, 2016, Barasch & McGarry has recovered more money for more claimants than any other firm in the country.

Between the original VCF and the 9/11 Zadroga VCF, our law firm has:

- ⇒ Recovered more than \$1 Billion on behalf of approximately 6,000 clients
- ⇒ Recovered the highest award - \$5.25 Million - for a client whose cancer, pulmonary illnesses, and permanent disability were linked to his exposure to WTC toxins

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Meanwhile, "unspecified facial injury" - yes, that's a thing- is more common in Washington D.C., Illinois, and Louisiana. Look up periodically when you're in the Hoosier State. It turns out that Illinois has a disproportionately high number of people who are struck by falling objects.

Where is communing with nature most likely to result in a visit to the doctor? In Kansas, North Carolina, Texas, and Virginia the distinctive injury is "insect bites". In Missouri, it's "animal bites". For something more exciting, head to Idaho, Montana, Nebraska, North Dakota or Wyoming, where "animal-drawn vehicle accidents" are the distinctive injury.

Finally, the distinctive injury in our very own island paradise, Hawaii, is not shark attacks but "scrapes". For our part, we're willing to take that risk. Aloha, and we wish you safe travels wherever you go.



See you in Atlantic City at the UFA Delegate Seminar!

We're looking forward to seeing the good friends we've made over the years and to meeting those of you attending for the first time. Please look for us at our information table and at our hospitality suite.

This is the SIXTY-EIGHTH 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."
THIS DOCUMENT CONTAINS IMPORTANT
INFORMATION ABOUT FIREFIGHTER RIGHTS

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stress disorder, anxiety, depression, or any combination of such conditions. If you are disabled as a result of a qualifying condition, you may be eligible for a disability retirement.

When to reclassify your pension

The law also has a reclassification provision that affects retirees. Any member who retired on a service or non-WTC disability pension not more than 25 years ago, and who would have met the criteria if not already retired, is eligible to reclassify his current pension. That same retiree's beneficiary is also entitled to the accidental death benefit should the reclassified member die as a result of a WTC-related disease.

You should know that a member's

retirement option will not be changed as a result of a pension reclassification. For active members, this is a good reminder that the decision as to which pension option to choose should not be taken lightly! Pension options are discussed in great detail at the FDNY monthly pension seminars. In fact, we recommend that you attend more than one due to the volume of information that will come at you at the meeting. If you are married it makes sense to bring your spouse along so that both of you understand the various options, as well as the consequences of your choice.

If you are an active member and have been diagnosed with cancer or serious respiratory disease, or a psy-

chological condition, and you are going through the disability process, or, if you are a retiree and wish to reclassify your pension due to a 9/11 illness, please call our office for assistance with this. We will also give you a free evaluation of your rights under the Victim Compensation Fund (VCF). You should know that the VCF has accepted the recommendations of the WTC Health Program which has linked 68 different cancers to the toxic dust.

Future articles will discuss the pension benefits available to a spouse upon the death of a reclassified pensioner, as well as the six pension options available to members upon retirement.

TRAFFIC DEATHS SKYROCKET FOR TWO YEARS IN A ROW

"Distracted Driving" - Smart Phone Use is #1 Reason

During the past two years, there has been a disturbing trend on America's roads and highways. A reversal of the steady decline in traffic deaths has clearly taken hold. Traffic deaths in 2015 spiked 7.2% from 2014. And the news in 2016 was equally grim. Last year, more than 40,000 Americans were killed in traffic accidents. We haven't seen a 14 percent increase in traffic deaths in a two-year period in more than half a century. Clearly, there is cause for deep concern.

Experts are divided on what is causing the spike, but government officials and safety advocates believe that it is certainly in part due to more lenient enforcement of seatbelt, drunk driving, and speeding laws, and a reluctance to enact more stringent laws to address the alarming increase in distracted driving. In some states, highway speed limits are rising. About 1,500 miles of roads have a limit of 75 miles per hour or higher. As for seatbelt laws, only 18 states have laws requiring seatbelts for both front and rear seat occupants. And in 15 states, failure to wear a seatbelt in front seats is only a secondary offense, meaning that drivers cannot be given tickets unless they are pulled over for other violations. But safety experts estimate that thousands of lives could have been saved each year, if everyone wore a seatbelt.

Studies show that there is a steady increase in distracted driving. In addition to the distractions that have always plagued drivers (the radio, talking on the phone, putting on makeup, talking to passengers, lighting cigarettes, etc.), smartphones are now everywhere, and drivers often give in to the temptation, taking their eyes off the road in order to text and check social media.

According to the National Highway Traffic Safety Administration, 3,477 people were killed, and an estimated 391,000 more were injured, in motor vehicle crashes involving distracted drivers in 2015. That was a 9% increase in fatalities as compared to the previous year. Nearly 1 out of 10 drivers 15 to 19 years old involved in fatal car crashes were reported as being distracted at the time of the crash.

The AAA Foundation for Traffic Safety's analysis of 2009-2012 data found that while more than 80% of drivers believed it was completely unacceptable for a motorist to text behind the wheel, more than a third of those same drivers admitted to reading text messages while operating a passenger motor vehicle themselves.

Shockingly, as fatalities go up, fewer drivers seem concerned about texting while driving. According to the AAA Foundation's 2015 Traffic Safety Culture Index, significantly fewer motorists (77%) believed texting while driving is a problem, down from 96% in 2013!

Every one of us can do our part to reverse this trend. We know that wearing seatbelts and driving at an appropriate speed saves lives. Obviously, driving while under the influence is never okay. Getting enough sleep is also important, and if you are on the road and feel drowsy, recognizing it and pulling over to a safe place to take a nap can make all the difference. Just remember that it will take you 15 minutes to be fully alert after waking. And, of course, resist the urge to give in to distractions. None of this is anything new, but given the increase in traffic fatalities, now is an especially good time to reinforce good habits, and to cut out bad ones.

Please share these sobering statistics with your teenagers!



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⇒ Represented approximately 1/3 of all claimants who received awards

As we tell all our VCF clients, past results do not guarantee a particular future award. In fact, the new VCF rules mandate that less compensation be given for non-disabling respiratory illnesses. However, the good news is that the VCF has been extended through the year 2020 and claimants will be paid their full awards, rather than 50% of their awards (which is what we all expected would have happened if Congress had not extended the Zadroga Act in December, 2015).

Claimants do not waive future rights

It is important for you to know that VCF claims are not like regular personal injury lawsuits. Generally, in a firefighter accident case, or in a motor vehicle accident case, when a settlement is reached, the case is over. The injured person may never seek additional compensation, no

matter what consequences develop later on. But VCF claimants do not waive future legal rights when they recover VCF awards. In the event that a claimant receives a VCF award and is later diagnosed with a new illness, or is determined to be disabled from employment due to a physical 9/11-linked illness, the claimant is permitted to amend his or her claim. Barasch McGarry has submitted hundreds of amended claims and is delighted to report that supplemental awards have already been given to dozens of its clients.

The wonderful doctors at the FDNY Bureau of Health Services (BHS) have asked me to remind all firefighters, active and retired, that health care and compensation is available to responders, volunteers, residents and office workers who have been diagnosed with any of the 68 cancers linked to the WTC toxic dust. There has been a medically significant increase of all cancers, especially skin and prostate cancer

among firefighters. Please go for an annual full body skin exam and don't miss your annual WTC physical! Early detection can save your life.

The deadline to register with the VCF is 2 years from the date that a cancer or other illness is certified by the World Trade Center Health Program (i.e., BHS) or is otherwise found to be 9/11-related by another governmental agency. All claims must be fully submitted by December 18, 2020.

If you have been diagnosed with cancer or another illness that might be 9/11-related or have any questions about the VCF, please call us for a free consultation at 888-FIRE-LAW (1-888-347-3529), or email us at michael@firelaw.com, or visit our VCF website at www.wtclawyers.com

Please help us spread the word about the VCF deadline, especially to the retirees who may have moved away from the NY area and may not be aware of their legal rights under the VCF law.

HOW AMERICA GETS HURT - STATE BY STATE (From Brawls and Bites to Suffocation and Scrapes)

As firefighters, you know an awful lot about the various ways people in our city get injured. Actually, as personal-injury lawyers, we do too. But when healthcare database company Amino analyzed insurance forms filled out by doctors across the United States, we learned a little something about how people all across our country tend to get hurt.

Amino wasn't really looking at what injuries are most common. (But in case you're curious, bruising and open wounds top the list virtually everywhere in the United States). It was trying to understand whether individual states have a "distinctive injury", meaning something that occurs more frequently to the people of that state as compared to people in other states. The results are sometimes surprising and even a little weird.

Let's start with New Yorkers. What is our distinctive injury? Well, tough guy, it appears that you are more likely to be hurt in an "unarmed fight or brawl". Ten percent of all medically-documented fist fights happen in the Empire State. Interestingly, people from New Jersey have a higher incidence of "sprained hand". Coincidence?

Five states have a disproportionately high number of "suffocation" injuries. Colorado, Idaho, New Mexico, Nevada, and Wyoming earn this unpleasant distinction. And five other states have a disproportionately high number of injuries from car accidents: Arkansas, Arizona, California, Georgia, and Tennessee.

Rotator cuff injuries? We're looking at you Delaware and Oklahoma. Massachusetts's distinctive injury is concussions.

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