

BRIAN MITTMAN OF MARKHOFF & MITTMAN, P.C., a New York Disability Law Firm interviews his friend and colleague, TROY ROSASCO of TURLEY, REDMOND, ROSASCO & ROSASCO, LLP about the recently enacted **JAMES ZADROGA 911 ACT**

**Brian:** Well hello everybody. This is Brian Mittman and I'm happy to have you on the call today, and I'm very happy to have a colleague and good friend of mine, Troy Rosasco of the Law Firm of Turley, Redmond, Roscaco & Roscaco from Ronkonkoma, Long Island. Troy has over 20 years of experience assisting and helping injured workers and their families in Workers' Compensation, Social Security, and other related matters. In fact, we do exactly the same thing here at Markhoff & Mittman. I have Troy on today for a lot of reasons and that is because of his experience, his insights, and the fact that we are both out there helping injured workers. So welcome aboard Troy.

**Troy:** Thank you.

**Brian:** What we're gonna talk about is something that's very near and dear to both of us. Living in the New York area, we both experienced and went through the unfortunate disaster of the World Trade Center on 9/11, and what's happened recently is some good news for those rescue workers and other people who helped with the cleanup in the aftermath known as the 9/11 Zadroga Bill. And I have Troy on today because we are doing some work together on this, and he has some very useful insight and information about the Zadroga Act. Troy, welcome aboard and why don't we get right into it. Tell us about this 9/11 Zadroga Bill that President Obama recently signed.

**Troy:** Well first, I want to thank you again, Brian. It's always a pleasure to be on your program. Your program gives out some great information to injured workers in the Tri State area, so it's always a pleasure working with you. Getting specifically to the brand new James Zadroga 9/11 Health and Compensation Act of 2010, this was something that was pushed for very hard down in Congress and we were very lucky to get it. We had some very strong legislators here in New York, particularly Senator Schuman ó uh, Schumer, excuse me, Senator Gilabrand, also Congresswoman Maloney, and Congressman Nadler in Lower Manhattan, and they really worked very, very hard to get this bill passed. And at the end of the day, the reason the Zadroga Act was brought about was because we did not realize after 9/11 how many people were gonna get sick as a result of their work cleaning up Ground Zero. It really, you know, came to us as a shock to see how many people are seriously ill related to their time being there. Whether they were first responders, cleanup workers, volunteers down there, construction workers, a variety of people were down there, and as we all know really for the first three months, it was a toxic soup down there. The first 40 floors of the World Trade Center when it came crashing down, that was largely asbestos in those 40 floors. Asbestos was, in fact, while they were building the Trade Center in the early 70's, it was banned. That's why only the first 40 floors of the Trade Center had asbestos, and after that the rest of the building did not. But that was certainly enough asbestos to expose a lot of innocent people to a lot of really bad toxins. And we know that unfortunately our

own government gave out some bad information initially telling everybody that the air was safe to breathe down there. We now know based upon how many people are now getting sick with various serious illnesses that that was just not the case.

**Brian:** Let me ask you a question. We both practice in New York and have a Workers' Compensation practice for people injured while they're working. Why some type of special act instead of just New York's Workers' Compensation?

**Troy:** Well that's a good question and you know there are many people who say it is unfair to give the 9/11 workers something different than perhaps a worker who's working in a toxic chemical plant upstate. I think it's special in a couple of regards. No. 1 ó They were told it was safe, but they worked there anyway. Many of them worked there knowing that in fact it was a cauldron of toxins down there and despite that, they heroically worked down there to unearth bodies that might have been there. I mean some of the stories that both you and I have heard could rattle even the strongest persons' fences. It really was a unique situation at 9/11 and very emotional, and we lost so many people. To think that 9/11 people, don't put it in this context, they think of it as simply a terrorist attack, but it was also the largest workplace disaster in the history of the United States. So, in that respect I think why there can be some arguments that perhaps it is being a little bit differently, I think it should be treated differently in the sense that this was unique, it was a terrorist attack, and no one expected to get as sick as they are getting. Many of them are dying from these illnesses.

**Brian:** I know that, you know, I personally have handled cases through Workers' Compensation for people that have gotten ill and sick, and there were some various legislative acts to keep expanding what's known as the Statute of Limitations so that people wouldn't be locked out of benefits. However, you know, this Zadroga Act as it's being called or this James Zadroga Bill named after the rescue worker, James Zadroga, who unfortunately died from his serious lung-related conditions. What is it that's being offered to people and then we'll start out who, but what is it that's being offered that's different than let's say Workers' Compensation? Or exactly what is it that's being offered?

**Troy:** Okay, the Zadroga Act has two things. Title I of the Zadroga Act is the healthcare portion of the act. And what that does is it sets up across the country, cause remember many of the first responders and survivors of 9/11 have now left the New York area and they're setting up Centers of Excellence. These are medical centers that have expertise in providing medical care to 9/11 survivors and first responders, and that medical monitoring and treatment is at no cost to the 9/11 survivors and first responders. They can get yearly monitoring if they are not currently ill, but if they are currently ill, they can get all their treatment and their medicines paid for by the 9/11 Program. So that's what a large portion of the Zadroga Act does. Out of the \$4.3 billion that fund the Zadroga Act, \$1.5 billion went to the medical program. The second big part of the program is the reopening of the Victims Compensation Fund. As you will remember the Victims Compensation Fund was initially started right after September 11 and primarily at that time it was compensating the widows and widowers of people who

were lost in the tragedy. It also to a lesser extent compensated some people with some very severe orthopedic/burn- type injuries, but it really was a fund that was based upon giving money to the families of those who lost loved ones. Now they have reopened that same fund, but this time the difference is they're gonna be primarily giving money to people who have permanent injuries resulting from their time working down around Ground Zero after the buildings fell. Under the act, whereas under the Victims Compensation Fund, the original fund, if you were a survival, you had to be there within the first 24 hours. Now under this new Zadroga Act, you simply need to be there for some period of time between 9/11/2001 and 5/30/2002 ó when all that cleanup activity was going on and we had so many people down there doing all the work to clean up the disaster area.

**Brian:** Let me just interrupt for a second, Troy.

**Troy:** Sure.

**Brian:** Is there a specific geographic area, cause at the time I mean I know that my office was located south of Canal Street on Broadway and we had walked out in the crowd and certainly there was a horrific smell and soot and all the awful stuff. Is there a geographic area that this covers?

**Troy:** That's a great question and the answer is we don't exactly know the set geographic area. As part of the law, President Obama through the Attorney General Eric Holder must appoint a Special Master ó a person who is going to write the rules and regulations about who can and cannot make claims. And once that Special Master is appointed (he has not yet been appointed), we will know and he will tell us what the geographic area is. However, we do have some general ideas of areas that we know for a fact will be covered. The general area in and around the pit of Ground Zero, okay. We know that people who worked at Fresh Kills Landfill where all the debris was brought over on Staten Island will be covered. We know the people at the New York City Morgue where all the bodies which were covered in ash and dust and other toxins, we know those people will be covered. And also there is a special provision that covers people in what they call the debris removal route. Now I don't know what that debris removal route is yet. That's gonna have to be defined by the Special Master, but we can think of it at least right now as the route that the trucks from Ground Zero took towards getting the stuff to Fresh Kills and bring it on the barges over to Fresh Kills.

**Brian:** Is there an estimate of the number of people they believe or Congress believes that this Act may cover?

**Troy:** Well, we know that the World Trade Center Medical Monitoring Program has already registered over 60,000 people.

**Brian:** Wow. That is some amazing amount of people.

**Troy:** And we don't know whether or not they're all sick and hopefully they're not all sick. But the simple fact that 60,000 people were exposed, okay, tells us that there is a large potential for a large number of claims that could be brought. And I am amazed every day when I speak to people, despite all the news and all the progress we have all made, you and I and the Workers' Compensation Board, and New York City and the federal government trying to get out good information to potential victims, there are still people out there who didn't know about anything that they are eligible for.

**Brian:** Amazing. Now that, you know, as a reviewer of the basis, that's great news and you know obviously incredibly interesting. And one of the I guess next questions and what I plan on doing if you graciously agree to this, is we're gonna over the course of the next few weeks kind of parse out some of the provisions as we see it and where it might go and then what people can do about it. We have this one section that will be the medical coverage, which could be phenomenal for people. We have this other piece of Victims Compensation Fund. Is there any idea though of what that means? Is it going to be the lump sum type of payments that may have been paid out, will it be a weekly type of payment, do you have to be out of work, or is that just going to be left up the Master at this point?

**Troy:** If we use the first Victims Compensation Fund as a model, they will be one sum payments. There will be awards based on loss of earnings if they are out of work combined with non-industrial causations such as pain and suffering. So whereas Workers' Compensation really doesn't concern itself with pain and suffering, the Victims Compensation Fund is going to take that into account. So, a person who may not have lost much time from work, but nevertheless has had significant pain and suffering in the change of their lifestyle for whatever reason, or just simply the type of medical treatment they've had, they may be entitled to a fairly large sum. However, anything that they may have gotten previously from Workers' Compensation would be an offset. We can talk about that at a later point in time.

**Brian:** I know we definitely will, but, now we're doing it for today's call. I just wanted to get this really important information out there and for those of you that are listening. There's actually only a few places to really get good information at this point. I get to plug myself since I do have a guest on. You can go to my web-site [www.markhofflaw.com](http://www.markhofflaw.com) and check out the information that we have under the Zadroga Act. I also know that Troy has been writing a really wonderfully informative blog and if you could give us that URL that would be great, Troy.

**Troy:** Sure, that's [www.zadrogaclaimsinfo.com](http://www.zadrogaclaimsinfo.com)

**Brian:** Fantastic. And I really suggest to people that if you yourself were downtown in that timeframe, or if you have a loved one, to really check it out, because this is an important thing. You know in a sense those people that have been exposed do have the luck of having a special fund that's been set up, but it's not exactly luck ó we know that it's really bad luck and at least it is here and it's really to recognize and acknowledge the

sickness and tragedy that our nation has suffered and still is overcoming at this time. I wanted to thank you, Troy, for joining me today and I look forward to having you on again. And any last words?

**Troy:** No. Thank you for having me, I look forward to joining you again, Brian.

**Brian:** Thank you.