

Over 95% of Plaintiffs Accept World Trade Center Settlement

- *10,043 plaintiffs signed releases accepting settlement terms, according to the Allocation Neutral's report to the Court, with 98% of those claiming some of the most severe injuries signing on.*
- *The WTC Captive Insurance Company confirms the 95% participation threshold of eligible plaintiffs has been reached.*

(New York, New York – November 19, 2010) Over 95% of the eligible plaintiffs have accepted a settlement worth at least \$625 million in compensation, which will result in the dismissal of their claims against the City of New York and its contractors for injuries they say they suffered from their work during the rescue, recovery and/or clean-up efforts after the terrorist attack of 9/11. The WTC Captive Insurance Company confirms the 95% participation threshold of eligible plaintiffs has been reached, subject to the correction of certain deficiencies in some releases.

The Allocation Neutral, appointed under the agreement, reported the opt-in numbers to Judge Alvin K. Hellerstein of the U.S. District Court for the Southern District of New York, who previously had declared the settlement “fair and reasonable,” in the face of “potent defenses” held by the City and its contractors under the law.

Attorneys for the plaintiffs noted that over 98% of plaintiffs in Tier 4, claiming the most severe injuries that could possibly be tied to work at the site, agreed to the settlement. In addition, over 95% of the plaintiffs in Tiers 2 and 3, with less severe injuries, also signed on.

“It has been my personal and professional mission to ensure that we negotiate a settlement that is fair and reasonable to all sides and I am extremely heartened that the overwhelming majority of plaintiffs have decided that is exactly what we achieved,” said Christine LaSala, President and CEO of the WTC Captive Insurance Company. “I hope that this settlement will bring closure to the heroes on both sides of this litigation who did their best to repair this City and restore this community in those difficult days and months following 9/11.”

“This process has been intense for all, but the numbers of people opting in show that the settlement we developed and the process to obtain compensation have been judged fair and transparent by those plaintiffs,” said Margaret H. Warner, a partner at McDermott Will & Emery, who negotiated the settlement on behalf of the WTC Captive Insurance Company. “Crafting this settlement has been especially challenging given the emotional significance of the work done by all, plaintiffs and defendants, in aid of our country in those difficult days and months. It was important that the compensation reflect the seriousness of injuries claimed and the strength of the legal claim, while also being transparent in all respects.”

“We negotiated for over two years to achieve this settlement for our clients, which we truly believe is the best result, given the uncertainty of protracted litigation,” said Paul Napoli, a senior partner with the law firm Worby, Groner, Edelman & Napoli, Bern, LLP. “We are

working around the clock to conclude settlements we have negotiated with a few other defendants that will add more than \$100 million in additional compensation for our clients.”

“This settlement is a fair and just resolution of these claims, protecting those who came to the aid of this City when we needed it most,” said Mayor Michael R. Bloomberg. “We will continue our commitment to treatment and monitoring of those who were present at Ground Zero. This settlement can also help encourage the Senate to follow the lead of their colleagues in the House of Representatives and pass the James Zadroga 9/11 Health and Compensation Act, which will now be a less expensive proposition due to the payments made under this settlement agreement.”

“All parties have worked tirelessly to come to a fair and just resolution to this litigation. The settlement avoids costly and time consuming litigation that serves no one’s interests. The lawsuits between the City and its contractors on the one hand, and the rescue and recovery workers on the other, pit one set of heroes against another,” said Corporation Counsel Michael A. Cardozo of the New York City Law Department. “We will continue to urge the Senate to pass the Zadroga Act and re-open the WTC Victim Compensation Fund.”

“The City and its contractors have an array of powerful defenses to these claims and do not admit any liability. Those defenses include the important doctrine of immunity under state and federal law for those responding to a civil emergency, which will be pursued with respect to plaintiffs who have opted out,” said James E. Tyrrell, Jr., a partner at Patton Boggs, LLP, who is lead defense counsel representing the City and its contractors.

“We welcome this settlement so that our clients can have compensation that offers certainty and closure,” said Nicholas Papain, Andrew Carboy and Michael Block, members of Sullivan Papain Block McGrath & Cannavo P.C., representing 640 firefighters in the lawsuit.

The Amended Settlement Process Agreement was signed by plaintiffs’ attorneys and the WTC Captive on June 10, 2010 but required 95 percent of the plaintiffs to accept the settlement by a certain date in order for it to become effective. The opt-in deadline date originally was set at September 8, 2010 but was extended to 11:59 p.m. Eastern Standard Time on November 16, 2010.

About the Settlement

Compensation was determined on the severity of the illness claimed and the likelihood it could be linked to work at the World Trade Center operations. For example, those claiming debilitating respiratory illnesses such as severe asthma, contracted by a non-smoker within seven months of exposure at the World Trade Center site and surrounding areas, could receive between \$800,000 and \$1,050,000, and approximately \$1.5 million could go to compensate claims of death determined to be caused by the post 9/11 operations. Plaintiffs who have no qualifying injury, but have a legal claim for fear of becoming sick, will receive \$3,250. All qualifying plaintiffs will be enrolled in a special insurance policy through MetLife to provide coverage for certain blood and respiratory cancers diagnosed during the coverage period, paying a benefit of up to \$100,000.

To ensure transparency and independence in determining compensation for each plaintiff, an Allocation Neutral, a neutral third party, will oversee the valuation of each claim, assisted by a panel of independent physicians. The Garretson Firm Resolution Group, Inc., an experienced claims administration company, will serve as the Allocation Neutral. The firm and the physician panel will review the proof that each plaintiff is required to submit under the settlement, showing that he or she was present and participated in 9/11-related rescue, recovery and debris removal operations, as well as specific medical documentation. All of this information must be submitted by plaintiffs under oath and will be subject to audit. Plaintiffs can ask for the Allocation Neutral to reconsider its initial decision and, after that review, appeal to the Claims Appeal Neutral.

Kenneth R. Feinberg, former Special Master for the U.S. Government's September 11th Victim Compensation Fund, will serve as the Claims Appeal Neutral. He will serve *pro bono*. Mr. Feinberg will determine appeals requested by plaintiffs seeking review of the Garretson Firm's decisions. His determinations will be binding and may be used to adjust a plaintiff's final compensation.

About the WTC Captive Insurance Company

In the absence of commercially available insurance, the WTC Captive Insurance Company was formed in July 2004 to insure the City of New York and nearly 140 contractors, subcontractors and others it engaged against claims arising out of the debris removal process that began immediately after the collapse of the twin towers of the World Trade Center on September 11, 2001. The mission of the WTC Captive is to insure and defend in court, and thereby to protect, the City and the contractor and subcontractor policyholders as claims are processed, adjudicated and resolved.

Organized as a not-for-profit corporation under the laws of the State of New York and licensed by the New York State Insurance Department, the WTC Captive is governed by a five-member Board of Directors composed of current and former City officials plus a representative of the City's lead contractors.

The WTC Captive was funded with just under \$1 billion in federal funds provided through a grant from the Federal Emergency Management Agency (FEMA)—part of the \$20 billion of such funds requested by the Administration and authorized by Congress to help New York City and its people recover and rebuild after 9/11.