

# TO NEW YORK'S NON-UNION CONSTRUCTION WORKERS

**WHAT TO DO IF YOU'VE BEEN INJURED ON THE JOB**



# Danger and Communication in the Construction Workplace

Accidents on a construction site can involve anything from a strained muscle to permanent disability to the death of a worker. It is not surprising. There is a lot of loose dirt around, many powered tools and machines, wires, pipes and a number of workers doing many different jobs, some at precarious heights. That is probably why Construction Work is listed as one of the most dangerous in all the occupations tracked by the U.S. Bureau of Labor Statistics. This is a very hazardous profession. Despite safeguards and detailed instructions from supervisors, workers can be unaware of the dangers at specific sites and using various tools.

## What should I do if I am injured in a construction accident?

If you survived the accident, you may have a temporary or permanent disability that will keep you from returning to work and earning wages for weeks, months or years. Your priority is to get the treatments, surgery and therapy your doctor recommends to help you get well and back to work and your life if possible. This means seeking and obtaining all necessary medical attention, usually through your employer's Workers Compensation Program. There is a protocol to follow to get Workers Compensation to pay for doctor visits, treatments and for replacement of your wages while you recover from your disability.

Your next priority is to protect yourself, your family or your loved ones by making sure that all your medical bills, lost wages and expenses that are not covered by Workers Compensation are paid for by any other parties that may have caused your accident to occur.

As soon as your health is stabilized, turn your attention to getting legal assistance to **protect your rights and secure financial support** from the company or individuals that are **responsible for your injuries**. Aside from your employer, what other companies or individuals contributed to your disability? Were you using faulty equipment, such as machinery, trucks or vehicles provided to you? Were you exposed to caustic or poisonous substances? Were outside contractors or tradesmen on the job that contributed to your injuries? If so, you may seek compensation from them and their companies as well.

If you are an undocumented worker, you are still covered by the law; however, you may have other concerns regarding your residency in the States that may make you fearful of filing a claim. If you have been seriously injured or disabled, you will need money to pay your medical bills and take care of your family. **Seek out a labor law attorney** who specializes in working with immigrants. They will have bilingual attorneys to make it easier for you to discuss your case.

## Who is required to protect workers?

The New York State Labor Laws are clear on this point – it is the owners, the general contractors, or their agents who are responsible for their workers. The logic here is that oftentimes the laborers are not able to properly protect themselves. It is not the worker's responsibility to provide safety equipment and learn how to use it on their own. This requirement falls to the owner and general contractor only if they have the authority to control those hazards that may injure the workers. Most construction companies have many worker-safety safeguards and policies in place as required by state and federal laws.

## **Here are the applicable New York State Labor Laws:**

§200 – This section outlines the responsibilities of the owner or general contractor to use reasonable care and to give their workers a safe place to perform their job.

§240 – Has to do with the work that is being conducted at heights, either inside or outside the building. It also deals with objects that fall because they were incorrectly lifted or from the failure to use proper safety devices involving elevations. These activities or accidents must involve:

- demolition being conducted at a height
- changing the structure of a building above ground
- repairing a machine when raised
- cleaning the building or structure, only if it is involved with a renovation or a repair at an elevation

In other words, normal cleaning is not covered by this law.

§241(6) – This statute specifically sets out the circumstances where the owner and contractor have duties to their workers. It states that the work must involve “construction, excavation or demolition work.” It also says this work must be conducted so that it is constructed, stored, equipped, guarded, arranged, operated and conducted” to provide reasonable and adequate protection and safety to the persons working there or properly in that area. Lastly, the law points out that the worker or the general contractor must have been hired to do the construction work on the building.

Examples of the requirements of the owner / contractor are that the work area should be safe from sharp projections and scattered items, proper lighting must be provided in the work areas, shafts should be properly secured, and walkways have to be free of tools, garbage, and debris. There are many situations that are covered by the safety regulations, so you should speak to an attorney to discuss your situation to find out if they can help you get the financial support you need to recover and protect your rights.

Note: The law requires that the injured be able to prove that he was employed to work on the building or structure. This work must also consist of the alteration, repair, erection, maintenance, or painting involving the structure or the building.

## **Who enforces the worker safety laws?**

**The Occupational Safety and Health Administration (OSHA) and NY State Inspectors**

OSHA is a United States federal agency that is responsible “to assure safe and healthful working conditions for working men and women by setting and enforcing standards . . .,” according to their mission statement. The New York State Inspectors are charged with visiting work sites to see that the safety measures are in place. Every construction company owner knows the rules exist and that they should have safety standards in place whether they get a visit from an inspector or not.

Their goals of protecting all workers are often set back by the realities of the work place. OSHA is able to inspect only a small percentage of the construction sites around the country. This makes it difficult for OSHA to enforce the laws. Because of this, you must take control of your fate and obtain the specialized help that you need.

## **What is Federal Whistleblower Protection?**

OSHA enforces a set of twenty-two federal laws that protect workers who report safety concerns or injuries that were suffered by a worker. These laws prohibit the employer from demoting, reducing hours, firing, disciplining, or denying benefits to a worker who reported a safety violation or an injury.

The Whistleblower law is quite broad in that it also prohibits an employer from threatening, intimidating, or harassing such a worker. This does not mean that these things will not occur. You will have to prove, with the help of an attorney, that your employer was violating a law. Until then, your employer make take actions against you.

Timing is important if you want to protect yourself against a prohibited act by an employer, such as the listed types of discrimination or failing to protect workers. You must report the violation to OSHA directly within 30 days of when the misconduct by the employer took place. Individual states have their own Whistle Blower laws. Be prepared if you are going to turn in your employer. Have proof and report the problem within the statute of limitations of the state and federal agencies.

## **What types of situations allow me to file a lawsuit for compensation for my injuries?**

An injury that you received from the fault, carelessness, or neglect from another person or an entity, such as a company or a city, that caused the injury would allow you to file a claim.

## **What types of injuries are caused by the negligence of others at a construction site?**

There are many ways a worker can get injured on the job, and many are due to the negligence of others. **Here are the most common examples:**

### ➤ **Building Collapse**

A sudden and unintended building collapse could result in many injuries because workers could be in or around the building and could be injured from falling materials inside or outside the structure. Since they would not be prepared for such an accident, there would probably be no safety equipment in place. Any such collapse would likely be the result of a failure of architects, engineers or with the construction work. You should seek the assistance of an attorney if you were injured or disabled in such a catastrophic incident.

### ➤ **Crane Accidents**

Cranes are a highly specialized piece of equipment that carries with it many risks. It takes a highly trained operator to guide a crane into position and use it safely. Workers can get hurt if it should topple down as the result of the improper setup, or from high winds, lightning, or from the moving a load which was too heavy or improperly secured.

- **Crushing Accidents**

The danger of a crushing accident is never far away. It could be from a trench or hole collapsing, something heavy falling from a height, or from a piece of moving machinery that collides with a person. Even when away from buildings, such as on or near highways, many moving vehicles pose a severe threat. Motorists may ignore low speed limits and the construction workers' directions in controlling the movement of vehicles on or off the road.
- **Cutting Accidents**

This activity takes place on all construction sites. It might be cutting pipe, shaping tile, modifying concrete, sizing glass, or altering plastic. There is always a risk from the material itself or from the tool being used to cut the stock. This risk could be to the person performing the cutting action, a helper that is in close proximity, or a bystander.
- **Dumpster Accidents**

Moving a dumpster is potentially dangerous because it's such a large, heavy, bulky container. It could slide sideways suddenly or fall off of the truck or forklift that is being used to move it.
- **Electrocution Accidents**

Because it is necessary for running machines and equipment, as well as having electrical lines in any structure, the danger of electrocution is never ever present. Workers can come in contact with an exposed live wire or the accidental severing of a live wire. For workers performing jobs at heights, it becomes even more hazardous when overhead power lines are very close. OSHA has formulated many rules when dealing with electricity.
- **Elevator Accidents**

If an elevator is not properly serviced and maintained, an accident could occur to the maintenance people or the occupants. Sudden stops and starts, opening not level to the floor and doors that close on the riders can cause serious injuries.
- **Falls or Slipping Accidents**

This is one of the most common injuries at a construction site. Construction sites can be wet or sandy, have exposed nails or uncovered holes making it is easy to lose your footing. City buildings reach great heights, so a fall will cause severe or fatal injuries.
- **Fires and Explosions**

Many hazardous materials are present that are combustible, for example, glues, gasoline, solvents, propane, and paints may be present. If they are improperly used and stored in an inappropriate manner or place, severe injuries or even a loss of life could occur.
- **Construction Site Hazards and Inadequate Supervision**

A construction site supervisor is supposed to make certain that all the work is being done to the proper OSHA specifications and is being completed in a safe, debris-free environment. Workers should be trained on whatever safety equipment is available to the workers. If these are not present, accidents can occur.
- **Scaffolding Failure**

OSHA standards require that employers thoroughly train everyone that works on a scaffold. Injuries can occur if the training was insufficient or lacking, or if the planks or the supports for the scaffolding are not properly installed.

If you have become injured or disabled in a construction site accident due to noncompliance with safety standards and the negligence of others, seek legal counsel to protect your rights and get financial compensation for you and your family.

## **How should I respond to my employer's insurance company?**

Follow the protocol for Workers Compensation in your state to get the medical attention and partial wages you are entitled to. But if the company you were working for did not have insurance or does not want to file a claim with their insurance company, or if third parties are involved, you may need to contact a labor lawyer to represent you if you are considering a negligence suit against them. If so, do not sign or accept a financial settlement without speaking to an experienced labor law attorney who is working on your behalf. After a traumatic event such as a construction accident, you may be approached by an insurance company representing the negligent party. Do not be fooled into thinking that they will make a reasonable offer and that you should accept it without questions.

The insurance company will not be representing your interests. They are representing the interest of their shareholders and they will do that by holding down any settlement award to the best of their ability. It may seem that accepting an offer is the quick and easy way to go, especially if you need the money quickly, but you will most likely get much less than you would if you had legal counsel investigating your accident and protecting your rights.

## **How soon after the accident should I pursue my case?**

You must pursue your case against your employer **within the Statute of Limitations**. This term means there is a specific time limit on how long you would be able to file a lawsuit. It depends on the type of case you have. Because of this, it is important to contact legal representation as soon as possible, to make certain that you don't give up any of your legal rights and protections because you waited too long.

Many times, evidence is fleeting. It may become contaminated, lost, or never discovered in the first place. Witnesses may move and their memories may fade, **so it is important that you make note of anyone who witnessed the accident and would speak for you**. To prove another party caused your accident, you'll need expert investigators that know where to look to find evidence to support your case...and it should be done right away before inferior or malfunctioning equipment can be removed from the scene.

## **How much money can I get from my case?**

There are so many details involved that determine the outcome of your case. **Some** factors that should be considered include:

- who is at fault – a giant corporation or someone with no assets and no insurance
- the amount of harm – a lacerated arm or brain damage
- current and future medical and rehabilitation expenses
- loss of earnings and future earnings
- loss or change in companionship

- pain and suffering
- how much similar cases have returned as a settlement

After your attorney hears the specifics of your case, he or she may be able to give you a reasonable range of what you could expect for a settlement. This would be based on their range of experience with similar cases and the results obtained from them.

## **How do I pay for legal advice and representation?**

Taking a case through the court system of the United States can be a huge undertaking. Specialized investigators must be paid to locate evidence and witnesses. Depositions must be taken so that the memories of witnesses are recorded. Expert witnesses may need to be called to testify and highly specialized laboratory tests may have to be conducted. The costs are considerable, but our attorneys work on a contingency basis. This means that your attorney firm will put up most of the funds needed to pursue your case, and in return they will collect a set amount from any monetary award that is won on your behalf.

The advantage of this system is that you are able to pursue compensation for your injuries even if you do not have money to layout up front. There's only a fee if your attorney wins compensation for you, and it is a percentage of your award. If the case is lost, you don't have to pay any of the attorney fees and expenses the firm has put forth. They will absorb all those costs.

## **What are the attributes of a good construction injury law attorney?**

- They should have extensive experience in construction injury law.
- They should have sufficient staff that is properly trained to correctly investigate and gather evidence for your case.
- They should have a history of obtaining awards for their clients.
- They should have a caring attitude and true concern about you and your family.
- They should have many good references from satisfied clients.
- The attorneys should have awards and a high rating among their peers to demonstrate their success.
- If you don't speak English, it would be ideal if they have an attorney on staff that speaks your language.

## **What should I do to get compensated for my injuries caused by others?**

You will only have one chance to obtain a fair award. Once your case is settled, you cannot go back a few years from now and ask for a "redo" because your injuries were much worse than you expected, or because the costs of continuing medical care has escalated. You must obtain your best outcome the first and only time. That is why you absolutely must retain the best litigator's right from the beginning.

Don't feel guilty about trying to claim money as the result of someone else's improper or lack of action. The results of your accident may follow you and your family the rest of your lives. A monetary award will not change that; however it could ease a number of your sufferings, such as obtaining the best medical care and stabilizing your financial situation.

To be compensated for your injuries, the law requires you to establish that another person or entity was careless, negligent, or actually caused the harm to you. This can be shown through a variety of means depending on your particular circumstances, but you need experts to sift through and find every piece of supporting evidence to make your case as strong as possible.

When you reach out to an attorney, they or someone at their office should return your call promptly, listen to your explanation of what happened, and ask questions to be sure they understand your specific situation. They may invite you to their office for a consultation, or, if you are badly injured or permanently disabled and still in the hospital or recuperating at home or in a nursing facility, they may come to you.

---

## **Why choose Sinel & Associates?**

It is important for you to be represented by someone who is highly experienced in handling a **large volume** of cases against insurance companies and city agencies, because this will increase your chances of receiving fair compensation for your injuries. We pride ourselves on having the expertise and resources to handle any situation against even the largest of corporations. Suits against the city are often successful once an experienced attorney from our office is retained. Our lawyers are meticulous, intelligent, and aggressive while operating with the highest level of professionalism.

**Sinel & Associates, PLLC**, has an **experienced legal staff**, both capable and accustomed to litigating against insurance companies and municipalities as large as the City of New York. **We have successfully handled countless construction job accident cases** against negligent third parties. We review every page of every medical report, and our reputable team of medical specialists, experts, and nurses will testify on your behalf as necessary to support your case. **This dedication and diligence allows us to achieve superior results for many of our clients.**

There is no fee for a consultation either over the phone or in person. No fees charged unless and until your case is handled successfully and completed, and no charge to the client on any cases that are unsuccessful. Every person who calls our office is important to us, either as a new, current or future client, and we will treat you with the utmost respect and professionalism.

Call **Sinel & Associates** at **212-465-1000** to receive a free consultation about the injuries that you have suffered from an accident on the job.

**We will fight to bring you justice.**

## **SINEL & ASSOCIATES, PLLC**

7 Penn Plaza – 8th Floor  
(31st Street & 7th Avenue)  
New York, NY 10001  
Telephone: **212-465-1000**