

GETTING THE PICTURE:

MAKE SMART USE OF YOUR SMART PHONE AT AN ACCIDENT SCENE

by Bruce Kaye, Barasch & McGarry Partner

We've all heard the old adage: a picture is worth a thousand words. That's certainly true in the courtroom, where pictures can be invaluable. It is no easy thing for jurors to form a clear understanding of a place or a thing or an event purely from a description. Lawyers can use photographs to help the jury understand the testimony of the witnesses. Pictures can also substantiate what a witness is saying. People's memories fade and differ, and (gasp) sometimes people lie; but a photograph doesn't lie, and can shed light on what really happened.

With the advent of smartphones, most of us have a camera at our fingertips. After a line of duty or car accident, taking photographs might be the last thing that you are thinking about. But if you are able, taking pictures at an accident scene is a smart thing to do. Here are some tips.

Car accident: If you are in a car accident, and it is safe to do so, either you or someone at the scene should take photographs of the damage to your car, as well as to the other car involved. Also, if you were injured in the line of duty responding to a car accident, you may have a viable claim against the driver(s) who caused the crash. Take

photographs of the position of both cars. Take a step back so that you capture the full scene. If you believe there was something that was obstructing the other driver's view, you should take a photo of it. After a car accident, cars are removed from the scene rather quickly, and these photographs could be the key to the case.

Line of Duty Accidents: If you or a fellow firefighter gets injured while in the line of duty at an emergency, or even in your own firehouse or apparatus, use a smartphone to capture what caused you to be injured. Was it a rusted out fire escape? Was a handrail missing causing you to fall down the stairs? Were the stairs broken or otherwise defective? Was the firehouses's driveway cracked and deteriorated? Was the rear yard of a fire premises loaded with debris? Take a photo of it, or, better yet, several photos. Whatever you think will help to show the problem, and how it was dangerous, should be photographed.

Broken steps and fire escapes can be repaired by the time you hire an attorney. Transient conditions like debris on the floor may be cleaned up immediately after your accident. The photographs will show what it looked like on the day of the accident. Without your photographs, it is your word against the defendant's that the condition even existed.

We cannot overemphasize how important photographs are to a personal injury case. Be smart and put your smart phone to good use.

DO THE RIGHT THING FOR YOUR FAMILY

This newsletter just wouldn't be complete if we didn't remind you yet again of the importance of having a will. We won't rest until every active or retired firefighter takes advantage of our offer to draft a simple Will, FREE. The only thing it will cost you is maybe 20 minutes of your time.

Do what over 5000 of your brothers and sisters have done, and give us a call today.



Pictured above: These children are protected because their parents have updated wills in place

This is the 89th 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



THE JULY 29TH DEADLINE IS APPROACHING: FAMILIES OF 9/11 VICTIMS MUST REGISTER NOW

by Richard Alles, Deputy Chief FDNY, ret

In our last issue, we sounded the alarm about the approaching July 29th deadline to register claims with the 9/11 Victim Compensation Fund. I'm very happy to report that many of you took our advice to heart. We've received a flood of calls from active & retired firefighters asking us to register claims for certified illnesses that would normally have been time barred. There are 68 cancers and a host of respiratory ailments that have been linked to 9/11 exposure, and we want to make sure victims do not forfeit their rights.

What is this deadline about?

While the VCF will be open through the year 2090, there are registration deadlines that must be met in order to receive compensation. The law requires those enrolled in the WTC Health Program to register their claims with the VCF within two years of the date of certification of their illness. For wrongful death claims, the family must register the claim with the VCF within two years of their loved one's death. A great many people missed this deadline, and therefore were prevented from receiving compensation from the VCF. In 2019, the Special Master of the VCF opened a window to permit anyone who missed the deadline to register their claim. That window

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MIKE BARASCH JOINS THE BOARD OF FRIENDS OF FIREFIGHTERS

by Mike Barasch, Managing Partner

After 25 years of representing NYC firefighters injured in the line of duty, I was honored to be asked to join the Board of Friends of Firefighters (FoF). Almost every firefighter who responded to the World Trade Center, and/or participated in the recovery efforts, knows that PTSD, anxiety and depression are just as real as physical injuries.

"We are thrilled that Michael has joined our Board of Directors", said Nancy Carbone, the organization's Executive Director. As Managing Partner of Barasch & McGarry, he has been fighting tirelessly for the heroes who protect us every day, including the brave men and women who answered the call on 9/11."

The wonderful work that FoF does for active and retired firefighters is incredibly important. The organization's mission is to provide long-term support through confidential counseling. I urge all firefighters to take advantage of their services.



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(CONTINUED FROM FRONT - "THE JULY 29 DEADLINE IS APPROACHING")

will close on July 29, 2021. Thereafter, the only claims permitted by the VCF will be personal injury claims that are registered within two years of certification, and wrongful death claims registered within two years of a loved one's death.

Has the extension made a difference?

Many of the people who have reached out to us of late had illnesses that were certified by the Health Program or the FDNY well over two years ago, which ordinarily would mean that it was too late to register their claims. Nearly 40% of the families who reach out to our firm for the first time lost a loved one more than two years ago. Thanks to the extension, all of their claims are now eligible. So yes, the extension has made a tremendous difference to the victims and families of the 9/11 terrorist attacks.

Why did the VCF create this window?

On July 29, 2019, thanks to the persistence of unions and advocates like Jon Stewart and John Feal, Congress permanently extended and fully funded the VCF—underscoring the singular importance of the program. The change was intended to ensure that every member of the 9/11 community has access to compensation. However, at the very moment that the government made the VCF permanent, there were thousands of people who were barred from receiving the compensation they deserved because they did not timely register their claims. The Special Master, Rupa Bhattacharyya, made a very compassionate but temporary change in the rules to help these individuals. It was

without question the right thing to do. Victims and families learn of their rights primarily through the work of advocates, not just from the government. The effort is herculean, because our community is vast and dispersed, and reaching people is not easy. Moreover, there are many people who developed cancer or lost a loved one before the VCF even recognized cancer as a covered condition.

What else do you need to know?

The Covid pandemic has not helped matters. It has made traditional outreach more difficult, which means that there are still many people who are unaware of their rights. You should know that Covid presents special risks to the 9/11 community. The respiratory illnesses and cancers which disproportionately afflict us often cause weakened immune systems and make it more likely that Covid will turn deadly. The VCF Special Master recognizes this. On 9/11/2020, the Special Master announced that "the VCF is likely to receive claims from those with a 9/11-related condition who also suffered or died as a result of COVID-19 and the VCF will review each case based on its (unique) circumstances." In other words, where someone passes away from Covid, and a 9/11 illness contributed to the death, the VCF may very well issue compensation for the claim.

We thank you in advance for helping us spread the word about the July 29th deadline and we invite you to contact us for a free confidential 9/11 legal consultation.

**CARDINAL TIMOTHY
DOLAN HONORS
BARASCH & MCGARRY**

We are truly honored to have received an acknowledgment from Cardinal Dolan for the *pro bono* work that our firm has done on behalf of over 500 victims of abuse. Over breakfast at the Cardinal's residence, His Eminence thanked the attorneys at the firm on behalf of suffering altar boys, students, "and a struggling Church trying to heal." It has been our firm's honor to do this work on behalf of the Dioceses of New York, Brooklyn, and Rockville Centre. We hope that we have helped bring peace to these victims through the Independent Reconciliation and Compensation Program (IRCP).



Pictured above: Cardinal Timothy Dolan, Managing Partner Michael Barasch, and Ret. FDNY Deputy Chief Richie Alles

**FDNY MEMBERS: ARE YOU PREPARED?
FINANCIAL PLANNING MAKES A WORLD
OF DIFFERENCE!**

by Vincent Lanzante (Retired FDNY LT.)

With so much going on in this world and the fast pace we live in NY, sometimes personal finance and planning gets kicked down the road. But imagine if you asked yourself these very important series of questions now (or ASAP) to have yourself and your family best prepared for your financial future.

Are you saving enough for retirement? Will you outlast your savings in retirement? Do you review and increase your savings rate and increase it when possible? Do you maintain emergency (savings) funds? Do you understand investment risk and your personal risk tolerance? Do you use tools to keep a monthly budget? Do you manage and maintain low debt? Do you have a strategy in place to protect your largest asset, your PENSION? Do you have or know strategies to put in place now to protect your family and loved ones? Do you have strategies in place to make sure your pension continues not only for your lifetime, but for the life of your spouse and/or children? Do you need help saving for your children's education? Do you know how much to save for their future education? Would you like to learn how to possibly spend more in retirement and still leave a legacy behind to take care of your loved ones? Do you know how to design on a well-balanced diverse overall plan for your personal financial situation?

If you are not sure or need guidance with any of the above, please seek the help/guidance of a financial planner who is knowledgeable in FDNY member financial benefits. A good

financial plan will help you and your family with: goal setting, financial education, financial threats, fulfilling current obligations, future pension options and being able to take advantage of possible opportunities.

If this topic is of interest to you, feel free to follow up and contact (retired Lt.) **Vincent Lanzante at 347-661-6234 or vlanzante@strategiesforwealth.com**

NOTE: Whenever we get a large settlement for a firefighter injured in the line of duty or from the 9/11 Victim Compensation Fund, we recommend that our client talk to a financial advisor. Mr. Lanzante is one of several who we recommend. Our next newsletter will include an article from another advisor.



Pictured above: Vincent Lanzante (Retired FDNY LT.)

MOTORCYCLISTS - KNOW YOUR RIGHTS
by Barry Salzman, Barasch & McGarry Partner

With the nicer weather finally upon us, and COVID in the rear-view mirror, motorcycle ridership is up. As an avid motorcyclist, I love that this time of year affords me the opportunity to ride more often. But as a lawyer, I'm also keenly aware of the risks motorcyclists face.

Motorcycles lack the protection of other vehicles, are less-visible to other drivers, and are more susceptible to hazardous road conditions. The greatest danger motorcyclists face is negotiating traffic at intersections. Over 50% of motorcycle/car collisions are caused by drivers entering a rider's right-of-way. Motorcycles are lighter and smaller than other vehicles, which means that minor impact can cause major damage. These increased risks make motorcycle riders more vulnerable to injury than those who operate automobiles. Unfortunately, riders involved in accidents are often left with devastating injuries and permanent disabilities, and some do not survive.

If you're among the many who ride motorcycles, it's important to know your rights. In New York, motorcyclists must follow the same rules of the road and be accorded the

same rights as operators of all other vehicles. And like automobile owners, New York motorcyclists must carry liability insurance coverage of at least \$25,000 per person and \$50,000 per accident. Uninsured Motorist (UM) and Supplementary Uninsured Motorist (SUM) coverage, available to automobile owners, can also be purchased by motorcycle owners. Simply put, this coverage allows you to be compensated for injuries from your own insurance carrier in the event the other motorist involved in the accident has either no insurance or less liability coverage than you do.

We strongly encourage you to look at the declaration pages of your auto/motorcycle policy to ensure you have plenty of UM/SUM coverage in the event of an unfortunate accident. You should also have disability insurance in case you sustain a permanent disabling injury.

Statistically, motorcycle accidents are usually the fault of the other driver. However, representing motorcyclists can be particularly challenging due to the negative public perception that riders are often reckless daredevils who weave in and out of traffic. Therefore, it is critical to have a motorcycle accident attorney who understands how to overcome this bias against riders and who can establish that the motorcycle operator was riding in a reasonable and lawful manner.