

# THE NEW YORK CONSTRUCTION ACCIDENT GUIDE

*3 Tips to Remember if You are  
Ever Injured on a Job Site*

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When a worker falls from a height, serious injuries can result. New York State Labor Law 240 requires that proper safety protection be provided by owners of buildings and general contractors to all workers while they operate at a height. This protection includes harnesses, lifelines, and other equipment designed to

prevent such falls.

Injuries sustained during demolition or excavation, due to a falling object can compromise a worker's ability to earn wages and provide for their family. In New York State, damages consist of several components, the most significant of which are physical damages, physical injuries, pain and suffering, and loss of enjoyment of life. Less clear injuries can include the psychological aspects of injuries. Added to one's physical and psychological damages is an element of special damages that may include loss of wages in the future and the loss of earning capacity. We will aggressively pursue all legal remedies for the worker, including compensation for pain and suffering, lost wages, and medical bills.

## WHAT YOU SHOULD KNOW ABOUT CONSTRUCTION ACCIDENT CASES:

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### *Two Points of Protection for Injured Construction Employees*

Historically, New York State has provided special protections for people who are involved in the construction trade. Our labor law has two specific sections that are very important to us as attorneys and individuals who work in construction.

The first is labor law, section 240 subsection 1. Essentially, the statute says is that if you fall from a height by working in construction or if you are hit by an object that falls from height then the owner of the property and/or general contractor or some other company that may be involved in control of the area are responsible for the injury sustained by the construction worker.

In addition, we have labor law 241, subsection 6. Labor law 241, subsection 6 relies upon the regulations in New York State to determine whether an owner or general contractor is responsible. Essentially in those cases what we do is we look at how the individual was injured if it wasn't from a height. And we'd look to see if they were injured because of a violation of a New York state regulation protecting workers.

If that is the case, then the worker again can be compensated and will be compensated for their injuries. What we often do in those cases is hire experts in the construction to come in and look at the scenario in which the individual was injured to determine whether he was injured because of the violation.



## *Injured from a Fall at a Construction Site*

We get calls from clients who are injured when they fall from a height at a construction site, whether it be from scaffold or from a ladder. Depending on what type of work they're doing, the Strict Liability Statute of Section 240 of the construction law might protect them. The labor law

does apply if people are working at a height, and they are doing more than just cleaning or routine maintenance.

If they're doing structural changes, people working in those fields have a special protection because they're both doing that activity and doing so at an elevation. If the elevation is a cause of the injury or harm, then they fall under the protection of that labor law, Section 240. That can be a great benefit

because the workers who are working at elevations are the most vulnerable and susceptible to injury of most of the labor force.

## *Construction Accident Case Mistakes*

With construction accidents, the most common mistakes relate to trying to identify the contractors and subcontractors that are present on that site.

Often, you'll see the big board out front that lists all the contractors and who the general manager is, and sometimes they have contractors that will come on in a more temporary basis and they won't be on the sign. We need pictures of not only the sign but also of trucks, and any signs on the trucks or uniforms that people are wearing that might identify what the subcontractors are. Especially if they're responsible for contributing to the cause or whatever dangerous condition caused either the fall or the injury.

With these premises cases on construction sites, photographing the area where it happened can be critical because it's often against proper safety standards. These areas are often not safe for workers or passers-by, and those photos can show an insurance company, a jury, or a judge just how dangerous the condition was that caused the injury.

## *What Benefits are Available to a Person Injured in a Construction Accident?*

In New York State, damages are made up of several components, the most obvious of which include physical damage, physical injuries, pain and suffering, and the loss of enjoyment of life experienced by the individual. Less clear damages can include psychological elements of those injuries. For example, when a person can no longer do things they used to do, there's a psychological component to their altered life.



Added to one's physical and psychological damages is an element of special damages which may include loss of wages and the loss of earning capacity.

In addition, some people lose the ability to do certain things they used to do, such as cleaning their home, vacuuming a pool, playing with their kids. This loss of functionality is factored in as an added component.

In those cases, an expert is hired to calculate those damages by determining what the replacement cost of those functions would be. That way, we can make sure the injured person can pay for those special damages in the future.

## *Who is the Responsible Party of a Construction Accident?*

If you're working on the job at a construction site and working at an elevation, and you're injured due to that elevated activity, you could have a personal injury case that is based on strict liability. Meaning you focus on the extent and the nature of the losses and harms, and really can almost bypass the negligence issue if certain factors are in play.

For those people passing by a construction site, the operator, the general contractor, or the subcontractors must act in a manner to prevent passersby from getting injured. If there is falling debris, they must use netting to protect the workers. If they're tearing up certain parts of the ground, they must have it fenced off appropriately with proper signs posted.

## *Making a Claim for a Loved One that Died in a Construction Accident?*

We begin by first setting up an estate to establish an entity that can pursue the claim on behalf of the deceased person. New York State's wrongful death statute of limitations is only two years, so you're well-advised to consult an attorney and have the investigation initiated as soon as possible.

Essentially, your attorney must consider all the general contractors, project developers, or subcontractors who may have contributed to the situation that caused the death. We also begin to gather proof of the economic loss caused by the loss of the deceased person. In New York State that can be an important factor in a wrongful death claim.

If you have been seriously injured due to a construction-related accident in Buffalo or another town in Western New York, it is important to seek legal



representation as soon as possible. Contact our personal injury law office for a *free* consultation. Our team of skilled construction accident attorneys will fight to get the compensation that you deserve.

Our team of experienced personal injury attorneys at Andrews, Bernstein & Maranto, PLLC knows the dangers that construction workers face every day. Too often, profits are put ahead

of safety, resulting in serious personal injuries to construction workers. New York State has laws specifically designed to protect workers who are injured on a construction site. Proper safety protection must be provided by owners of buildings and general contractors for all workers. This includes but is not limited to providing safety devices such as harnesses, preventing dangerous debris from accumulating, and preventing workers from being struck by falling objects. We represent workers injured by many different types of construction accidents.



## *Schedule Your Free Consultation Today*

We are available 24 hours a day, 7 days a week.

Never settle for less, find out what your case is worth!

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