

**Dragon, Karen E. (CDC/NIOSH/EID)**

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**From:** Troy Rosasco [tgrosasco@nydisabilitylaw.com]  
**Sent:** Friday, April 29, 2011 4:33 PM  
**To:** NIOSH Docket Office (CDC)  
**Subject:** Docket # 226, Zadroga 9/11 Act Comments Re: Cancer from Turley Hansen & Partners  
**Attachments:** Zadroga NIOSH Cancer Comments Turley Hansen.pdf

**Importance:** High

Attached please find the comments with attachments of Turley, Hansen & Partners. Thank you.

**Troy G. Rosasco**



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*A referral of a new client is our greatest compliment. If you know someone in need of our services, please let us know.*

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# TURLEY, HANSEN & PARTNERS



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April 29, 2011

John Howard, MD  
Director, National Institute for Occupational Safety & Health (NIOSH)  
NIOSH Docket Number 226  
NIOSH Docket Office  
Robert A. Taft Laboratories, MS-C34  
4676 Columbia Parkway  
Cincinnati, OH 45226

RE: **Request for Comments Relating to  
Inclusion of Certain Cancers Pursuant to  
Sec. 3312 of the "Zadroga Act" in the  
World Trade Center Health Program**

Dear Dr. Howard:

The lawyers in our firm have been representing 9/11 victims since shortly after the World Trade Center tragedy. Over the course of almost ten years, we have unfortunately represented multiple 9/11 first responders who have contracted various cancers attributable to their exposure to the well known carcinogenic toxins at Ground Zero.

As a result, we have been successful in proving in court, *in adversarial proceedings without any presumptions in favor of the claimant*, that first responders contracted their individual cancers directly as a result of breathing in the toxins at the World Trade Center site. Indeed, in some of our cases, our employer/insurance company adversaries have sent our clients to so called "Independent Medical Exams" (*more accurately described as "Insurance Company Medical Exams"*) where the IME conceded a "causal relationship" between our client's Ground Zero exposure and their particular cancer.

For example, please see the attached IME report of oncologist, Monique Vizel-Schwartz, MD, dated 3/15/2011, concerning one of our 9/11 clients who worked for the NYC Transit Authority and contracted acute myelomonocytic leukemia - AMML. This oncologist, *chosen by a party to the litigation with adverse financial interests to my client*, conceded that "it is my opinion with a reasonable degree of medical certainty that the AMML is causally related to the accident of 10/15/01 and subsequent chronic exposure to toxins and pollutants present at the site of the WTC and known to be leukogenic."

Similarly, attached please find another medical report dated 1/26/2007 on a client who worked for Verizon at Ground Zero and was subsequently diagnosed with nasopharyngeal carcinoma. Iris G. Udasin, MD, Associate Professor and Attending Physician at The World Trade Center Medical Monitoring Program at the University of Medicine & Dentistry of New Jersey, and Board Certified in Occupational Medicine, states that due to the claimant's "extensive exposure to World Trade Center debris"... "this [nasopharyngeal carcinoma] is most likely caused by his exposures that occurred while working at the World Trade Center site." As a result of Dr. Udasin's expert opinion, my client was later awarded both medical and lost wage benefits by a Judge at the New York State Workers' Compensation Board.

The fact that WTC Medical Monitoring and Treatment Program experts themselves believe certain cancers are causally related to Ground Zero exposure should be good enough evidence for NIOSH and the WTC Program Administrator to include certain cancers, well known to be prevalent in the 9/11 first responder community, for treatment purposes given the spirit and remedial purposes of the new Zadroga 9/11 Act.

Thank you for considering our comments on behalf of our extremely sick clients.

Sincerely,

A handwritten signature in black ink, appearing to read "Troy Rosasco", with a stylized flourish extending to the right.

Troy G. Rosasco

**STATE OF NEW YORK - WORKERS' COMPENSATION BOARD  
PRACTITIONER'S REPORT OF INDEPENDENT MEDICAL EXAMINATION**

A copy of each report of Independent Medical Examination shall be submitted on the same day and in the same manner to the Workers' Compensation Board, the insurance carrier or self-insured employer, the claimant's attending physician or other attending practitioner, the claimant's representative, if any, and the claimant.

CHECK ONE:  PHYSICIAN     PODIATRIST     CHIROPRACTOR     PSYCHOLOGIST  
THIS EXAMINATION WAS REQUESTED BY:  CARRIER/EMPLOYER     CLAIMANT

WCB CASE NO.	CARRIER CASE NO. (IF KNOWN)	DATE OF INJURY	INJURED PERSON'S SOCIAL SECURITY NUMBER	DATE OF EXAMINATION
[REDACTED]	[REDACTED]	10/15/2001	000-00-[REDACTED]	3/15/2011
INJURED PERSON	(First Name) (Middle Initial) (Last Name)	ADDRESS (include Apt. No.)		
	[REDACTED]	[REDACTED]		
EMPLOYER	NYCTA	130 Livingston Street 10th Fl. Brooklyn NY 11201		
INSURANCE CARRIER	NYCTA	130 Livingston St 10th Floor Brooklyn, NY 11201		
IF EXAMINER CONDUCTED THIS EXAMINATION AS AN EMPLOYEE OF AN IME COMPANY, OR UNDER CONTRACT OR ARRANGEMENT WITH AN IME COMPANY, STATE NAME AND WORKERS' COMPENSATION BOARD REGISTRATION NUMBER OF IME COMPANY.				
Utopia Claims Concepts, Inc Registration # 010122				

Results of Examination (continue on reverse or attach additional sheets, if necessary)

**PLEASE SEE ATTACHED REPORT OF  
Dr. Monique Vizel-Schwartz, EXAM OF 3/15/2011, OF  
3 PAGES**

I hereby certify that this report is a full and truthful representation of my professional opinion with respect to the claimant's condition.

**Monique Vizel-Schwartz, M.D.**

Practitioner's Name: \_\_\_\_\_ Practitioner's Signature: *[Signature]* Date: 3/15/11  
247 3rd Ave #301 (btw 20th & 21st st) New York, NY 10010 132002-7B  
Practitioner's Address: \_\_\_\_\_ IME Authorization No. \_\_\_\_\_

NO PRACTITIONER EXAMINING OR EVALUATING A CLAIMANT UNDER THE WORKERS' COMPENSATION LAW NOR ANY SUPERVISING AUTHORITY OR PROPRIETOR NOR INSURANCE CARRIER OR EMPLOYER MAY CAUSE, DIRECT OR ENCOURAGE A REPORT TO BE SUBMITTED AS EVIDENCE IN WORKERS' COMPENSATION CLAIM ADJUDICATION WHICH DIFFERS SUBSTANTIALLY FROM THE PROFESSIONAL OPINION OF THE EXAMINING PRACTITIONER. SUCH AN ACTION SHALL BE CONSIDERED WITHIN THE JURISDICTION OF THE WORKER'S COMPENSATION FRAUD INSPECTOR GENERAL AND MAY BE REFERRED AS A FRAUDULENT PRACTICE.

MONIQUE VIZEL-SCHWARTZ M.D.  
247 3<sup>RD</sup> AVE STE #301  
NEW YORK, NY 10010  
Tel.212.228.7645  
Fax.212.228.7646

March 15, 2011

NYCTA  
130 Livingston St, 10th Floor  
Brooklyn, N.Y.11201  
Attr: Marsha Mack

Claimant: [REDACTED]  
Claim #: [REDACTED]  
DOI: 10/15/2001  
WCB #: [REDACTED]

To whom it may concern:

This examination and evaluation is performed at the express request of Utopia Claims Concepts, Inc. solely to evaluate and report on the claimant 'medical status as it relates to the sites of injury involved in the above cited claim. The findings and conclusions in this report relate solely to the sites of injury involved in the above cited claim. The findings and conclusions in this report do not discuss or relate to any other medical condition, illness or sites of injury not involved in the above cited claim.

This independent medical examiner has not provided treatment to the claimant, and no Patient-provider relationship has been established by conducting this independent medical examination in accordance with Section 13-a, 13-k, 13-1 or 13-m of the New York State Workers' Compensation Law. All laws and regulations governing the confidentiality of medical records and Workers' compensation records shall apply to records of the independent medical examination.

I examined the above-captioned claimant in my office on 3/15/11 for an independent Hematology-Oncology Evaluation. The claimant [REDACTED] presented a New York State driver's license for purpose of identification.

The purpose of this independent medical examination is to address causal relationship of acute myelomonocytic leukemia-AMML- with the claimant's work exposure at the WTC following the 9/11/01 event.

Re: [REDACTED]  
March 15, 2011  
Page 2

**History of Accident:**

The claimant gives a history of working for NYC TRANSIT Authority as a bus driver. He drove a bus transporting firemen back and forth from Shea Stadium to WTC from October to December 2001. He had to wait at the WTC for the firemen for 8 hours, staying either outdoors or in a tent. On the trip back from the WTC he was also exposed to all the dust coating the firemen's uniforms.

**Past Medical History:**

The claimant denies any prior disease-There is no family history of cancer nor leukemia. He does not smoke nor drink.

**Medication:**

The claimant is not taking any medications.

**Current Complaints:**

At today's examination, the claimant reports feeling well.

**Occupational History:**

At the time of the accident, the claimant was employed full time by the New York City Transit Authority as a bus driver. He stopped working in June 2006 when he got sick. He was diagnosed Having AMML with trisomy 8 and other chromosomal abnormalities. He was treated with chemotherapy and allogenic bone marrow transplantation at North Shore Hospital, NY. He achieved a complete remission.

**Review of Medical Records:**

- Initial Consultation report dated 8/16/06, Ruthee-Lu Bayer, MD.
- History and Physical form dated 8/16/06.
- Consultation reports dated 9/12/06, 10/12/06, 10/25/06, Ruthee-Lu Bayer, MD.
- Admit Notes dated 11/8/06 and 2/14/07, Ruthee-Lu Bayer, MD.
- Bellevue Hospital Center, 724-WTC Medicine Ambcare Note dated 5/7/08, Page 1 of 2, Emily Tonorezos.
- Bellevue Hospital Center, 724-WTC Medicine Ambcare Note dated 7/8/08, Emily Tonorezos, MD.
- Outpatient Office Visit notes dated 12/3/08, 11/3/09, 8/25/10.
- Note dated 12/21/10, Ruthee-Lu Bayer, MD.
- Print-out from Wikipedia pertaining to an article in the "Village Voice".
- "Village Voice" article entitled "Death by Dust".

**Physical Examination:**

The claimant is a 50 year-old male who presents today for examination. Height: 69 inches Weight: 165 . The physical examination was unremarkable.

**Diagnosis:**

1. AMML in remission.

Re: [REDACTED]  
March 15, 2011  
Page 3

**Conclusion:**

The claimant was treated for AMML in 2006/07 and achieved a complete remission. Based on the review of medical records, my examination and assuming the history is correct, it is my opinion with a reasonable degree of medical certainty that the AMML is casually related to the accident of 10/15/01 and subsequent chronic exposure to toxins and pollutants present at the site of the WTC and known to be leukogenic.

I am available for testimony by appointment.

Sincerely yours,

  
Monique Vizel-Schwartz, MD.

[Go back to previous page](#)

## Monique Vizel-Schwartz

Office Locations:

NYS License Number: 132002  
 Date of NYS Licensure: 08-26-1977

### Medical School

Graduated from UNIVERSITY LIBRE DE BRUXELLES, FAC DE MED ET DE PHARM, BRUXELLES, 1973

**Note:** This information cannot be used by healthcare organizations to meet their credentialing requirements as set forth by accrediting bodies such as the Joint Commission or National Committee for Quality Assurance (NCQA).

### Graduate Medical Education

Sponsor	Completion Date	Specialty
NY MED COLL/MET HOSP CTR	06-30-1979	INTERNAL MEDICINE
NY & PRESBY HP-COLUMBIA CAMPUS	06-30-1977	INTERNAL MEDICINE
INTERFAITH MED CTR	06-30-1976	INTERNAL MEDICINE

**Note:** This information cannot be used by healthcare organizations to meet their credentialing requirements as set forth by accrediting bodies such as the Joint Commission or National Committee for Quality Assurance (NCQA).

### Board Certifications

Name of Board	Specialty/Subspecialty	Certification Date	Expiration Date
*AM BRD OF INTERNAL MEDICINE		09-13-1978	
*AM BRD OF INTERNAL MEDICINE	Medical Oncology	11-10-1981	
*AM BRD OF INTERNAL MEDICINE	Hematology	06-17-1980	

**1. Note:** The state of New York recognizes the specialty boards that are members or components of the ABMS, AOA or RCPSC. Certification by member boards or components of these umbrella organizations is the responsibility of the member organization.

**2. Note:** For certification dates, a default value of "01" appears in the month field if the specific month was not provided by ABMS.

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### Professional Memberships (Optional)

The physician did not supply this information





**The World Trade Center Medical Monitoring Program**  
Clinical Center at University of Medicine and Dentistry of New Jersey  
Environmental & Occupational Health Science Institute  
170 Frelinghuysen Road, Piscataway, New Jersey, Tel. 732-445-0123 / Fax. 732-445-0173

January 26, 2007

RE: [REDACTED]

To Whom It May Concern:

Please be advised that Mr. [REDACTED] is a patient of mine in the World Trade Center Medical Monitoring Treatment Program. He is employed by Verizon as a technician and has extensive exposure to World Trade Center debris, as part of his employment. He is currently being treated for a nasopharyngeal carcinoma. I believe that this is most likely caused by his exposures that occurred while working at the World Trade Center site.

Sincerely,

Iris G. Udasin, MD  
Associate Professor – Attending Physician

IGU: mp