

FOR IMMEDIATE RELEASE

WTC PLAINTIFFS TO RECEIVE APPROXIMATELY \$125 MILLION IN ADDITIONAL VALUE UNDER AMENDED SETTLEMENT PROVIDING TOTAL COMPENSATION OF UP TO \$712.5 MILLION

- *Plaintiffs' attorneys cap fees at 25%, reducing fees by over \$50 million*
- *WTC Captive Insurance Company to pay up to an additional \$50 to \$55 million*
- *Certain workers' compensation liens against settlement recovery will be waived, giving benefit to many plaintiffs and ensuring that they will continue to receive future benefits with no reductions*
- *The most severe asthma claims could receive \$800,000 to over \$1 million, or more if the individual is found disabled as a result of injury*
- *Former Special Master for the September 11th Victim Compensation Fund Kenneth R. Feinberg will serve as Claims Appeal Neutral*
- *Settlement creates path for other defendants and insurers to follow in settling some claims, facilitating recovery of significant additional compensation*

(NEW YORK, NY, June 10, 2010)—The WTC Captive Insurance Company (the “WTC Captive”), the City of New York, the contractors the City hired, their subcontractors, and attorneys for over 10,000 plaintiffs alleging injuries from the rescue, recovery and debris removal operations at the World Trade Center site operations after 9/11 today announced amendments to a March 11, 2010 settlement of those claims. The revisions total approximately \$125 million added directly to plaintiffs’ compensation by:

- Reducing plaintiffs’ attorneys’ fees by over \$50 million;
- Paying up to an additional \$50 to \$55 million cash from the WTC Captive Insurance Company; and
- Waiving workers’ compensation liens against the settlement recovery of certain plaintiffs and ensuring that their benefits continue in the future without interruption or reduction.

Plaintiffs who allege the most serious injuries will receive the majority of the increased payments.

Judge Alvin K. Hellerstein of the U.S. Federal District Court for the Southern District of New York will make an announcement in court on Thursday, June 10, 2010, about the amended settlement and will issue an order to hold a public hearing on June 23rd to hear from parties to the settlement. Judge Hellerstein has been informed of the progress of the negotiations and has indicated that he believes the amended settlement to be fair and reasonable.

“This settlement gives the plaintiffs immediate, fair and reasonable compensation, certainty and closure after years of protracted and costly litigation that will continue without this agreement,” said Christine LaSala, President and CEO of the WTC Captive, a not-for-profit insurance company enabled by Congress to defend and indemnify the City of New York and the contractors it hired for the rescue, recovery and debris removal operations after the terrorist attacks of 9/11. “This settlement establishes objective criteria, based upon accepted medical standards, to assess the type and severity of each illness alleged in order to achieve a fair value for each claim.”

An important amendment to the agreement involves the workers’ compensation benefits that some plaintiffs have received and will continue to receive for their claims. The law allows payments from workers’ compensation awards to be repaid from the tort settlement proceeds by exercising what is called a “lien” on the settlement money. Here, the City of New York, through its Corporation Counsel Michael A. Cardozo and Comptroller John C. Liu, and its WTC workers’ compensation insurer, which hold some of those liens, have agreed to waive them. For many of the plaintiffs, this waiver means their settlement payments will be free and clear of liens and their workers’ compensation benefits will continue in the future with no deductions.

“This settlement ensures guaranteed, immediate and just compensation to the heroic men and women who performed their duties without consideration of the health implications,” said Marc J. Bern, a senior partner with the law firm Worby, Groner, Edelman & Napoli, Bern, LLP, which is representing over 9,000 litigants. “Our commitment to our clients has never wavered in the seven years since we took on this litigation and we have done everything within our power, including reducing the fees we agreed to with each of our clients, to achieve the best possible outcome. We believe we have finally been successful and we are especially gratified that our joint efforts over the past three months have resulted in approximately \$125 million in additional net compensation that will be available to our clients.”

“I think we speak on behalf of all parties in the litigation by thanking Judge Hellerstein for his tireless efforts in bringing about this historic result,” said Nicholas Papain, a member of Sullivan Papain Block McGrath & Cannavo P.C., representing 640 firefighters in the lawsuits.

Under this settlement, 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.

"I am prepared to help ensure that these workers, volunteers, and fire and police personnel receive a fair evaluation of their claims under this settlement," said Mr. Feinberg. "This settlement enables these individuals to avoid the uncertainty, time and expense of litigation while providing a transparent, objective process for allocating the compensation available under the settlement according to the legal strength of the claim and the severity of injury."

"We are grateful to Mr. Feinberg for serving as the Claims Appeal Neutral," said Ms. LaSala. "We feel the system we have set up is fair, independent and transparent. Mr. Feinberg's experience and fairness are well known. He will ensure that plaintiffs' claims are fully and properly considered."

"This is a fair settlement of a difficult and complex case that will allow first responders and workers to be fairly compensated for injuries suffered following their work at Ground Zero," said Mayor Michael R. Bloomberg. "In addition to the settlement payments, we will continue our commitment to treatment and monitoring of those who were present at Ground Zero, and we will work with the New York congressional delegation and responder and other groups to seek passage of the James Zadroga 9/11 Health and Compensation Act. We are grateful to Kenneth Feinberg for agreeing to serve *pro bono* as the Claims Appeal Neutral. This settlement honors those who were there when we needed them in the aftermath of the September 11th, 2001 terrorist attacks."

The WTC Captive was created with a \$1 billion grant from the Federal Emergency Management Agency to insure the City of New York and its debris removal contractors because, in the aftermath of 9/11, the City of New York was unable to procure an adequate amount of liability insurance coverage in the commercial insurance market for the World Trade Center site rescue, recovery and debris removal work.

The settlement will cost the taxpayer-funded WTC Captive \$625 million in cash at the required 95% plaintiff participation, with an additional \$87.5 million paid if certain conditions are met. Plaintiffs' attorneys are capping their fees at 25% of the settlement amount, resulting in savings to plaintiffs of over \$50 million. Those savings, together with the additional funding of up to \$50 to \$55 million by the WTC Captive, the waiver of the workers' compensation liens and credits, and the assumption by the WTC Captive of additional costs of allocating the settlement proceeds among the plaintiffs, increase the value to plaintiffs of this amended settlement by approximately \$125 million as compared to the settlement first announced in March, making the total value of the revised settlement \$712.5 million.

Importantly, the settlement also provides a pathway for other defendants and insurers involved in these cases, such as the Port Authority of New York and the City's marine insurers, to settle, providing significantly more compensation to some of these plaintiffs. These parties could be encouraged to follow the same settlement process created jointly by lead plaintiffs' counsel, the WTC Captive, the City and the contractors as part of this settlement so that additional compensation is awarded fairly and consistently to plaintiffs who elect to settle.

"Since March 11, 2010, the parties have been determined to keep the settlement process intact, with each making good faith efforts to that end," Ms. LaSala said. "This settlement provides fair and just compensation, closure and certainty for the over 10,000 people who have filed lawsuits, while remaining faithful to our mandate to protect the City and its contractors from liability in connection with their heroic efforts in the rescue, recovery and debris removal work that followed the terrorist attack on the World Trade Center on 9/11."

All plaintiffs will receive a court-approved letter explaining the settlement and informing them of the approximate amount of compensation to which they are entitled before they are required to make a decision about whether or not to participate.

"We applaud the involvement of Mr. Feinberg in the settlement program," said Mr. Papain. "These brave and selfless first responders are owed the integrity and transparency that both he and the Garretson Firm will bring to individual claim evaluations. In keeping with those principles, we will be inviting all of our clients to presentations detailing the amended settlement and its terms."

Plaintiffs will have until September 30, 2010 to review the settlement with their attorneys in order to make a fully informed decision and decide whether to participate in the settlement by accepting its terms. For the settlement to proceed, 95% of the plaintiffs will have to agree to "opt-in."

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.

About Kenneth R. Feinberg

Kenneth R. Feinberg is the Former Special Master of the Federal September 11th Victim Compensation Fund and is currently serving at the request of President Obama as Special Master for Executive Compensation for TARP (Troubled Asset Relief Fund), involving executive pay at companies receiving U.S. government funding through the program. He has served as a court-appointed special master in cases including Agent Orange product liability, DES cases and Personal Injury Litigation related to Asbestos. He is also one of two arbitrators who determined the allocation of legal fees in the Holocaust slave labor litigation. Mr. Feinberg also is an adjunct professor at Georgetown University Law Center and Columbia University School of Law. He founded the firm of Feinberg Rozen LLP in 1992, specializing in designing, implementing and administering innovative and complex settlement solutions.

It should be noted that Kenneth Feinberg was involved in the development of the insurance product being offered to settling claimants in connection with certain blood and respiratory cancers diagnosed during the coverage period. Although Mr. Feinberg has a financial interest in the availability of these insurance products, he was not involved in any of the negotiations related to such insurance, nor was he involved in the negotiation of the settlement agreement itself. These negotiations all pre-date consideration of Mr. Feinberg for the role of Pro Bono Claims Appeal Neutral.