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Ferry crash victims' anguish lingers



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Four years after the Barberi accident, legal wrangling keeps many from compensation

By SALLY GOLDENBERG and MAURA YATES
STATEN ISLAND ADVANCE

They asked the city for \$1.1 billion to repair their fractured limbs, heal their psychological trauma and pay for the financial and emotional loss of their family members.

In turn, they received \$27.6 million — a fraction of the amount that 121 victims of the Staten Island Ferry crash sought in one of the worst mass transit disasters in the city's history.

Tomorrow marks the fourth anniversary of the wreck that killed 11 passengers and injured 72 — some with severed limbs — when the Andrew J. Barberi ferryboat plowed into a concrete maintenance pier near the St. George terminal, slicing open its starboard side.

But for 61 families of those injured and killed on the Barberi, the physical and emotional wounds are still open as they fight to settle their lawsuits while the city appeals a Brooklyn federal judge's February ruling that it cannot rely on an antiquated maritime law that would have capped payments at the book value of the vessel, \$14.4 million.

"Here we are, four years later. A judge has already ruled that the city can't escape liability, they can't escape

responsibility, and they're stretching the life of this case even further by appealing the decision of that federal court judge," said West Brighton attorney Anthony Bisignano, who represents 15 clients affected by the accident.

Nine of the 11 death cases have yet to be settled.

"This entire case probably

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— LAURA POSTIGLIONE,
A SPOKESWOMAN FOR
THE CITY LAW
DEPARTMENT

could have been settled and finished years ago, had it not been for the city being so relentless in attempting to take advantage of this very antiquated statute that wasn't even intended to be used by a municipality," Bisignano said. "When you live with a case like this, it boils your blood to know that it's still going on."

The city Law Department, which handles all claims against the city, defended itself by saying 99 of the 121 claims were resolved within two years of the accident.

"The city has from the beginning sought to settle cases fairly and expeditiously,"

said Laura Postiglione, a spokeswoman for the department. She said the city is committed to settling the remaining cases "on reasonable terms as well."

The largest settlement to date — \$9 million — was awarded to Dongan Hills residents Tina and Wayne Evans last December. Ms. Evans, 41, lost both legs in the crash. The couple was represented by the Mount Vernon, N.Y., law firm of Weisman & Calderon.

Paul Esposito of New Springville, who was 24 years old at the time of the crash, was awarded \$8.9 million in March 2006. He also lost both legs. Esposito was represented by attorney Derek Sells.

The sentences have been served for the ferry captain, Richard Smith; former ferry director Patrick Ryan, and Westerleigh doctor William Tursi, who falsely signed off on medical forms that Smith used to renew his pilot's license. Former ferry Port Captain John Mauldin was sentenced to two years probation in April 2006.

But for the families still coping with the loss of a loved one, the time has flown in some ways and dragged on in others.

"I can't believe it's four years already," said Tara Canini of Annadale, whose father, Pio, 52, was returning home on the Barberi from his job as a carpenter in Manhattan.

"Nothing has changed as far as our grieving process, or as far as missing him," she said. "We cry, we think about him, we go visit the cemetery often. We go through pictures. His



STATEN ISLAND ADVANCE FILE PHOTO

Littered with debris, life preservers and discarded medical supplies, the main deck of the Andrew J. Barberi ferryboat was devastated in the Oct. 15, 2003, crash.

memory is very much alive," she said.

But as the appeal process continues, there is no closure, and the legal wrangling has been "insensitive," Ms. Canini said.

"The city did this to themselves by not enforcing the rules and procedures and now they're just keeping it this way so the city doesn't go into any more debt," she said of the limited liability.

In early 2004, Westerleigh attorney John G. O'Leary filed a notice of claim with the city Law Department on behalf of the Canini family, announcing an intention to sue the city for \$175 million in negligence.

"Obviously, no amount of money is going to fix the situation," she said. "You can't put a dollar amount on somebody's life. You just can't."

But while she said she tries not to think about the lawsuit, she feels for the families of many of the other victims, who had young children who need financial support that could be provided through the legal settlements.

Those who survived, too, continue to struggle with the lingering reminders of the tragedy, and the frustration of the unfinished legal business.

Joseph LaBarbara of Annadale was out of work for a year, while undergoing two knee surgeries to repair a torn ligament suffered when he instinctively ran for cover when the boat crashed.

He always sat on the top deck of the ferry out of habit, he explained, because he thought that would be the safest place to be in the event of a terror attack aboard the boat. When the Barberi hit the pier, he thought his worst fears were confirmed.

"I thought the boat was bombed," he recalled. He jumped out of his seat and "made this lightning-quick move like a cut on a football field." He twisted his knee in the process and rolled down the ramp to the level below.

One surgery involved the implantation of a cadaver ligament. "It freaks me out, actually," he said.

"The city should be

ashamed of themselves," he said of the legal holdup. "They should admit to being wrong."

But even when his case is finally settled down the road, "they could never pay me enough money to have my knee back again," he said.

He had been on his way home from his job as a plumber for the city's Administration for Children's Services on that day. Now, unable to kneel, he's back at work, doing paperwork for plumbing inspections.

He can no longer jog, or enjoy tennis or golf the way he used to. He also can't bring himself to take the ferry.

The 48-year-old single dad said he drives to work these days, which is much more expensive, but worth it for peace of mind.

"Now I wouldn't go near the boat anymore," LaBarbara said. "It scares me."

Maura Yates and Sally Goldenberg are news reporters for the Advance. They may be reached at myates@siadvance.com and goldenberg@siadvance.com.