

Free the captive fund

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Editorial

Two of Washington's most powerful senators, Democrat Patrick Leahy and Republican Arlen Specter, the chairman and ranking minority member of the Judiciary Committee, have turned their attention to the needs of the forgotten victims of 9/11.

Leahy and Specter took time away from wrangling over warrantless wiretapping and the performance of Attorney General Alberto Gonzales to zap a letter to a special insurance fund set up by Congress after the terror attack. They demanded answers as to why the fund had yet to make a payout to any of the rescue and recovery workers who have been sickened by exposure to airborne toxins at Ground Zero.

Their sudden interest was welcome but misplaced. Leahy and Specter acted at the behest of lawyers David Worby and Marc Bern, who are representing thousands of responders in suits against the city and the big contracting companies that were brought in to dismantle and cart away the World Trade Center rubble.

Worby and Bern were early to the fight for the workers and, God bless them, they are reaching for as much of the \$1 billion so-called Captive Insurance Fund as they can get - including fees of, say, one-third. But Leahy and Specter should recognize that there's a far better way to go about compensating the injured.

The two powerhouses should back reopening the 9/11 victim compensation fund. After the attack, Congress opened the treasury and paid \$7 billion to the injured and the survivors of the dead, provided they agreed not to sue the airlines. The fund closed before most responders realized that their service downtown had damaged their health.

The virtues of reestablishing the fund are many. The process of paying claims would be taken out of the courts and streamlined on a no-fault basis. More money would flow to the victims and less to the lawyers. And the contracting companies would be relieved of the threat of being bankrupted by lawsuits after the current insurance fund burns through its \$1 billion in court suits that stretch into the future for as far as the eye can see.

Switching from an insurance fund determined to fight every claim to a compensation fund charged with paying victims on a no-fault basis would be fair, humane and efficient. It would also certify that private companies will not be subject to ruin for pitching in after an act of war. And those are the goals Leahy and Specter should set their sights on.

