

Federal judge OKs new settlement offer in 9/11 toxic-dust case

NEW YORK — A federal judge signed off on a legal settlement Thursday that could pay as much as \$713 million to 9/11 responders exposed to World Trade Center dust, and immediately urged thousands of police, firefighters and construction workers to take the deal.

U.S. District Judge Alvin Hellerstein gave his enthusiastic endorsement to the proposed package just three months after sternly rejecting an earlier plan that would have put less money into the hands of Ground Zero workers who got sick after breathing the toxic ash.

James Nolan, a carpenter from Yonkers who suffers from breathing and leg ailments from his two years at Ground Zero, had been satisfied with the first settlement. But he thanked the judge for his intervention that will provide even more for stricken workers, particularly those from the building trades.

"We went down there because the city was hurting and the country needed us, and they said the air was clean, but it wasn't," said Nolan, 45, a husband and father of four boys who still takes steroids for his lungs and several other medications. "This is what I live with every day. I don't know what will happen to me, but I can be comfortable for (my family)."

Hellerstein said months of nonstop negotiations had produced a pact capable of ending the 7-year-old case, which pitted New York City officials against thousands of men and women hailed as heroes for their service at the World Trade Center.

The new proposal would add \$125 million to the pot, and include bigger payments for people diagnosed with cancer, an illness that hasn't yet been linked to the dust but is perhaps the most feared among the workers.

"This is a very good deal. I am very excited about this deal," Hellerstein said. "There are 10,000 people out there, and I hope 100 percent come into it."

The settlement's success is still highly in doubt.

Under the terms of the agreement, 95 percent of the 10,000 workers in the case must opt in, and they must choose quickly. Once the details are spelled out at a hearing this month, they will have only 90 days to decide.

Some 9/11 responders had complained the original agreement contained far too little money and said they would hold out or hope Congress would intervene with a richer compensation bill, including one that could be considered in the summer.

John Feal, of the Long Island-based 9/11 victims' group, the FealGood Foundation, praised the improved compensation but said it does too little for the sickest responders.

Hellerstein warned potential holdouts they were risking prolonging the case for years, and might wind up with nothing if they couldn't prove their illnesses were linked to trade center dust.

More than 9,000 of the plaintiffs are represented by Worby, Groner, Edelman & Napoli, Bern, formed from two firms that joined together for the case. White Plains lawyer David Worby said turning down the settlement would be risky because the health claims could be difficult to prove at trial.

"When our people hear the details, they will learn there is no place they can do any better," Worby said.

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In March, Hellerstein rejected the initial settlement, partly because he said it was too stingy for the most seriously ill responders and too rich for their lawyers. That deal would have paid between \$575 million to \$657 million, depending on how many people opted in, with about a third going to legal fees.

The new proposal would pay at least \$625 million and as much as \$712.5 million if nearly every worker joins, and the lawyers would get less.

Attorneys representing the responders agreed to cut their fees to 25 percent from 33 percent of the award. That is worth about \$50 million.

That will still mean up to \$175 million for the plaintiff's law firms, which Worby said devoted seven years working full time on the case.

The special insurance fund set up by Congress to defend the city and compensate dust victims also agreed to kick in an addition \$50 million to \$55 million.

Individual payments under the settlement would range from \$3,250, for people who aren't sick but worry they could fall ill in the future, to as much as \$1.5 million to people who have died.

Nonsmokers disabled by severe asthma might get \$800,000 and \$1 million.

Mayor Michael Bloomberg in a statement called the deal a "fair settlement of a difficult and complex case that will allow first responders and workers to be fairly compensated for injuries suffered following their work at Ground Zero."

Associated press writers David Caruso and Tom Hays and staff writer Jonathan Bandler contributed to this report.

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