

Why does this page look this way?

It appears that your Web browser can not find this page's style and presentation information. You are welcome to use the page as is or, for the best experience, upgrade your browser to its latest version by visiting your browser's Web site or [NYTimes.com's download page](#).

Books

The New York Times

[Next Article in Books \(1 of 34\) >](#)

[Skip to article](#)

[NYTimes.com](#)

[Go to a Section](#)

Welcome, [cgreek](#) - [Member Center](#) - [Log Out](#) - [Help](#)

Open an account and get 20 free trades >



Site Search:

[Books Home](#)

[Sunday Book Review](#)

[Best-Seller Lists](#)

[First Chapters](#)

[Columns](#)

Books of The Times | 'What Is Life Worth?'

Calculating the Incalculable in the Aftermath of Sept. 11

- [E-Mail This](#)
- [Printer-Friendly](#)

ARTICLE TOOLS
SPONSORED BY

KINSEY
NOW AVAILABLE ON DVD

By [WILLIAM GRIMES](#)

Published: June 15, 2005

Less than three months after the World Trade Center collapsed, a Washington lawyer, Kenneth R. Feinberg, was handed a highly unusual job. In an effort to prop up the airline industry, Congress had passed the Air Transportation Safety and System Stabilization Act. Along with loan guarantees, the new law called for a special fund to compensate victims of the 9/11 attacks. The amount of the compensation, and who qualified for it, would be decided by an all-powerful official known in legal language as a special master. Mr. Feinberg, a mediator best known for resolving the Agent Orange class-action suit, got the nod.

In "What Is Life Worth?" Mr. Feinberg offers a valuable first-person account of the 9/11 compensation fund and

its workings. He makes clear, for the first time, exactly how peculiar the law governing the fund was, and the enormous difficulties, ethical and practical, that resulted from its ambiguous language and hastily written guidelines.

"Never before had a government offered individuals millions of dollars in tax-free compensation for a tragic loss," Mr. Feinberg writes. "And never before had government funds been so unregulated. There was no earmarked congressional appropriation limiting the size of awards or constraining my discretion. My budget was unlimited; the payouts would be determined only by my personal judgment and experience." In the end, Mr. Feinberg would award more than \$7 billion to 5,560 victims and family members.

The compensation fund was a strange blend of compassion and cold calculation. Washington's lawmakers wanted to express, in dollars, the nation's sense of outrage and grief. Thousands of innocent people had died on the front lines of a new war.

But the government also wanted to head off an onslaught of personal injury lawsuits that could throw the airline industry into turmoil. The compensation fund was a giant bet, with public money, that most victims would forfeit their right to sue, and avoid the uncertainties of a court case, if offered the certainty of a reasonable award. It was up to Mr. Feinberg to make the bet pay off.

It was not easy. Legal precedent offered little help because, as the book's subtitle suggests, there had never been anything quite like the 9/11 fund. Mr. Feinberg, in casting about for useful guideposts, consulted the Bible. At one point he talked things over with a prominent rabbi, who offered sage counsel: sometimes life offers no easy answers.

The wording of the statute put Mr. Feinberg in an ethically difficult position. By law, he was required to calibrate awards according to the financial worth of the deceased victim. Unavoidably, the special master, in carrying out the law, would appear to be making morally repugnant distinctions, telling the wife of a fireman, for example, that her husband was worth less than a stockbroker.

Mr. Feinberg created his own ethical difficulties, too. The fund, in his mind, should be "compassionate and generous but not profligate." Only those victims who received hospital treatment within 72 hours of the Sept. 11 attacks, and who received their injuries in the vicinity of the World Trade Center or the Pentagon, could apply for compensation. "If we permitted Jersey City residents who inhaled the dust and debris to be eligible, we could anticipate millions of additional cases," Mr. Feinberg writes.

Spouses and children, but not parents, would be eligible for compensation. No money would be awarded for mental injury or emotional trauma. This, Mr. Feinberg says, was a tough call but a necessary one to head off a run on the United States Treasury. "I envisioned five million New Yorkers filing claims, as well as the millions of additional Americans and foreigners who watched the disaster unfold on television," he writes. Heroism, even when well documented, would not entitle anyone to extra money. "My goal was to minimize distinctions among claimants, not maximize them," Mr. Feinberg explains. "Heroism by all was presumed."

Not surprisingly, Mr. Feinberg took a lot of heat (especially in New York), even though he accepted no pay for

his work. Outraged family members attacked him in public meetings. "I spit on you and your children," a fireman's widow shouted at him at one meeting. Some accused him of administering a program of hush-money payments. The fund, in this view, was intended to head off lawsuits that might lead to embarrassing revelations about the government's failure to anticipate 9/11. A class-action lawsuit was filed by families of employees at Cantor Fitzgerald accusing Mr. Feinberg of arbitrarily shortchanging high-income victims. The suit was dismissed.

Mr. Feinberg took the high road. The most engaging, emotionally rewarding pages in "What Is Life Worth?" describe his grueling efforts to make the seemingly inscrutable, arbitrary compensation process transparent and accessible by holding endless public meetings around the country and arranging private meetings, sometimes as many as a dozen a day, with victims and their families.

Mr. Feinberg confesses that he was unprepared for the emotional experience of counseling angry or grieving relatives. Often he was thrust into bitter family squabbles. In the early days of administering the fund, he addressed audiences in a lawyerly, just-the-facts style that struck many listeners, he writes, as "brusque and callous."

With time, he relied more on his powers of sympathy. Mostly, he listened, and he has included moving accounts of the stories he heard. He explained and he encouraged, and gradually, he won the day. Thanks to a last-minute flood of applications, the 9/11 fund, which seemed to be teetering on the edge of failure, attracted 97 percent of those eligible for compensation.

That does not make it a good idea. "Despite its success, I would not use the fund as a model in the event of future attacks," Mr. Feinberg concludes. The 9/11 attacks were a special case, he argues. It is bad public policy to hold out the promise that the government will compensate citizens for misfortunes - to act, as he puts it, "as an insurer of last resort." If Congress decides to hand out awards in the event of a terrorist attack, however, it should make the same payment to everyone, regardless of economic worth. Compassion is wonderful. But egalitarianism is, too.

[Next Article in Books \(1 of 34\) >](#)

[**Home Delivery of The Times from \\$2.90/week - Act Now!**](#)

Related Articles

- [After a Long Wait, Literary Novelists Address 9/11](#) (March 7, 2005) \$
- [Arts, Briefly; Al Qaeda Anthology](#) (January 24, 2005)
- [Ian McEwan Hints at a Coming Novel](#) (December 6, 2004) \$
- [Arts, Briefly](#) (November 15, 2004) \$

Inside NYTimes.com



Debating Restaurant Week



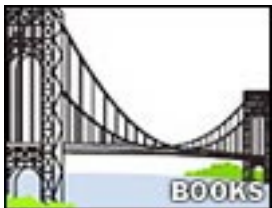
Al Franken for Senator?



Rusty Railroad to Pristine Park



Staging a Celebrity Comeback



A Literary Map of Manhattan

Advertisement

Most E-Mailed Articles *The New York Times*

[Past 24 Hours](#) | [Past 7 Days](#)

1. [Nicholas D. Kristof: Raped, Kidnapped and Silenced](#)
2. [Next Generation of Conservatives \(By the Dormful\)](#)
3. [Snake Phobias, Moodiness and a Battle in Psychiatry](#)
4. [Finding Nirvana on Two Wheels](#)
5. [A Rebel in Japan Eyes Status in America](#)

[Go to Complete List](#)

1. [Less Cursing, Better Pictures: 10 Suggestions](#)
2. [Paul Krugman: Losing Our Country](#)
3. [Skin Deep: Psst! This Stuff Keeps You Young, but It's Illegal](#)
4. [Thomas L. Friedman: Behind Every Grad...](#)
5. [Frank Rich: Don't Follow the Money](#)

[Go to Complete List](#)

Real Estate
nytimes.com/realestate

Affordable
LIVING

Affordable
LIVING



[Where can you find cheap apartments in NYC?](#)

Also in Real Estate:

- [→ Apartments under \\$1,200 a month in Manhattan](#)
- [→ Apartments under \\$1,200 a month in Queens](#)
- [→ Apartments under \\$1,200 a month in Brooklyn](#)

The New York Times STORE



Photo: Ashen Tea Set, 2001

[Price: \\$195. Learn More.](#)

Advertisements

- [**VONAGE**](#)

[Save big on your phone bill with VONAGE broadband phone service!](#)

www.vonage.com

[Copyright 2005 The New York Times Company](#) [Home](#) [Privacy Policy](#) [Search](#) [Corrections](#) [XML](#) [Help](#) [Contact Us](#)
[Work for Us](#) [Back to Top](#)