



Construction sites challenge workers in many trades with a daily, dangerous work environment often resulting in serious injury. Attorney Tim Jones brings fifteen years of extensive courtroom experience in representing workers injured from hazardous conditions on job sites to toxic product exposure.



State law, within the Labor Law provisions, provide worker protection by making building owners and general contractors absolutely liable for work site safety in using ladders and scaffolds guarding against injuries from falling objects, construction debris, tripping hazards and floor openings.

Injured workers should realize that, in addition to a Workers' Compensation Claim, a "third-party action" may be available to them for financial recovery for their pain and suffering, if some party, other than your employer, caused the accident. Every construction injury should be analyzed by an attorney to ensure all workers' remedy for injury are made available.

Responding to countless worker inquiries, over the years, our attorneys have compiled "The 21 Most Commonly Asked Questions About Construction Site Accidents."

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1. In New York State, What Statutes Govern Construction Site Accidents?

Construction site accidents are regulated by a set of Labor Law provisions dictating to building owners and contractors the rules of workplace safety for workers on the job. Particularly, Section 200 addresses general workplace safety. Section 240 (1) deals with ladders and scaffolds and Section 241 (6) relates to slipping and tripping accidents in the workplace. For the purposes of this Question and Answer Brochure, these Labor Law provisions will simply be called "the State Law."

2. Historically, Which Trades Have Experienced More Injuries Under These State Laws?

While every worker on a construction job site faces injury risks every day, certain jobs generate higher injury statistics. These include plumbers, pipe fitters, powerhouse workers, carpenters, transit system workers, concrete & foundation laborers, window washers, painters, pointers, tunnel workers, roofers, electricians, iron workers, general laborers, floor installers, bricklayers, sheet metal workers, heating and ventilation installers and others.

3. Generally, Who Is Primarily Responsible To Make The Workplace Safe Under State Law?

The building owner and general contractor are absolutely liable for the safety of every worker at the job site. In other words, the law may hold them 100% responsible if a worker is injured because of an unsafe scaffold or faulty ladder.

4. What Are The Most Common Job Settings Resulting In Construction Site Accidents?

Accidents can occur everywhere. However, State Law expresses particular concern for the safe use of ladders and scaffolds and for guarding against injuries from falling objects, construction debris, floor openings and tripping hazards.

5. Do State Law Protections Cover Only Accidents From Ladders And Scaffolds?

Short answer - No. State Law requires that working and walking areas are free from construction debris and sharp objects that can cause tripping or puncturing. Additionally, regulations exist for proper lighting, securing trenches and floor openings for pipes and vents.

6. What Types Of Sharp Objects And Tripping Hazards Are Covered By The State Law?

Scraps of metal, nails, screws, angles, metal studs, wire mesh, tools and any other sharp objects that can cause tripping or cutting when left unattended in work areas or walkways, are violations of the workplace safety laws.

7. What Are The Safety Procedures For Workplace Lighting?

Because a construction site is active with different trades using different tools and materials, proper lighting is critical in the performance of the tasks and in exposing dangerous areas.

8. If I Am Injured On My Way To Work, Does The State Labor Law Apply?

No. If you are injured driving to work due to the negligence of another driver, or while walking to work you trip causing injury from a broken sidewalk, then your legal action for a financial recovery is found in the standard negligence laws of New York State, not the Labor Law.

9. What Type Of Financial Remedy Is Available To An Injured Worker Under The State Law?

Workplace injuries tend to be serious due to the hazardous nature of the work. Lost wages and benefits can be very substantial when a worker is seriously injured. Therefore, the settlements and jury awards for violations are usually significantly higher than other accident victims to reflect the hazardous activities of the work site environment.

10. What Factors Do Juries Consider In Financially Evaluating A Construction Site Injury?

In an action for recovery, under the State Law, juries consider the severity of your injury, your ability to return to work, lost benefits, present and future pain and suffering, and other factors in calculating a financial award. Some injuries result in multi-million dollar verdicts, while others substantially less. An experienced attorney should evaluate the "totality of circumstances" and the extent of injuries resulting.

11. What Is The Difference Between A Settlement And An Award?

Juries grant financial awards after considering the legal circumstances surrounding a workplace accident in which a worker is injured. Settlements for injured workers are reached through negotiations amongst the attorneys as to an acceptable amount for the injured worker after taking into consideration all of the important issues of time lost, pain and suffering and permanency of the injury. Before any settlement is accepted, the injured party must first approve.

12. Are Elevators And Elevator Shafts Regulated Under State Law?

There is a special statute protecting individuals working in elevator shaft ways, hatchways and stairways of buildings under construction or demolition. Specifically, sound planking, at least two inches, must be laid across the openings not more than two stories above, nor more than one story below the opening.

13. What Is Meant By The term "Statute of Limitations"?

It is a time period established by law, during which your suit must begin. Generally, the time frame is measured from the date of the accident. Courts demand strict compliance with the Statute of Limitations; thus, failure to bring your action timely normally results in the loss of your case.

14. What Is The Statute of Limitations For Construction Site Actions?

In New York State, most personal injury cases have a three-year Statute of Limitations calculated from the date of the accident. However, there are specialized cases with shorter time frames (i.e., medical malpractice, 2½ years; and wrongful death, 2 years). For example, if an accident in the workplace occurred on March 15, 2000, the case must be put into suit by March 15, 2003

15. Do Any Special Requirements Exist When Bringing A Construction Site Suit Against A Municipality?

If you are injured on a city-owned construction site, or city facility, because of a defective ladder, scaffold, tripping hazard, or injured because of an unsafe work practice, then you must file a Notice of Claim within 90 days from the accident. Failure to file a Notice of Claim against the municipality within this time frame usually means your suit will be dismissed. After filing the claim, your legal action must be commenced within one year and ninety days from the accident. For example, if a municipal sanitation truck knocked over a scaffold injuring a worker, the municipality would be a Defendant in the case and the above time periods would apply.

16. Is A Construction Site Injury Award Taxable?

A jury award, or financial settlement monies, for your physical pain and suffering are not taxable. HOWEVER, REIMBURSEMENT FOR LOST WAGES MAY BE TAXABLE AS INCOME.

17. When Does The Workers' Compensation Law Apply To A Construction Site Injury?

The state administrative system limits an employee's recovery to a fixed amount depending upon the severity of the injury applying to accidents caused solely by your employer or a co-worker. The Workers' Compensation Board extensively reviews the severity of your injury and any resulting lost time in granting a financial compensation usually on a weekly basis. Under the Statute of Limitations, a claim must be filed within two years from the date of the injury.

18. Is My Financial Recovery For A Construction Site Injury Always Limited To The Workers' Compensation Payment Schedule?

Not necessarily. Only when the employer's negligence is the sole cause of a worker's injury is the financial compensation limited to the Workers' Compensation amount. Every case where a worker is injured should be carefully evaluated, by an attorney, to determine the cause and financial responsibility to the injured worker. If a party, other than your own employer, is responsible for your accident, a "third party action" may be brought to recover for the pain and suffering experienced.

19. What Should I Do If I Am injured At A Construction Site Or Workplace?

Because a construction site is a constantly-changing environment, it is particularly important to consult with an attorney almost immediately concerning your injury, so that a thorough site investigation may begin, photographs taken and witnesses interviewed. Time is critical to keep conditions as intact as possible and witnesses' memories fresh.

20. How Much Does It Cost To Have A Work Site Injury Case Evaluated?

Our law offices, like others, provide a full and free consultation to review and investigate the facts surrounding an accident and discusses with the injured worker what courses of legal action are most appropriate.

21. What is The Legal Fee To Retain An Attorney For A Construction Site Injury Case?

It is a contingency fee which, simply said, means there is no legal fee unless an award or settlement is obtained for you. If you do recover, then an attorney's fee equal one-third of the award or settlement.

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