

HOW TO WRITE A WILL THAT WON'T START A WAR

To date, we've done more than 4,000 free wills for active and retired firefighters and their spouses. One of the reasons to have a will is to make things easier for the people we leave behind. But some wills do just the opposite.

All too often, well-meaning people put things in their wills that are destined to spark conflict among their heirs. What seems good on paper may play out disastrously in real life. Here, we offer you some tips for writing a will that won't start a family feud.

Tip #1: Name the right executor

Your executor will be responsible for settling your estate, a very serious responsibility. The person you choose should be responsible, organized, and extremely ethical. If you choose someone who is not, the things that need to be done to settle the estate will be done improperly, very slowly or not at all.

People often name executors based solely upon family hierarchy (the oldest child), or personal relationships (the spouse, the oldest friend), rather than considering who has the skills best suited for the job. That is a mistake. Finally, if there is nobody that you think is up for the task, consider appointing a professional fiduciary or a corporate trustee as your executor.

Tip #2: Little things can cause big problems

Some of the littlest things, a holiday decoration, or a childhood toy, can trigger terrible fighting. Anything with sentimental value can cause people to act irrationally. We call it the "mom always wanted me to have that" syndrome.

Parents should talk to their kids about whether there are any items that hold sentimental value, and decide who gets what. You can make a list detailing this, and keep it with your will as a guide for your family. And, to foster cooperation, a clause can be added to the will that directs the executor to sell any disputed item if the heirs cannot agree on who gets it.

Tip #3: Explain any unequal bequests

Parents sometimes leave one child more money than the others, and there are usually sound reasons for the decision. One child might be less financially successful than the others. One child might have done more to care for the parent in later years. But unequal bequests often feel unjust to the people left behind.

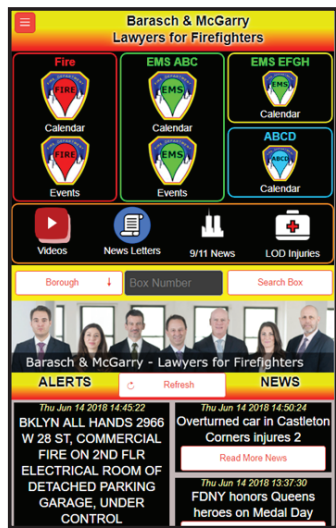
Parents who aren't planning to leave equal amounts to all of their children should explain their reasoning. It might not



be an easy conversation, but it can prevent your kids from blaming one another when you are gone. If you aren't around to answer questions about why you did it that way, your heirs will come to their own conclusions.

Tip #4: Don't tie up the money too long

Parents who leave bequests for children are often concerned that they will squander the money if they get it too soon. It's common to see provisions in wills saying that the kids won't receive their full inheritance until a specific age. But tying the money up for too long can be just as bad as giving it to a child too soon. Think about what your child might need (college tuition, a first home), and when they would reasonably need the money based upon these needs.



We have been hearing rave reviews about the most recent version of our FDNY CALENDAR FIRE & EMS

Here are a few more updates to the app that were developed over the last few months:

Company Location Charts (FDNY OFFICIAL CHART)

- Ability to update account information
- Recorded fireground radio transmissions.
- Improved functionality of calendars
- In-app messaging now available



This is the SEVENTY-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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FIREFIGHTERS' NEWSLETTER

BREAKING NEWS: VCF CUTS FUTURE AWARDS DUE TO UNFORESEEN SPIKES IN CANCER AND DEATH CLAIMS

So many people in the 9/11 community are getting sick and dying from 9/11 illnesses, that the Victim Compensation Fund is running out of money.

When Congress re-authorized the Zadroga Act in 2015, it extended the World Trade Center Health Program for 75 years, but the VCF for just 5 years. The Bureau of Health Services gets funding as part of the WTC Health Program, ensuring that firefighters will always receive 9/11 health services. But unless Congress acts, the right to compensation for pain and suffering and lost earnings will soon be gone.

While billions of dollars were added to the VCF in 2016, neither the CDC nor Congress anticipated the explosion in WTC-linked illnesses and deaths. As a result, actuaries at the VCF have concluded that the VCF's Special Master must now cut future awards by 50%-70% in order to ensure that there are funds available for all claimants who file prior to the December, 2020 deadline.

continued on page 2



Mike Barasch in Washington, DC with Sen. Gillibrand who introduced a bill in the Senate for the extension of the Victim Compensation Fund. Jon Stewart, who is a champion for our cause pictured here with Robert Tilearcio, Jr., son of deceased FF Robert Tilearcio of E266, and Bridget Gormley, daughter of deceased FF William Gormley of L174. Also accompanying Mike to Washington were 35 first responders, students, residents and survivors.

RECENT SETTLEMENTS

\$3.4 million for responder who died of opioid overdose

Our office recently obtained a \$3.4 million settlement on behalf of the family of an emergency worker who suffered debilitating back and neck injuries in an accident, ultimately leading to his tragic death from opioid pain medication. Like so many others living with chronic pain, he became dependent on OxyContin, and he died of an overdose of pain killers.

Long overdue attention is finally

being paid to the national opioid epidemic. This affliction extends to the first responder community where firefighters are especially at risk for dependency because there is such a high rate of injury in the profession.

Help is available. We urge anyone in the FDNY community who may be suffering opioid dependency to reach out the FDNY Counseling Unit at 212-570-1693.

continued on page 2

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THIS DOCUMENT CONTAINS IMPORTANT INFORMATION ABOUT FIREFIGHTER RIGHTS

continued from "Breaking News" page 1

And, many who have already received awards will also be shut out when they are found disabled, or diagnosed with new illnesses in the future. These drastic cuts will also affect the families of those who pass away from WTC-related illnesses.

Working to fix this injustice

On February 25, 2019 Senator Kirsten Gillibrand of New York and Sen. Cory Gardner of Colorado introduced a bill known as "Never Forget the Heroes: Permanent Authorization of the September 11th Victim Compensation Fund Act." This bill will fill the shortfall in funding for the VCF, reverse the cuts to awards, and permanently authorize the Fund to remain open for years to come. Barasch & McGarry sent a group of 40 first responders, downtown residents, office workers, students and teachers to Washington, D.C. to meet with legislators. Bridget Gormley, daughter of William Gormley, and Rob Tilearcio, son of Robert 'Skippy' Tilearcio joined us.

While we wait for Congress to pass this critical legislation, the VCF will continue to award compensation for both non-economic loss (pain and suffering) and, where appropriate, economic loss. Unfortunately, unless and until Congress passes the new legislation, future awards will be just 30% of what they would have been prior to the recently announced reductions. And, unless the VCF is extended, anyone who gets sick or dies after the VCF closes on December 18, 2020, will not be able to receive compensation. This



Mike Barasch was invited to speak to 400+ retired NYC first responders who now live in Florida. He urged them to spread the word about the Victim Compensation Fund deadline and to take advantage of the national World Trade Center Health Program

cannot be allowed to happen!

What you can do

You can use your voice to help 9/11 victims. While NY and NJ Members of Congress overwhelmingly support extension of the bill, support from members from other states are mixed. If you have friends or family who live outside of the New York metropolitan area, please encourage them to reach out to their representatives to urge them to support the bill. The Citizens for the Extension of the James Zadroga Act has created a website tool that makes it easy for people to contact their Mem-

bers of Congress. This can be found at www.renew911health.org/take-action/take-action-contact-your-members-of-congress/. You will be prompted to type in your address and you will then be told who your Members of Congress are, and whether they have agreed to support/co-sponsor the bill yet. If you want, it will seamlessly connect you to their office.

We will keep you updated about developments in this area. Rest assured that we are doing everything that we can to ensure that this injustice is corrected.

A POTHOLE CAN COST YOU YOUR CAREER

Here's how to get the City to fix roadway defects

Throughout the decades we have spent representing New York City firefighters, we have seen more than a few members lose their careers because of potholes. Yes, potholes.

We have had cases where firefighters have tripped on potholes while getting out of the rig, or while getting equipment off of the rig. Sinkholes and potholes in the road can damage vehicles and injure passengers, including firefighters who spend a lot of time on the road.

Many of you already know from our prior newsletters that anytime a municipality (e.g., the City of New York) is responsible for an injury, the accident victim has just 90 days to file a notice of claim for the incident. But when it comes to potholes, there is another requirement that you have to know about: "prior written notice".



What is the City's obligation to repair roadway defects?

The City can only repair the potholes that it knows about. In fact, under the law, the City is not responsible for injuries that occur on its streets or sidewalks, unless its Department of Transportation receives written notice of the defective condition, or acknowledges the defect in writing at least 15 days prior to the accident.

Nowadays, when people want to report a problem in the road, they usually call 311. While there's no harm in doing that, it is certainly not the "prior written notice" that the law requires. Therefore, it's not necessarily going to get the problem fixed anytime soon. And if a firefighter is hurt because of the defect, the City will not be on the hook for it.

If you want the pothole fixed fast, you have to put it in writing. If the City fails to repair the pothole within 15 days, the City becomes liable for injuries caused by the pothole.

What information should the letter contain?

The letter reporting the defect should contain the borough and neighborhood where the pothole is located, the name of the road and the nearest cross-streets, the street address, if available, the direction of travel, and any nearby landmarks.

Where should the letter be sent?

Send the letter with the information listed above to:

Commissioner of the Department of Transportation
New York City Department of Transportation
55 Water Street
New York, NY 10041

What else can I do?

You can also reach out to your community board. There are 59 community boards in New York City, and each one regularly reports to the City about work needed in their communities. If you want a defect fixed more quickly, enlisting your community board may help.

What about defects in front of my firehouse or at the training facility?

The firehouse apron gets a lot of wear and tear. When the pavement starts to break down, the officer should request repairs from the City right away. Since it is the FDNY that is responsible for repairing the apron, it must be on notice of the defect. The same goes for defects on Randall's Island, or other FDNY facilities.

continued from "Recent Settlements" page 1

\$8.5 Million Settlement for Burn Victim

We recently obtained an \$8.5 million dollar settlement for our client who was terribly burned in a fire that began because of a faulty electrical system. A native of Ireland, the client was here to visit family, and was staying at his brother's apartment. The fire broke out in the middle of the night. Our client suffered third degree burns to 75 percent of his body.

The building had been plagued with electrical problems, and had an outdated electrical system that sorely needed replacement. Tenants had complained of discolored and hot outlets, dimming lights, and tripped breakers.

Our client was in a prolonged induced coma during which time he underwent numerous grafting procedures that saved his life. Although he is badly scarred and has daily pain and other problems, he has worked hard to regain function and rebuild his life. He is a testament to the human spirit, and we are honored to have represented him.