

Thousands claim exposure in 9/11 aftermath

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David Worby is now at the helm of what he calls the largest and most important class-action lawsuit in U.S. history, representing thousands of people he says are dying at an accelerated pace from exposure to toxins at Ground Zero.

He says a national health emergency should be declared because his 8,000 clients are developing cancer, kidney and respiratory ailments in the nearly five years since the Sept. 11, 2001, attacks.

The big question: To what extent is this true?

The answer: No one really knows because Worby hasn't shared medical proof, and that's why even the government's 9/11 health coordinator recently stopped by his White Plains penthouse office to see what he's got.

The fact is that no one has done a comprehensive study of the health consequences on an estimated 75,000 police, firefighters and construction workers who responded to the World Trade Center site — and Worby has stepped into the vacuum.

"You're looking at the system," Worby said. "I'm it."

He has sued New York City and its contractors, who oversaw the rescue and cleanup, claiming they failed to protect workers from cancer-causing benzene and other hazardous chemicals that filled the air. Worby returns today to a federal court in Manhattan, where the defense will argue for a dismissal on the grounds that the city made a "good faith" effort to safeguard workers by providing them equipment, such as masks, and trying to ensure they used it.

The city's lawyers also claim that New York is legally immune from liability while providing services during an attack on U.S. soil.

Worby says the city should have shut down the operation, and declared it a hazardous waste site, immediately after it was clear no survivors would be found. Instead, workers remained there for months, forming bucket brigades that cleared debris and searched the smoking rubble for bodies.

He has thousands of clients saying they basically fended for themselves the first few days, then were given masks with filters that were later replaced because they were deemed insufficient to block out all the toxins.

It was 20 months after the attacks that Worby's first two clients — NYPD detectives John Walcott of Pomona and Richard Volpe of Mount Kisco — walked into his office to report they were suffering life-threatening conditions.

Both men arrived at Ground Zero shortly after the towers came crashing down. They searched the pile for survivors the first few days as part of the bucket brigade, wearing nothing more than surgical masks. They spent the next several months recovering body fragments, volunteering on

days off. They felt so strongly about the mission that they braved the conditions, even as they began coughing up blood and black soot.

"I thought this could be doing something to my body, but at the same time, I was thinking it's my job and that they wouldn't put me in a dangerous situation like that," Volpe, 38, said.

"I was told everything was safe," Walcott, 41, said.

A married father with a newborn child, Walcott became increasingly sluggish in the ensuing months. He attributed it to having to wake up early to coach hockey at Fox Lane High School.

In May 2003, he was diagnosed with a rare form of leukemia and told he would be dead in a week without treatment. So he began five months of chemotherapy and had a stem-cell transplant.

Told his cancer likely resulted from his exposure to benzene at Ground Zero, he also went in search of an attorney. He and Volpe — who is suffering kidney failure — contacted two attorneys whose fees were too high, before finding Worby.

Worby, a 53-year-old Bedford resident, already was one of the region's most successful personal injury lawyers, an outspoken advocate who set a Westchester and Putnam county record in 1989 by securing \$18 million for a construction worker hit by a car on the Hutchinson River Parkway. He's also a composer, playwright, author, producer and TV writer, according to his Web site. Ice-T and Snoop Dogg, whom Worby calls "unrelated brothers," will star in one of his screenplays that begins shooting in the fall.

He came out of semiretirement to file the suit in September 2004.

Initially, his lawsuit got little attention, partly because few took him seriously, including the news media he was courting. But his client list kept growing, largely by word of mouth. Walcott and Volpe, for their part, have referred several people with whom they worked at the World Trade Center site.

Although Worby has only met a couple of hundred of his clients, he now has more than a dozen lawyers working full time on the case and a team of medical consultants. His profile has grown to the point that media and politicians are now seeking him out.

"David Worby has given a voice to 9/11 heroes who would otherwise be suffering in silence," said U.S. Rep. Carolyn Maloney, D-N.Y., who has met Worby to discuss his suit and her fight for a greater government response to the health concerns. "Because our government has basically abandoned these workers, advocates like Mr. Worby have had to intervene on their behalf."

This month, he's sat down with everyone from The New York Times to "60 Minutes," declaring that 57 of his clients have already died from 9/11 causes, including two this week.

"I predicted two years ago that I would have hundreds of people dying and nobody listened," he said. "I have 300 people dying of cancer in the next few months. We're just now entering the latency period for these toxins."

But as with most of the sickness and deaths, he won't disclose names or evidence linking the illnesses to 9/11, citing privacy concerns. He referred The Journal News to one doctor who is assisting his case, but that person did not return repeated calls.

"All you people in the media are torturing me," Worby said. "You say, 'Give me doctors, give me scientists.' Find your own scientists. Challenge me."

He has no medical degree, though one of his consultants dubbed him a "brown-shoe epidemiologist."

The reality is one of the deaths formally linked to 9/11 recovery work was NYPD Detective James Zadroga of New Jersey, whose autopsy found he died from respiratory failure caused by exposure to toxic dust.

Some experts say the types of cancer Worby's reporting typically wouldn't occur for at least 10 years after exposure but note it could be hastened by the extreme level of toxins at Ground Zero.

"It's a very sad commentary that a lawyer working on his own knows more about the health of people who were exposed to 9/11 hazards than the government, which has a responsibility to protect the public health," said Jonathan Bennett, spokesman for the New York Committee for Occupational Safety and Health.

The federal government did set up a health registry in 2003 for lower Manhattan residents, workers and rescue personnel. But while 71,000 people participated, the program has come under fire because it gave no medical testing, care or referrals.

Under one federal program, Mount Sinai Medical Center in New York City has screened about 16,000 World Trade Center responders and treated 1,800 people, though the treatment has a 16-week wait list.

Dr. Robin Herbert, the program's co-director, said "at least a few" of them have developed cancer, although doctors haven't studied whether they're linked to Sept. 11.

"We are not near the point where we can say anything scientific about the cancer rates among our population," Herbert said.

"The programs we're operating were not funded to specifically track nor identify deaths among WTC responders," she added.

She refused to comment on the suit but said screeners at Mount Sinai have been "badly surprised by the persistence of our patients' WTC-related illnesses."

"We do know there were various cancer-causing agents in the environment, and I think there is certainly reason to be concerned and to watch this group very carefully," she said.

Worby has not declared how much money his suit will seek but said that his priority is getting the government to address the crisis facing his clients and others.

"This is a mission, this is not a case," he said. "I've never seen anything like this in my life. It has nothing to do with being a lawyer. It has everything to do with understanding the medical catastrophe and helping people."