

The 9/11 VCF – Personal Experience

- Air Transportation and Safety and Systems Stabilization Act 2002-2004, extension 2005 Ground Zero and surrounding area
- 2010 Zadroga act extension Obama – 5 yr extension, WTC health Fund, Chemical exposure
- 12/29/19 Trump extension to 2090
- NAFE's role – 2002 Atlanta ASSA meeting, Park Avenue Armory , Ward, Tinari, Pataki, Clinton, Correspondence Ken Feinberg - HHS
- Ward, Tinari Chapter Assessing Personal Damages in Civil Litigation, 2016, Pelgrave – the VCF

- Goal VCF – fairness, efficiency, no fault and vertical equity in awards- 10% attorneys fees
- Payouts to 2026 \$17.5 billion to 71,000 claimants
- Fairness and Consistency – Horizontal Equity- same age, same income – same award, Standardized tables. Vertical equity, Income cap of \$250,000/yr., immediate mobilization 2001
- Non-Economic Loss fixed at \$250,000/family with collateral offsets (life insurance deducted)

- Income base – 3 year average, After tax, Benefits added, WLE, Earnings growth, Adjust unemployment probability, subtract PC in death cases, Reduce to PV
- The original Tables did not include HHS – Included on revision, also added Companionship, Advice and Counsel after New Jersey petition. Use DVD when specific HHS data not available
- Track A (Standard) , Step 1- Claim Reviewed and Presumed award Calculated from standardized tables, Step 2 (optional) request hearing to consider higher award – those skipping Step 2 often forfeited lost services award (47% of Death Cases)

- Track B – Individual Hearing- all information submitted, hearing officer hears family testimony and FE testimony (53% of death cases)
- Equity for efficiency tradoff
- Cross-Jurisdictional lessons – Federal Rules applied, but NJ rules on services prevailed

- Roughly 97% of eligible death claims went through the original VCF – 5,506 claimants – approx. \$7.05 billion
- Only a few dozen claimants opted out to pursue litigation in the courts
- JOW, Inc. did several dozen cases for claimants, preparing reports that were submitted for hearings or used to determine whether to pursue a hearing