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PFT results are possible. Specialized testing, like bronchodilator PFT or a methacholine challenge test, may be needed to determine whether a pulmonary illness is disabling.

Patients with COPD and related conditions, such as chronic bronchitis and emphysema, often display abnormal PFTs with airflow obstruction (FEV1/FVC ratio less than 70%). Emphysema diagnosis involves a chest CT scan, authorized by a WTC treating physician and conducted externally.

Restrictive Airways Diseases, like Sarcoidosis or pulmonary fibrosis, cause breathlessness less commonly than obstructive airways disease. Abnormal chest CT scans, scarring, or enlarged

lymph nodes in the chest characterize these conditions. Abnormal PFT is possible, but the FEV1/FVC ratio is often above 70%. Once certified, pulmonary subspecialists manage Sarcoidosis or pulmonary fibrosis.

Over time, diseases may merge or transition. Some patients with COPD, emphysema, or chronic bronchitis experience exacerbations treatable with antibiotics and steroids. If albuterol and inhaled steroids prove insufficient, additional medications can improve quality of life. So, it is important to see a doctor in the World Trade Center Health Program if your shortness of breath is getting worse so that your medications can be optimized.

Barasch & McGarry Attends FEMA Conference in San Antonio

We were honored to be invited to speak at the FEMA Urban Search & Rescue Conference in San Antonio to discuss the free health care and compensation available to 9/11 responders from every state.

Thousands of responders came to help the FDNY and NYPD with rescue and recovery after 9/11. Not surprisingly, they were exposed to the same 9/11 toxins, and they are being diagnosed with, and dying from, the same illnesses. Unfortunately, all too many of them aren't aware that they too are eligible for the benefits of the World Trade Center Health Program and Victim Compensation Fund. This was the third time in seven years that Mike Barasch and Ret. FDNY Deputy Chief Richie Alles were invited by FEMA to encourage their members to register.

If you were there, you are at risk of 69 cancers and many respiratory illnesses from exposure to Ground Zero toxins. Register now with the 9/11 Victim Compensation Fund and enroll in the WTC Health Program, even if you are healthy. Both programs are fully funded. You won't be taking from others. Protect yourself and your family.

IMAGE: Mike Barasch and Ret. FDNY Deputy Chief Richie Alles speak in San Antonio at FEMA USAR Conference



FIREFIGHTERS' NEWSLETTER



Barasch & McGarry Attends UFOA Health & Safety Seminars

Barasch & McGarry was honored to be invited back to the 2023 UFOA Health & Safety Seminars in both Saratoga Springs and Howard Beach this year. A huge thank you to UFOA leadership for allowing us to serve as both a sponsor and a vendor at the events. It's always great to meet new members and to catch up with the many officers we've represented over the past thirty years, whether for line-of-duty injury cases or 9/11 Victim Compensation Fund (VCF) claims.

Barasch & McGarry partners Michael Barasch, Sara Director, Bruce Kaye, and Lee London, accompanied by 9/11 Outreach Coordinator, Bridget Gormley, and Office Manager Barbara Mohan, were able to update members on the status of their VCF claims, answer questions about amendments for

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newly diagnosed medical conditions and remind members that they never waive their legal rights to amend their VCF claims if they are diagnosed with a new illness.

All too often, we meet firefighters with scars on their faces. When asked, they tell us, “Oh, it’s just skin cancer.” **Breaking news!** Skin cancer is the most common cancer in the 9/11 community. More firefighters have been diagnosed with basal cell, squamous cell cancers, and melanoma than prostate, lung, blood, thyroid, and kidney cancers combined. And the VCF awards \$90,000 to people with certified basal and squamous skin cancer and \$250,000 for melanoma—not withstanding a family history. Moral of the story: go for an annual full body skin exam and get yourself checked out.

Like most attendees at the seminar, we didn’t miss the opportunity to listen to Jake Lemonda



IMAGE: Firefighter after surgery for the removal of basal cell carcinoma.

in May when he spoke about the proper preparation of a CD-72, whether for retirement purposes or to document a line-of-duty accident. And we watched eye-popping video of deadly fires ignited by lithium-ion batteries narrated by Hazmat Chief Joseph Loftus and Lt. John Cassidy. Damaged and improperly charged batteries are an evolving threat to both the public and the FDNY.

Fighting For a Safe Workplace For All Firefighters

We have received a lot of positive feedback on previous articles about the special protections for injured firefighters. Here, we aim to provide more detailed information on line-of-duty accidents, resulting from New York City's negligence in particular.

New York City firefighters have a legal right to a safe workplace and equipment, mandated by the Public Employee Safety and Health Act (PESHA). When the City breaches this duty, resulting in a firefighter's injury, compensation may be entitled.

Contrary to common belief, FDNY members can sue the City for workplace injuries, with such lawsuits occurring daily. Firefighters who bring lawsuits against the City do not waive their right to have the City cover accident-related medical

bills. They do not waive their right to a 3/4 disability pension for disabling injuries sustained in the line of duty.

Safe workplace

Firehouses and FDNY training facilities must be hazard-free. Conditions like loose floor tiles, falling plaster, cracked aprons, and inadequate lighting can cause serious injuries. Regardless of the duration or awareness of these conditions, the City is legally obligated to provide a safe work environment.

For instance, a firefighter recently tripped on a hole in the basement of a firehouse, resulting in an ankle injury that forced early retirement. Despite being unaware of the defective condition of the basement floor, the City settled the case for significant compensation, including a 3/4 disability pension.

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Safe equipment

PESHA mandates safe and proper equipment for firefighters, encompassing apparatus, hoses, tools, and protective gear. We have addressed dangerous equipment issues, such as door handles causing thumb injuries in pumper trucks in prior newsletters. Successful claims have not only compensated injured firefighters, but also prompted the city to correct the problems.

How to document a PESHA violation

Addressing problems before injuries occur is ideal. Report defects to your officer, document them in the company journal, and request repairs promptly. Note unsafe conditions on the CD-72 form and, if possible, take photographs after an accident to provide evidence.

Understanding Obstructive Airways Disease (OAD)

The FDNY World Trade Center Health Program is a world-class medical monitoring and treatment program serving FDNY firefighters exposed to 9/11 toxins. Firefighters receive cancer screening, cardiac monitoring, and lung-function testing as part of their yearly exams. Once a physical illness has been “certified” by the Health Program, the firefighter is eligible for free health care as well as compensation from the September 11th Victim Compensation Fund for that condition.

One of the most common certified conditions for firefighters is Obstructive Airways Disease (OAD). The OAD designation is not a single illness, but an umbrella term that covers several respiratory conditions, including asthma, emphysema, chronic bronchitis, COPD, and tracheitis. There is understandably a lot of con-

Deadlines

In case of injury, seek legal advice promptly. If the City was at fault, a member must file a Notice of Claim within 90 days of the accident, with potential extensions under certain circumstances. Our firm is available 24/7 for questions and offers free consultations.

Examples of FDNY settlements with the City of New York:

- \$750,000 recovery for a career-ending head injury from falling ceiling plaster.
- \$700,000 settlement for an electrical shock suffered while exiting a fire truck.
- Settlements of \$600,000 and \$150,000 for two injured firefighters due to malfunctioning pumper trucks.
- \$350,000 recovery for wet and slippery firehouse stairs, painted without grit.

fusion over what each of these things are and how they differ from one another.

There is actually significant overlap of all obstructive airways diseases. Asthma refers to shortness of breath that can come and go and get better quickly. Chronic obstructive pulmonary disease (COPD) refers to permanent changes in the lung that lead to shortness of breath. Chronic bronchitis and tracheitis refer to shortness of breath with chronic cough. Toxic gas effect can produce asthma, COPD, chronic bronchitis or tracheitis.

Pulmonary function testing (PFT) is necessary for certification. Screening PFT is conducted during the annual medical monitoring exam. Asthmatics may show irritant or cold sensitivity, wheezing, or worsening breathlessness with seasonal changes. Because asthma is intermittent, normal

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Disability Pensions due to 9/11-related Disabling Illnesses



We would like to take this opportunity to clarify some misconceptions regarding pension reclassification and line of duty death benefits due to 9/11 related disabling illnesses.



THE WTC DISABILITY LAW

which was established in 2005 is very different than the Heart, Lung, and Cancer Bills. We thank our friends at the FDNY Pension Unit for clarifying the WTC Disability Law and line of duty death benefit rules if an eligible member dies of a 9/11-related illness.

To be covered by this law the member must have been *actively employed by a uniformed agency anytime between 9/11/2001 and 9/11/2002* **and** worked at any of the official contaminated sites for the required 40 hours doing rescue, recovery, or cleanup work; **or** was assigned to a unit for which the apparatus had not yet been decontaminated.

Note: The Fire Pension Unit has the records and the time frame of all FDNY apparatus regarding their decontamination dates.



WHAT ABOUT RECLASSIFYING PENSIONS/DEATH BENEFITS UNDER THE WTC DISABILITY LAW?

Under the WTC Disability Law, reclassification of a pension and death benefits have slightly different timing rules. Members can have their pensions reclassified (due to a 9/11 illness) anytime from their retirement date until they die.

On the other hand, the time limit for a spouse to apply for death benefits is limited to 25 years from the date of the member's retirement.



SOME EXAMPLES MAY HELP CLARIFY THIS ISSUE

- if the member retired on 9/12/2001, then the spouse will receive the line of duty death benefit only if the member dies due to a 9/11 illness before 9/12/2026;
- if the member retired on 9/12/2023, then the spouse will receive the line of duty death benefit only if the member dies due to a 9/11 illness before 9/12/2048.



INFORMATION ABOUT NON-WTC DISABILITY PENSIONS

As many of you know, the Heart, Lung, Parkinson and Cancer Bills also protect members. However, the Heart and Lung Bills only protect you while actively employed. Once retired, members are no longer covered by the Heart and Lung presumptive disability bills.

The Cancer Bill has a 5 year look back, and the Parkinson's Bill has a 2 year look back after retirement.



ASK YOUR UNION TRUSTEE

Please remember that your union pension trustee is the best source of information for you about all pension issues. The trustee sits on the Pension Board of Trustees which is the final approval body for all disability claims. If you are contemplating a pension reclassification application, you should let the trustee know before your application is submitted. The trustee's expertise with similar disability claims is invaluable.

Of course, please don't hesitate to call us with any questions. We're always here to help anyway we can!