

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE WORLD TRADE CENTER DISASTER	:	21 MC 100 (AKH)
LITIGATION	:	21 MC 102 (AKH)
	:	21 MC 103 (AKH)

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IN RE LOWER MANHATTAN DISASTER SITE	:	
LITIGATION	:	

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IN RE COMBINED WORLD TRADE CENTER AND	:	
LOWER MANHATTAN DISASTER SITE LITIGATION	:	

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**PAYMENT STATUS REPORT FROM THE ALLOCATION NEUTRAL**

The Allocation Neutral respectfully submits this interim status report regarding payments made and to be made pursuant to the World Trade Center Litigation Settlement Process Agreement, As Amended (the “Settlement Process Agreement”). Exhibit 1 summarizes the information regarding payment status contained in this report. The Exhibit will be updated and submitted to the Court on a recurring basis.

**Status of Initial Payments**

On January 5, 2011, the Parties affirmed the Settlement Process Agreement (the “Final Settlement Agreement Effective Date”). Thereafter, the official deadline for claim submission was February 22, 2011. After the deadline, 55 claims remained to be submitted across 11 firms. To ensure that eligible plaintiffs were given every chance to submit their claims, the WTC Captive agreed that these un-submitted claims would be treated as deficient and must be submitted within the Settlement Process Agreement’s 15-day period for curing deficiencies, or by March 16th, 2011, unless the claimant’s counsel requests a one-time, 10-day extension, in

which case submission must be complete by March 28, 2010. As of the time of this report, less than 20 claims remain to be submitted.

As of January 14, 2011, only 10 claims had been officially submitted. As the deadline for claim submission drew near, the Allocation Neutral experienced an extremely high volume of claim submission. In the last two weeks leading up to the February 22 deadline, over 3,300 claims were submitted with more than 100,000 supporting documents (such as medical records and HIPAA documents) accompanying the claims.

Under the terms of the Settlement Process Agreement, Initial Payments to all claimants are due 20 days after (i) the Allocation Neutral determines that a claimant meets the requirements of the Settlement Process Agreement or (ii) the Final Settlement Agreement Effective Date, whichever is later. The first Initial Payment instruction report, related to the first batch of claims for which all requirements were determined to be met, was issued by the Allocation Neutral on January 27, 2011.

To date, four payment instruction reports (or “waves” of payment) have been issued for Initial Payments covering 6,724 primary plaintiffs and 3,516 derivative plaintiffs represented by seven different firms who are participating in the Settlement Process Agreement. Claims are processed on a first in-first out (“FIFO”) basis. There remain approximately 7,000 Initial Payments to be made (to primary and derivative plaintiffs) as part of the Initial Payments process. Provided that all payment conditions are met, the Allocation Neutral expects the Initial Payment process to conclude before April 15, 2011.

Claim submission is but one step in the process leading to an Initial Payment. In order to receive an Initial Payment, the following conditions must be met for each claimant:

- the claimant must be listed in the Opt-In List approved by the Parties, and the Registration and Opt-In Form must be complete;
- the claimant's work verification must be complete (via a pre-approved list or via document submission, as per Exhibit B of the Settlement Process Agreement);
- there must be an absence of deficiencies in the electronic claim form data;
- there must be an absence of deficiencies in the physical claim form;
- there must be confirmation of lien status;
- there must be a complete claim form, meaning that
  - the submitted claim must be in good order for the primary plaintiff (*i.e.*, complete data, signed, notarized, and signed by counsel);
  - the submitted claim must be in good order for the derivative plaintiff, if applicable (*i.e.*, derivative plaintiff settlement eligibility confirmed, complete data, signed and notarized and signed by counsel); and
  - all necessary supporting documents (such as medical records and HIPAA release forms) must have been provided;
- estate documentation must be provided, if applicable; and
- the claimant must not have been selected for a prepayment audit or that audit must be complete.

The Allocation Neutral can only issue payment instructions for a claimant when all of the above conditions have been satisfied. It is the responsibility of the claimant's counsel to cure any deficiencies. The Allocation Neutral will issue payment instructions weekly for claims that have had all of the above conditions satisfied.

Once the Allocation Neutral issues a payment instruction, consistent with the Settlement Process Agreement the WTC Captive promptly effects wire transfer(s) from the Separate Account to plaintiffs' counsel whose clients are included in the instruction. After funds are transferred to plaintiffs' counsel, they distribute payments to their individual clients in accordance with the Allocation Neutral's instructions.

### **Status of Additional Payments**

Under the terms of the Settlement Process Agreement, there are no future payments due to Tier 1 claimants. Tier 2, Tier 3, and Tier 4 claimants, however, will receive the following payments, in addition to their respective Initial Payments:

- For Tiers 2 and 3: Accelerated Final Payments;
- For Tier 4: Interim Payments and Final Distributions;
- For Tiers 2, 3 and 4: Permanent Disability Fund awards, if applicable;
- For Tiers 2, 3 and 4: Mixed Orthopedic Injury payments, if applicable; and
- For Tiers 2, 3 and 4: Qualifying Surgery payments, if applicable.

**Tier 2 and 3 Accelerated Final Payments:** According to the terms of the Settlement Process Agreement, Accelerated Final Payments are to be made within 25 days of a Tier 2 or Tier 3 claimant's tier determination (as set forth in the Allocation Neutral's determination notice ("Determination Notice") for each such claimant). With regard to Accelerated Final Payments for Tier 2 and Tier 3 claimants, the Allocation Neutral issued the first Determination Notices during the week of February 28, 2011. Ten (10) Determination Notices were issued in the first wave, with heavier issuance to follow in the coming weeks as reviews are completed. At this time, the Allocation Neutral is ready to begin directing Accelerated Final Payments to the Tier 2 and Tier 3 claimants pursuant to the terms of the Settlement Process Agreement. Once an

Accelerated Final Payment determination issues, payment must be made either a) within 10 days of a claimant's waiver of his or her right to seek reconsideration of the Determination Notice, or b) within 25 days of issuance of the Determination Notice if the claimant's counsel does not submit such a waiver.

Approximately 1,600 Tier 2 and Tier 3 reviews are nearing the Allocation Neutral's final approval stage. The Allocation Neutral expects to complete these reviews and to issue Determination Notices for these claims by the end of March 2011. Depending upon the status of deficiencies and the submission of reconsideration requests, waivers and appeals by plaintiffs and their counsel, the Allocation Neutral expects to make all Accelerated Final Payment determinations by the end of May 2011.

**Tier 4 Interim Payments and Final Distributions:** Pursuant to the terms of the Settlement Process Agreement, the next payment for a Tier 4 claimant after the Initial Payment is the Interim Payment. Interim Payments for Tier 4 claimants are dependent not only upon satisfaction of all payment conditions, as described above, but also upon Final Total Scores being established for approximately 40% of all primary plaintiffs who claim a Tier 4 qualifying injury in a given docket and upon the Allocation Neutral's evaluation of each such claimant's claim. The Allocation Neutral shall instruct the WTC Captive to make Interim Payments to the verified Tier 4 primary plaintiffs with Final Total Scores in that docket (and to corresponding derivative plaintiffs) in the amount of 40% of the projected value of each verified Tier 4 plaintiff's Final Distribution. The Allocation Neutral is in the early stages of processing Tier 4 claims. As the allocation process is more complex for the Tier 4 claimants, the Allocation Neutral expects to complete Interim Payment determinations no later than September 30, 2011.

Following his or her Interim Payment, a Tier 4 claimant will receive a Final Distribution. Final Distributions are available only to verified Tier 4 primary and corresponding derivative plaintiffs and are subject to the Point System and Final Distribution formula set forth in the Settlement Process Agreement. Final Total Scores are to be determined within 180 days of the Final Settlement Agreement Effective Date (which was January 5, 2011). Final Distributions are expected to be completed within 315 days of the Final Settlement Agreement Effective Date.

#### **Status of Other Elements of Recovery**

**Permanent Disability Fund Awards:** Those claimants who are entitled to a Permanent Disability Fund (“PDF”) award will receive that payment after the Allocation Neutral has reviewed all PDF applications and issued corresponding award determinations. This process is expected to take several months and also takes into consideration Pending Adjudication Body decisions of disability awards. However, the Allocation Neutral has expedited reviews in accordance with the Settlement Process Agreement and expects to complete PDF award payments by September 30, 2011.

**Mixed Orthopedic Injury Payments:** Based on current claim form reviews there are more than 100 claimed Mixed Orthopedic Injuries. The Allocation Neutral anticipates completing Mixed Orthopedic Injury determinations by the middle of June 2011. Because Mixed Orthopedic Injuries may not be the only injury alleged by a particular claimant, the Allocation Neutral intends to issue determinations on these claimants’ entire claim before issuing payment determinations on the Mixed Orthopedic Injury component. Due to the possibility of Reconsideration Requests and Appeals submitted by claimants and their counsel, it is estimated that Mixed Orthopedic Injury payments will be made by September 30, 2011. This assumes that

Mixed Orthopedic Injury Payments for Tier 4 claimants will be completed along with Interim Payments.

**Qualifying Surgery Payments:** Qualifying Surgery claims are reviewed concurrently with Qualifying Injuries. This is necessary because Qualifying Surgery payments are conditional upon Qualifying Injury determinations upon which the claimed surgery(ies) are predicated. Qualifying Surgery determinations for which Reconsideration Requests are waived should be finalized at the earliest the week of August 21, 2011. Resulting payments will be made with Accelerated Final Payments for Tiers 2 and 3 and with Interim and Final Distributions for Tier 4.

### **Expense Audits**

The Allocation Neutral has conducted pre-payment expense audits pursuant to the Court's Order of June 25, 2010, and Allocation Neutral Procedure 4, which was attached thereto, and other Allocation Neutral Procedures. In conducting these expense audits, the Allocation Neutral has followed the following process:

- Claimants were randomly selected for audit, with at least one claimant selected from each firm.
  - No more than 100 claimants per payment type, per firm (maximum 400 per firm) and five percent of the entire claimant population were sampled.
- After firms submitted and certified their expenses, the Allocation Neutral posted a list of their claimants that were randomly selected for audit to the WTC web portal.
  - A follow-up email was also sent to firms, which notified them of when this list was made available (and done so after they submitted their expenses).
- Firms then submitted an itemized list of expenses for each claimant selected for audit.
- Supporting documentation (*e.g.*, invoices) was requested for each itemized expense that exceeded the Allocation Neutral's predetermined materiality level.
- After a review of all itemized expenses and supporting documentation and a determination that everything was in good order, the Allocation Neutral notified the respective firm of audit completion.

The Allocation Neutral continues to follow this procedure for expenses that are still being audited.

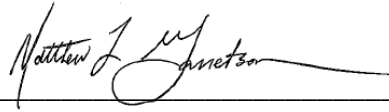
A total of 455 out of the 10,115 primary plaintiffs or claimants who the parties agree have opted into the settlement were randomly selected for prepayment audit. 391 of these audits are complete (i.e., 86%). Completion of audit is subject to firms providing supporting audit documentation to the Allocation Neutral. Fourteen firms have yet to provide requested audit information. Once expense data is provided to the Allocation Neutral, however, audits are completed within three business days. As soon as an audit is complete, and if that particular claim has no other issues outstanding, the claimant would be included in the next weekly payment instruction report.

#### **Random Audits**

The Allocation Neutral has selected for Random Audit 5% of Tier 3 primary plaintiffs and 5% of Tier 4 primary plaintiffs who have submitted Claim Forms. Plaintiffs' counsel has been notified of the Random Audit selection by the Allocation Neutral and has been directed to the Allocation Neutral's web portal for completion of the requirements specified in Section XI.M of the Settlement Process Agreement. The Allocation Neutral has initiated the processing of the information and records received from primary plaintiff's counsel. Primary Plaintiffs selected for Random Audit will not receive further payments until the Allocation Neutral has concluded its Random Audit review.

The Allocation Neutral will continue to update the Court throughout the payment and related audit processes.

Respectfully submitted,

A handwritten signature in black ink, reading "Matthew L. Garretson". The signature is written in a cursive style with a long horizontal flourish extending to the right.

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Matthew L. Garretson, Esq.  
Garretson Resolution Group, Inc.  
Allocation Neutral

March 9, 2011

**Exhibit 1**  
**Supplement to Payment Status Report From The Allocation Neutral**  
**3/9/11**

PAYMENT INFORMATION	Issue	Primary Plaintiffs	Derivative Plaintiffs
	Date	Payments Made	Payments Made
<b>Initial Payments</b>	Date		
Wave 1	1/27/2011	1,548	625
Wave 2	2/2/2011	1,638	926
Wave 3	2/14/2011	1,739	959
Wave 4	3/8/2011	1,799	1,006
--- Subtotal		6,724	3,516
Wave 5	In-Process	TBD	TBD
Other Waves - TBD		TBD	TBD
<b>Tier 2 - Accelerated Final Payments</b>	Date	Estimated Start - week of 3/21/11	
First wave - TBD		TBD	TBD
Other Waves - TBD		TBD	TBD
<b>Tier 3 - Accelerated Final Payments</b>	Date	Estimated Start - week of 3/21/11	
First wave - TBD		TBD	TBD
Other Waves - TBD		TBD	TBD
<b>Tier 4 - Interim Payments</b>	Date	Estimated Start - week of 5/30/11	
First wave - TBD		TBD	TBD
Other Waves - TBD		TBD	TBD
<b>Tier 4 - Final Distribution Payments</b>	Date	Estimated Time - December, 2011	
All 21mc100 Plaintiffs - TBD		TBD	TBD
All 21mc102 Plaintiffs - TBD		TBD	TBD
All 21mc103 Plaintiffs - TBD		TBD	TBD

**Exhibit 1**  
**Supplement to Payment Status Report From The Allocation Neutral**  
**3/9/11**

Other Elements of Recovery		Primary Plaintiffs		Derivative Plaintiffs
	Issue	Payments Made		Payments Made
Permanent Disability Fund Awards	Date	Estimated Time - September, 2011		
Single Payment Wave - TBD		TBD		TBD
Mixed Orthopedic Injury Payments	Date	Estimated Time - September, 2011		
Single Payment Wave - TBD		TBD		TBD
Qualifying Surgery Payments	Date	Estimated Start - week of 4/25/11		
First wave - TBD		TBD		TBD
Other waves - TBD		TBD		TBD

EXPENSE AUDIT INFORMATION	
No. of firms in settlement	26
No. of claimants selected for random audit	455
No. of audits completed	391
% of completion	86%
No. of firms remaining to submit requested data	14

RANDOM AUDIT (Medical Records)	
No. of firms in settlement	26
No. of claimants selected for random audit	316
No. of cases with all medial records reviewed	0
% of completion (case complete and RA complete)	0%
Start date of reviews	2/24/2011