

## CANCER AND THE 9/11 COMMUNITY

by Richard Alles, Deputy Chief FDNY, ret

For the first responder community, the holiday season is bittersweet. We count our blessings, but the pain and loss we feel as we remember those who cannot be here with us is ever present. The especially difficult reality is that we continue to lose first responders and survivors in the 9/11 Community, primarily to cancer. Post 9/11, the FDNY has lost 226 members to WTC illness, and most of those are due to cancer. If there is one message we want spread as 2020 draws to a close, it is that we must be proactive when it comes to our health. When we know the facts about what we're up against, we can take important steps to protect ourselves.

Prostate cancer is the most common cancer among men after skin cancer. Unfortunately, prostate cancer typically produces no symptoms until it has metastasized. At that point the disease is no longer curable, only treatable. This makes it a silent killer. For this reason, regular prostate-specific antigen (PSA) screening is of utmost importance for detecting prostate cancer while it is localized to the prostate. Fortunately, a PSA test is part of the FDNY WTC annual medical.

Unfortunately, however, a skin exam is not performed at the annual medical. But that doesn't mean you should forego it. In fact, it's tremendously important that you have regular skin checks, which is why our law firm always recommends this to anyone and everyone who will listen. Found early, skin cancer is almost always non-life threatening. Utilizing your private insurance or Medicare, please make an annual full body skin exam with a dermatologist part your yearly health screening routine. Those of us with prior

skin cancers are usually on a bi-annual schedule. And if you need extra incentive, remember that skin cancer is compensable by the Victim Compensation Fund.

Another silent killer is pancreatic cancer. When symptoms do appear, they may mimic those caused by more minor conditions. Symptoms can include pain in the upper abdomen and back, nausea, vomiting, and unintended weight loss. Some experience a burning feeling in the stomach, inability to digest fatty foods which can result in large greasy stools and finally, jaundice of the skin or the whites of the eyes and itchiness which can be caused when a tumor blocks the common bile duct.

All of these cancers have been linked to 9/11 exposure and that is why it is essential that you get an annual medical exam with cancer screening. The statistics are alarming:

- Cancer in the general population affects 38% of Americans,
- Members of the 9/11 Community have an additional 19 to 32% greater risk on top of that,

- Leukemia in the 9/11 Community puts us all at a 41% higher risk than the general population.

The purpose of this article is of course to remind you not to be an ostrich – don't bury your head in the sand. See no evil/hear no evil is not an effective health strategy! Early detection is critically important to assure the best possible survival rate. The full cost of diagnosis, surgery, and treatment is covered by the WTC Health Program. As a reminder to our retirees- this program is national. Therefore, those of you who may now be relocated out of New York State should make sure to transfer to the national program in order to receive the same benefits and services as provided in New York. Over 70 cancers are now eligible for substantial compensation by the Victim Compensation Fund. Please feel free to contact me or any of our WTC lawyers to discuss your rights and benefits under the 9/11 Health & Compensation Act.

We wish all our clients and friends a joyous, and blessed holiday season and a safe, and most especially healthy New Year!



Much like the agents on CSI, our attorneys must often piece together complicated evidence to prove a case. Here, you see a recreation of a fire scene by one of our attorneys, as she prepares for a deposition of a commercial landlord. The landlord's negligence resulted in an electrical fire, and our client was badly injured during firefighting operations.



This is the 85th Edition of the Barasch McGarry Salzman & Penson Newsletter—attorney advertising which presents topics of interest to firefighters. For question, additional copies, or more information about topics raised in this newsletter, call or write:

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## FIREFIGHTERS' NEWSLETTER



## DIRECT OR INDIRECT THAT IS THE QUESTION

By now, we hope that all of our readers are aware of the special protections afforded to firefighters by New York Law, and in particular, by General Municipal Law 205-a. If you are injured in the line of duty, you may have a right to compensation. In order to recover, a firefighter must prove that the line-of-duty injury was “directly or indirectly” related to someone’s violation of law. However, the all-important question of whether a code violation was a legal cause of the injury is not always straightforward.

A code violation that is a “direct cause” of an injury is exactly what it sounds like. The violation was an immediate cause of the injury, and there are few dots to connect. For example, Firefighter Roberts was injured when he fell through a rotted fire escape while trying to gain access to the fire apartment. In this scenario, the failure of the building owner to comply with the codes requiring proper maintenance of the building’s fire escape directly caused the firefighter’s injury.

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## CAN YOU HEAR ME NOW?

We fixed our scanners - 90% static reduction

10,651 firefighters, fire officers, EMTs & paramedics have downloaded our firm's free Group Chart Calendar app. As much as NYC's Bravest enjoy the easy to use features like the ability to switch over to the ABCD chart, the quick and accessible phone numbers to the unions, to our office for claims, and to FDNY HQ and firehouses, we were challenged by annoying static on several of the scanners. We are delighted to report that, we have replaced our transmitters, removing background static by 90%, while increasing reliability by 98%. If you have any suggestions or features that



that you'd like us to add, please share your ideas with us. In the meantime, check it out through our QR code.



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(continued "Direct or Indirect - That is the Question" from Front)

Where a code violation is an indirect cause of an injury, there is still a connection between the violation and the injury, but the connection is more remote. For example, Firefighter Ross responded to a fire that began in an ice cream shop in an overloaded power strip. While searching for victims in the residential apartment above the shop in zero visibility, she tripped and fell on an unseen object, causing her to tear her rotator cuff, which required surgery. In this scenario, tripping on the unseen object was the direct cause of her injury. But the code violation was the shop owner's improper use of a power strip and extension cords to energize the numerous refrigerators and freezers, in violation of the electrical code. The shop owner's electrical code violations indirectly caused firefighter Ross's injury. The violation

caused the fire, which produced heavy smoke, limiting firefighter Ross's visibility as she operated in the apartment above the fire.

Another example of an indirect cause demonstrates the importance of a good and thorough fire marshal investigation and report. In this case, the fire marshal's office determined that the cause of a 3rd alarm fire in a commercial warehouse was electrical in nature. While the fire marshal could not determine what exactly went wrong, he conclusively traced the origins of the fire to the electrical system. Our client was injured during overhauling, when a piece of ceiling crashed down on his head, causing severe cervical and lumbar herniations. The direct cause of his injuries was the falling ceiling. So, what would the indirect cause be when the fire marshal could not determine why the

electrical fire happened? Buried in the interview notes of the fire marshal's report, we found our smoking gun. One of the warehouse workers told the fire marshal that a week before the fire, the warehouse's lights were flickering and making noises and that he reported this information to the owner of the warehouse. Flickering lights are an indication of an electrical issue, and triggered an obligation on the owner's part to investigate and fix the problem. But the owner did nothing, in violation of the electrical code.

When in doubt as to whether you are entitled to compensation for your injury, call the experienced lawyers at Barasch & McGarry. We have been representing injured firefighters for decades, and have recovered millions for our clients.

## 2020 NEW YEARS RESOLUTIONS PRIORITIZE YOUR HEALTH AND PEACE OF MIND

We're all for New Year's Resolutions. They are a great opportunity to renew our commitment to our health, our psychological well-being, and our peace of mind. 2020 has been a doozy, and many of us have put too many things on the back burner.

### HERE'S WHAT'S ON OUR LIST FOR THIS YEAR'S RESOLUTIONS:

#### Get a skin check

Detected early, skin cancer is treatable. Make it your priority to schedule a skin exam.

#### Go for your WTC Medical Exam or yearly health screening.

Don't skip your WTC medical or yearly health exam. Just like with skin cancer, detecting other health conditions early may make all the difference in whether treatment is successful. Your health is your most important asset.

#### Stay Connected to friends and family.

In the age of Covid, many of us are dealing with a new problem – loneliness. Physical distancing doesn't mean that we should let our relationships wither. Reach out to

friends and family by phone, video, or in person (with precautions). Make an effort to stay connected to people.

#### Give Meditation a Try

You may think it's a load of @!%&, but hear us out. This is an incredibly stressful time, and firefighters have it especially hard. Stress has both physical and emotional symptoms, and one of the most effective ways to manage stress is with meditation. There are terrific body scan meditations available for free on YouTube, and they are worth a try.

#### Eat the Rainbow

Mom was right, you should eat your peas. Also your carrots, and your leafy greens, your colorful fruits and vegetables. Limit processed foods, and prioritize healthy foods that will protect against heart disease, and optimize health.

#### Update Beneficiary Information

If you have gotten married or divorced, had a child, or otherwise had a change in circumstances, you should consider whether

you need to update your designated beneficiary on important financial documents like insurance plans, benefit plans, and bank accounts. You'll feel instantly better knowing you've done something for your family.

#### Get a Will

It's not exactly a festive subject, but we wouldn't be doing our job if we didn't put this on the list. Getting a will is actually one of the most important things that you can do for your family, and you'll feel peace of mind once you have one. In every newsletter we publish, we remind you of how important this is. We do free wills for firefighters, active and retired (not just during the holidays, but year round). If you don't have a will, or if your will needs to be updated, call us.

**Below:** These boys are protected because their parents have an updated will in place



**BARASCH & MCGARRY'S ATTORNEYS AND STAFF WISH YOU AND YOUR FAMILY A SAFE, HEALTHY AND HAPPY HOLIDAY AND NEW YEAR!**



## BARASCH & MCGARRY BLOWS WHISTLE ON CORRUPT ATTORNEY WHO STOLE \$1 MILLION FROM 9/11 DISABLED COP

NYPD veteran John Ferreyra figured he could trust his longtime friend Gus Vila, a former police officer who had since become an attorney, and who handled Victim Compensation Fund (VCF) claims.

After the 9/11 attacks, Officer Ferreyra spent 12 hour days for 2 months assisting in the rescue and recovery efforts at Ground Zero. He has battled non-Hodgkin's lymphoma since 2005 and has undergone surgeries, a stem cell transplant, chemotherapy and radiation therapy sessions too numerous to count. While today he is thankfully in remission, he was found disabled by the NYPD and was forced to cut short his career after 20 years on the job. The VCF awarded him over \$1 million for his pain and suffering and lost income.

In 2016, Vila gave Mr. Ferreyra \$100,000, which represented just 10% of his total award. Over the next 3+ years, Mr. Vila lied to his client by telling him that due to government cut backs and a surge in claims, it would be all the compensation he would receive. Vila falsely told Ferreyra that there wasn't enough money to pay every victim. Instead of paying Ferreyra, he used the award to purchase real estate for his family and live a lavish lifestyle.

Several of Mr. Ferrayra's fellow police officers suggested that he contact our firm. In February, 2020, Ferreyra called Mike Barasch to inquire whether there was any chance that he would receive more of his award.

### "ONCE I SPOKE TO MR. FERREYRA, I KNEW IMMEDIATELY THAT HIS PRIOR ATTORNEY HAD STOLEN 90% OF HIS AWARD," SAID MIKE BARASCH.

"All of my clients who received their initial 10% awards in 2015 had received the balance of their awards by the end of 2016. I told Mr. Ferreyra to call the VCF immediately and they confirmed that his award was paid in full to Vila on October 12, 2016."

Mr. and Mrs. Ferreyra were devastated not just by the theft, but by the betrayal of their attorney who was also a trusted friend and a former NYPD Lieutenant. Unbeknownst to Ferreyra, his former attorney had been convicted in State Court in 2015 for an unrelated theft, resulting in his disbarment.

"Tens of thousands of World Trade Center first responders have gotten sick or died from their illnesses. 68 cancers have been linked to the WTC toxins. I couldn't bear to see this disabled police officer be a victim again. There



Press conference outside the Federal Courthouse in White Plains:  
L-R: Lisa Ferreyra, Michael Barasch, John Ferreyra, and Partner Bruce Kaye

was no question that we would represent him at no charge to seek justice," said Barasch. Barasch & McGarry reported the theft to the U.S. Attorney's Office and the VCF. The VCF reported it to the Department of Justice and searched for other victims of Vila's greed. Mr. Vila recently pled guilty and will be sentenced in February.

In an effort to provide some significant financial relief to Ferreyra, our firm applied to the New York State Lawyers Fund for Client Protection. The Fund, whose mission is to protect legal consumers from dishonest lawyers, recently agreed to award Mr. Ferreyra \$400,000 as partial restitution. This is the maximum amount allowed under their charter.

"This experience has been devastating. I trusted a fellow NYPD officer and I felt totally betrayed when I learned that he was a common thief and a liar and that his clear intent was to loot from me and the 9/11 Victim Fund," said Officer Ferreyra. "I want to thank Barasch & McGarry for taking my case pro-bono, for investigating my case, and for their dogged determination to bring about justice. I want to thank the Lawyer's Fund for giving my family financial security. I hope that no other 9/11 first responder has to go through what I went through but if you were represented by Mr. Vila, you owe it to yourself to verify that you were not victimized by him. I also want to thank the F.B.I., the U.S. Attorney's Office for the Southern District of New York, the 9/11 Victim Compensation Fund, and the Dept. of Justice. Thank you all for protecting victims like me from predators like this."

It's so important that when the public reads about unscrupulous lawyers like Mr. Vila, they know that there are many more attorneys who care deeply about protecting the best interests of our clients. We appreciate the cooperation of the New York State Lawyers Fund for Client Protection. Its swift involvement on behalf of this disabled 9/11 hero will provide his family with financial security.

