



This Week in New York

Covering New York State and City Government

A Publication of Pitta Bishop & Del Giorno LLC

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In the News – State



Feds Question Sufficiency of 9/11 Compensation Fund

US Department of Justice Issues Notice of Inquiry/Request Comment Regarding Potential Policy Changes

The September 11th Victims Compensation Fund (VCF), reactivated by the James Zadroga 9/11 Health and Compensation Act of 2010 (“Zadroga Act”), may run out of funding before the December 2020 claim deadline, according to a Notice of Inquiry filed by the U.S. Department of Justice.

“Current projections...suggest a possibility that the funds that have been appropriated to compensate claimants pursuant to the James Zadroga 9/11 Health and Compensation Act of 2010 (“Zadroga Act”)..may be insufficient to compensate all claims (including those filed and those anticipated to be filed) under the current policies and procedures guiding the calculation of awards,” according to the Notice published in the [Federal Register](#).

As required by the Act, Special Master Rupa Bhattacharyya periodically reassesses policies and procedures to ensure that the VCF payments do not exceed funding allocations. Given the possibility suggested by the current projections, the Justice Department is seeking comments on “how the remaining funds might be allocated in a fair and equitable manner ...with priority given, as the Reauthorization Act requires, to those claimants with the most debilitating conditions.” The comment period ends December 3, 2018.

According to the Notice, Special Master Bhattacharyya will reassess the VCF in early 2019. If the Special Master determines that VCF policies and procedures need to be changed, then suggestions made in response to the Notice of Inquiry will be considered.

Any changes to policy would be effective only to claims filed after February 1, 2019, or other date as determined by the Special Master. Given this imminent date for potential changes to the process by which payments from the VCF may be awarded, it is imperative that all potentially eligible claimants promptly pursue their claims. Pitta Bishop’s affiliate, [Pitta & Baione LLP](#), focuses its practice on representing claimants before the VCF and are available to assist.

Created to provide compensation for any individual (or a personal representative of a deceased individual) who suffered physical harm or was killed as a result of the terrorist-related aircraft crashes of September 11, 2001, or the recovery and removal efforts that followed, the original VCF operated from 2001-2004 and distributed over \$7 billion.

President Obama signed the Zadroga Act in 2011, reactivating the VCF, expanding its pool of eligible claimants, and appropriating \$2.775 billion for its operation. The 2005 Reauthorization Act extended the VCF for an additional five years (allowing individuals to submit claims until December 18, 2020) and appropriated an additional \$4.6 billion, bringing the total amount available to pay VCF claims and to cover operational and administrative costs to \$7.375 billion. As of August 31, 2018, \$4.279 billion has been awarded in compensation on VCF claims.

Using December 31, 2017 data, the Sixth Annual VCF Report made the following projections:

Total Claims Filed	32,689
New Claims Expected to be Filed	6,614
Total Revised Claims Filed	6,288
New Revisions Expected to be Filed	4,717
Value of All Awards by Program End	\$7,031,513,264.45
Value of Administrative Costs by Program End	\$263,800,000.00
Total Program Cost at Program End	\$7,295,313,264.45

Source: FR Doc. 2018-21490

Applying the same methodology to August 31, 2018, and at the current rate of disbursement, “the projections suggest the possibility that the \$7.375 billion may be insufficient to compensate all claims (including those already filed and those anticipated to be filed) under the current policies and procedures guiding the calculation of awards.”

Comments in response to the notice can be submitted by either:

- *Internet:* Via the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow instructions for sending comments by selecting the Docket ID number.
- *By mail:* Addressed to September 11th Victim Compensation Fund, Civil Division, U.S. Department of Justice, 290 Broadway, Suite 1300, New York, New York 10007. To ensure proper handling, please reference Docket CIV-154 on your correspondence.



Chapters of the Laws of 2018

Chapter 272 – Sponsored by Senator Marcellino / M of A Titone -- Prohibits the leasing of companion animals.

Chapter 273 – Sponsored by Senator Amedore / M of A Gottfried -- Relates to allowing for the use of medical marihuana as an alternative to opioids for pain management and substance use disorder.

Chapter 275 – Sponsored by Senator Alcantara / M of A Hyndman -- Relates to theft of services from barbershops, salons or beauty salons.

Chapter 284 – Sponsored by Senator Lanza / M of A Rosenthal -- Authorizes domestic companion animals be permitted to board any public transportation or public transportation service in the event of a state of emergency and evacuation.

Chapter 288 – Sponsored by Senator Golden / M of A Cusick -- Relates to correcting the spelling of the Verrazzano-Narrows bridge.

Chapter 291 – Sponsored by M of A Stirpe / Senator Bonacic -- Relates to establishing a court-appointed special advocates program to aid the family court.

Chapter 306 – Sponsored by M of A Weprin / Senator Golden -- Relates to determination of adjusted base proportions in certain special assessing units.

Chapter 308 – Sponsored by M of A Cymbrowitz / Senator Sanders -- Relates to the qualifications of members of the gaming commission.

Chapter 309 – Sponsored by M of A Dinowitz / Senator Sepulveda -- Requires the provision of guides containing best practices for retaining employees who are informal caregivers.

Chapter 312 – Sponsored by Senator Golden / M of A Pheffer Amato -- Prohibits auto lenders from remotely disabling a vehicle without first giving notice of the disabling to the debtor.

Chapter 313 – Sponsored by Senator Hannon / M of A Weprin -- Relates to body imaging scanning equipment.

Chapter 319 – Sponsored by Senator Larkin / M of A Galef -- Designates the "Bear Mountain bridge" as the "Purple Heart Veterans Memorial Bridge."

In the News – City

JFK \$13 Billion Facelift Plan Unveiled

Governor Andrew Cuomo and the Port Authority of New York/New Jersey this week unveiled a \$13 billion plan to transform John F. Kennedy International Airport into a 21st century airport anchored by two international terminal complexes on the airport's north and south sides.



The JFK Vision Plan calls for an overhaul of the airport's “hodgepodge” of eight terminal sites into one “unified JFK Airport” by demolishing old terminals, utilizing vacant space, and modernizing on-airport infrastructure. The Vision Plan also calls for increasing the number and size of gates, improving parking availability, upgrading the AirTrain JFK system to handle increased passenger capacity, and enhanced roadways on and off the airport. This includes better access to JFK from regional roadways, particularly the Van Wyck Expressway and the Grand Central Parkway, including the Kew Gardens Interchange.

JFK Airport supports approximately 300,000 jobs that pay \$16.2 billion in wages annually while generating \$45.7 billion in yearly sales. The airport set a record with nearly 60 million passengers in 2017 and is projected to eclipse 75 million passengers by 2030.

Specifics of the terminal plans include:

South: Terminals 1, 2, & 3 replaced by new \$7 billion terminal & Terminal 4 possible expansion:

The proposed \$7 billion, 2.9 million square foot terminal on the airport's south side will be developed by the Terminal One Group, a consortium of four international airlines—Lufthansa, Air France, Japan Airlines and Korean Air Lines. The plans call for replacing JFK's Terminal 1 (20 years old), and Terminal 2 (56 years old), as well as the area left vacant when Terminal 3 was demolished in 2014.

When completed, it will provide 23 international gates, 22 of which will be designed to accommodate larger, wide-body aircraft (FAA Airplane Design Group V or VI) such as the Boeing 787 Dreamliner or Airbus A380, which provides seating for over 500 passengers. The terminal's financing is being led by private equity firm Carlyle Group LP.

JFKIAT, the operator of Terminal 4, has proposed its own expansion. According to the Port Authority, further developments at the airport are still under discussion. JFKIAT is a joint venture led by Netherlands-based Royal Schiphol Group, with Delta Air Lines Inc. as a minority stakeholder.

North: Expand JetBlue across Terminals 5,6 & 7: JetBlue Airways Corp. will expand its base at Terminal 5 into a new \$3 billion terminal on the site of the former Terminal 6 and, eventually, across the current Terminal 7. JetBlue plans to demolish Terminal 7 (48 years old) and combine it with the vacant space where Terminal 6 was demolished in 2011. This would be connected to the airline's existing Terminal 5 and be occupied by the airline.

This new terminal will have 12 international gates, all of which be able to accommodate larger, wide-body aircraft. It will feature 74,000 square feet of retail, 30,000 square feet of airline lounges, and 15,000 square feet of recreational space.

This plan is being financed by a joint venture between Canadian airport management company Vantage Airport Group and New York developer RXR Realty, according to published reports.

The plans for the two terminals will be submitted to the Port Authority's Board of Commissioners. Once lease terms are finalized, the leases will be subject to final Board approval

Construction is expected to begin in 2020 with the first new gates opening in 2023 and completion expected in 2025. Together, the new terminals are estimated to create over 9,600 direct jobs, including construction jobs and over 15,000 total jobs over the life of the project.

Off airport, the New York State Department of Transportation has targeted \$1.5 billion in highway improvements designed to ease bottlenecks, particularly at the Kew Gardens Interchange with the Van Wyck Expressway and on the notoriously congested Van Wyck as well. The goal is to help reduce travel times for vehicles between midtown Manhattan and the airport.

The Governor also announced the creation of the JFK Redevelopment Community Advisory Council, composed of elected officials, community boards, nonprofit organizations, civic organizations and clergy leaders. The Council will be chaired by Queens Borough President Melinda Katz and U.S. Congressman Gregory Meeks, and will work with the Port Authority to expand community outreach efforts. A community office for the project will open in Jamaica, Queens later this fall, providing easier access for firms looking for business opportunities as well as local residents in search of jobs.

Briefs

Statewide MWBE Utilization Rate Increases to Nearly 29 Percent

The utilization rate for Minority and Women-Owned Business Enterprises (MWBEs) participating in State contracts increased to 28.62 percent for the 2017-18 Fiscal Year, with MWBEs winning more than \$2.5 billion in State contracts. In 2011 Governor Cuomo set the goal for the MWBE utilization in New York State contracts at 30 percent. The rate has increased each year toward that goal.

I Love NY Signs Relocation

New York State will relocate approximately 80 percent of the I Love NY signs from along the state's highways to parks, historic sites, and rest stops as part of a deal with federal highway officials. The agreement allows the State to avoid a \$14 million federal penalty.

According to published reports, the agreement between the Federal Highway Administration and the state Department of Transportation will allow approximately 100 signs to remain up at borders to the state's regions. The remaining 400 signs will be 'rebranded' and moved from the highway right-of-way by November 21st, according to the state.

Federal Approval For Major Disaster Declaration Due to Severe Storms and Flooding

The Federal Emergency Management Agency (FEMA) has issued a major disaster declaration for seven counties that sustained damages during severe storms and flash flooding that occurred from August 13-15, 2018. The seven counties are Broome, Chemung, Chenango, Delaware, Schuyler, Seneca, and Tioga.

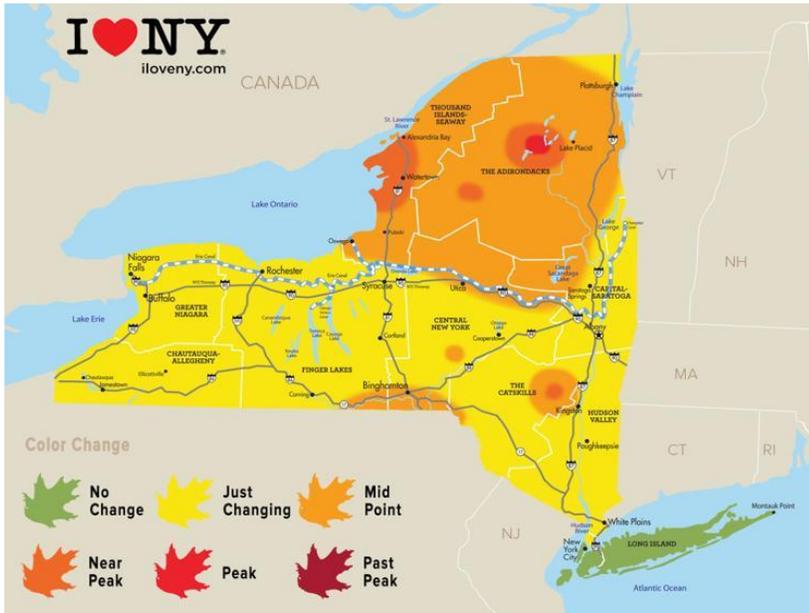
With this declaration, FEMA has validated state and local government estimates that more than \$36 million in response costs and infrastructure damage was incurred following the storms. This approval, indicating that these counties have reached the necessary threshold for federal funding, is the next step toward gaining financial assistance from the federal government to allow local communities to continue to recover. This assistance can be used towards funding for emergency protective measures, debris removal, and repairs to public infrastructure.

NYS Department of Health Warns of Potential Measles Exposures in New Jersey's Newark Liberty International Airport and Rockland County

The New York State Department of Health this week announced that an international traveler from Israel who has been confirmed to have measles flew through Newark Liberty International Airport on September 28, 2018 and visited multiple venues in Rockland County, potentially exposing others to measles from September 28 to October 1.

The Department is working closely with the New Jersey Department of Health to identify people who may have been exposed at Newark Liberty International Airport. Anyone who was in the airport on September 28 between 5:30 a.m. and 10:30 a.m. may have been exposed to measles, and if infected could develop symptoms as late as October 19. The individual also visited various locations in New Square, NY in Rockland County, September 28th to October 1st.

Peak Colors Beginning to Appear in NYS



Vibrant peak and near-peak foliage is expected this weekend in some areas of the Adirondacks region, while near-peak colors will emerge in the Thousand Islands-Seaway region and parts of the Catskills, according to observers for the Empire State Development Division of Tourism's I LOVE NY program.

Reports are obtained from field observers and reflect expected color conditions for the coming weekend. Fall Foliage Reports are issued every Wednesday afternoon:
www.iloveny.com/fall | iloveny.com/fall

Mayor de Blasio Appoints Ayirini Fonseca-Sabune as Chief Democracy Officer

Mayor Bill de Blasio announced the appointment of Ayirini Fonseca-Sabune as the City's first-ever Chief Democracy Officer. In her new role, Ms. Fonseca-Sabune will develop and expand the Mayor's DemocracyNYC agenda which aims to strengthen democracy locally and nationally by engaging more people in civic life.

Ayirini Fonseca-Sabune is a civil and human rights lawyer who most recently worked at the Community Development Project of the Urban Justice Center. She was previously a law clerk for the Honorable Harold Baer, Jr., in the Southern District of New York, and the Honorable Joseph A. Greenaway, Jr. of the Third Circuit.

As a teacher, Ms. Fonseca-Sabune partnered with community organizers in Brooklyn to develop curriculum for a year-long social justice seminar for high school seniors at the Bushwick School for Social Justice; volunteered as a teacher at Rikers Island; worked with Partners in Health in Rwanda to roll out a community health worker training program; and worked as a secondary school teacher in Uganda.

She is a cum laude graduate of Harvard Law School and she received her Masters in Teaching from the Fordham Graduate School of Education.

Coming Up

New York State

Tuesday October 16th

Allowing adult use of marijuana

Joint Assembly Standing Committee on Codes, Committee on Health, Committee on Governmental Operations and Committee on Alcoholism and Drug Abuse, Assembly Hearing Room, 250 Broadway, Room 1923, 19th Floor, New York, 10:30 a.m.

To examine the Minority and Women-Owned Business Enterprises program, and consider potential legislative solutions to create a more effective and efficient program to enhance New York's business climate

Joint Senate Standing Committee on Labor, Committee on Agriculture and Committee on Economic Development, Senate Hearing Room, 250 Broadway, 19th Floor, New York, 11 a.m.

New York City

Tuesday October 9th

Subcommittee on Landmarks, Public Siting and Maritime Uses, Committee Room – City Hall, 2 p.m.

Wednesday October 10th

Committee on Land Use, Committee Room – City Hall, 11 a.m.

Committee on Contracts, Committee Room – City Hall, 1 p.m.

Thursday October 11th

Committee on Oversight and Investigations, Council Chambers – City Hall, 10 a.m.

Committee on Public Housing, Council Chambers – City Hall, 10 a.m.

Committee on Higher Education, Committee Room – 250 Broadway, 14th Floor, 10 a.m.

Committee on Youth Services, Committee Room – 250 Broadway, 14th Floor, 1 p.m.

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To Our Clients: If you have any questions regarding any of the matters addressed in this newsletter, or regarding any legislative, government relations or political or consulting or related issues in general, please contact the Pitta Bishop & Del Giorno LLC professional with whom you usually work.

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