

LAW OFFICES OF  
JOHN C. DEARIE  
& ASSOCIATES



ANSWERS TO THE 14 MOST  
COMMONLY ASKED QUESTIONS ON  
JOB SITE ACCIDENTS  
for Utility Workers of Local 1-2

MEMO TO ACTIVE AND RETIRED  
LOCAL 1-2 MEMBERS:

**W**hether repairing high voltage wires after a storm, working near powerhouse furnaces, splicing cables in a manhole, negotiating basement steps for a meter reading — in fact any utility job — means yours is a physically taxing and often dangerous occupation; work site injuries too often occur doing any job task.

You should realize that in addition to a Workers' Compensation claim, a "Third Party Action" may be available to you for financial recovery of your pain and suffering if some party, other than your employer or co-worker, caused the accident. Every construction injury should be analyzed by an attorney to ensure all your remedies for an injury are available.

Our own Attorney Thomas A. Boyle, who is licensed to practice in both New York and New Jersey, has focused his work expertise on Third Party Litigation in the Job Site Accident field. Wherever the accident occurs, Tom leads our firm's "accident response team" by rushing to the site, providing immediate post-accident legal advise with an investigator and, if necessary, translator.



THOMAS A. BOYLE

This Question and Answer Brochure format is the standard style of our firm as we seek to highlight key laws controlling work site injuries, compensation systems, accident sources, legal time periods and other topics. Our hope is that you find this brochure, written in laymen's language, informative.

Among our firm's unique features are our three Mobile Law Offices which can bring an Attorney, support staff and state of the art equipment right to an injured worker's home or neighborhood, saving travel time to one of our permanent offices. Our theme says it all... "Driving Legal Services Right to Your Doorstep...at no extra cost."

For those of you living in the five NYC boroughs, Long Island, Westchester and Rockland Counties, we invite you to watch our weekly cable television legal talk show, hosted by John C. Dearie called "The Common Law," viewed each Monday evening at 7:00 p.m.

1) Can you give some practical examples of possible Utility Worker accidents that may result in a Third Party lawsuit and who would be the Defendant?

Examples of potential Utility Worker Accidents	Workers' Compensation	Potential Third Party Defendants
<b>Example #1:</b> A repair team completing splicing work in a manhole, along a high vehicular traffic volume commercial street, struck by a delivery truck, or pleasure automobile, injuring one or more utility workers.	Yes	Owner of the vehicle, whether a company truck or private car
<b>Example #2:</b> A general utility man working in a powerhouse gets scalded from high pressure water shooting from a malfunctioning pump, or other piece of equipment supplied and maintained by an outside equipment manufacturer.	Yes	Manufacturing company of the defective equipment
<b>Example #3:</b> A utility worker in the New York City Transit System suffers a fractured shoulder when a piece of track slips from a crane being controlled by a Transit Authority Operating Engineer.	Yes	NYC Transit Authority, or whatever entity hired the crane operator
<b>Example #4:</b> While working in a sub-station, a utility worker is injured from a falling ceiling, while renovation work is underway by an outside, independent general contractor.	Yes	General Contractor performing the construction work
<b>Example #5:</b> A meter reader trips on debris and work tools left on the floor, breaking an ankle while entering a commercial garage serving as an access to a downstairs meter.	Yes	Garage owner

2) Does filing a Workers' Compensation Claim prohibit me from bringing a Third Party Lawsuit?

Absolutely not, since every work-related injury is covered under the Workers' Compensation System; however, the financial benefits are limited to medical costs and lost earnings. By contrast, a Third Party suit permits recovery not only for medical expenses, but most importantly, the pain and suffering endured by the injured party.



3) By bringing a Third Party Action, do I sue Consolidated Edison, Keyspan or whomever my employer is?

No. Under New York State Law, an injured worker is prohibited from bringing a lawsuit against his/her employer; therefore, whichever corporate entity is the employer of an injured worker, that party is not a defendant in a Third Party suit brought by an injured employee.

4) What factors does an attorney evaluate in considering a Third Party Lawsuit?

Two general areas are evaluated, namely: injury and liability. On the injury side, careful evaluation is made of past pain and suffering, future pain and suffering, and past and future medical expenses in considering the categories for financial recovery. On the liability portion, the injured party's statement concerning the facts of the accident, plus other records such as emergency room reports, independent witness versions and other statutory support documents are the key factors.

5) In New York State, what Statutes govern job site accidents?

Job site accidents are regulated by a set of Labor Law provisions dictating to property owners and contractors the rules of workplace safety for workers on the job. Section 200 in particular, addresses general workplace safety, Section 241 deals with ladders and scaffolds and Section 241 (6) relates to slipping and tripping accidents in the workplace. In short, New York Law imposes "strict liability" on property owners and contractors, especially for employee injuries resulting from falls from heights of even a few feet.

24 HOUR TOLL FREE

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(1-800-233-2743)

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6) What factors do juries consider when financially evaluating a job site injury?

In action for recovery, jurors 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 result in substantially less. An experienced attorney can evaluate the "totality of circumstances" and the extent of injuries in evaluating a case as a trial approaches.

7) 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 within the Statute of Limitations

8) What is the Statute of Limitations for job site accidents in New York?

In New York, a Third Party lawsuit must begin three years from the date of the accident.

9) Do any special requirements exist when bringing a Third Party lawsuit against a municipality?

Yes. If an injury occurs on a city, state or public agency construction job site, at a public facility or with a public vehicle (i.e. sanitation truck, police cruiser, etc.), due to a defective ladder, scaffold, tripping hazard, or due to an unsafe work practice, then a Notice of Claim must be filed within ninety (90) days of the accident. Failure to file a Notice of Claim against a public entity (city, state, etc.) within this time frame, usually means your suit will be dismissed. After filing the claim, your lawsuit must be commenced within one year and ninety days from the accident. Notice the distinction between filing a suit against a public entity within one year and ninety days, as contrasted to a non-public entity, where there is no Notice of Claim requirement and the suit can be commenced up to three years from the anniversary date of the accident. For example: If a city-owned ambulance plowed into a utility worker crew on a street location, the municipality would be a defendant in the Third Party lawsuit and the shorter time period would apply requiring a Notice of Claim be filed within ninety (90) days of the accident.

10) Is a job site injury award taxable?

A jury award for financial settlement for your physical pain and suffering are not taxable. However, reimbursement for lost wages may be taxable as income.

11) What should I do if I am injured on a job site or workplace?

Because a workplace 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, photos can be taken and witnesses interviewed. Time is critical to keep conditions in tact and witness' memories fresh, especially when dealing with a Third Party lawsuit.



12) How does your Mobile Law Office assist me if I have been injured?

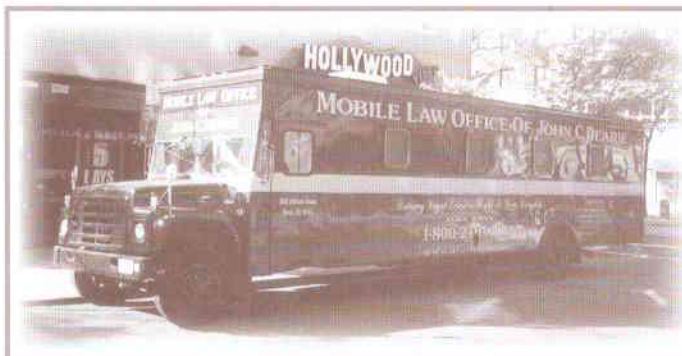
The very basic purpose of our Mobile Office Program is convenience and saving our clients travel-time, particularly those suffering from an injury, by bringing our attorney, support staff and state of the art equipment right to their neighborhood. The Mobile Office Program began by assisting asbestos-exposed workers and many diagnosed with a lung malignancy under chemotherapy or radiation treatment, it has expanded to assist any injured, ill or elderly client whose travel to one of our firm's four permanent law offices would pose a hardship. We are the only law firm in the New York area providing this program to our clients...and we are very pleased to be able to do so.

13) How can the Mobile Law Office Program cover such a wide geographical area?

A good question, and one we sometimes ask ourselves! Reflecting on the success of the Mobile Office Program, we began with one Mobile Law Office in 2001, acquired a second in 2004 and introduced a third Mobile Law Office into service in Fall, 2006. Our clients appear to enjoy this service, so we'll keep driving...right to your doorstep, and adding Mobile Law Offices, as needed.

14) How do I make an appointment for the Mobile Law Office to visit my home?

Simply contact our office on our 24-hour toll free number: 1-800-2 DEARIE (1-800-233-2743), and tell us you want to make a Mobile Law Office appointment. It's as simple as that!



*Driving Legal Services,  
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**AT NO EXTRA COST!**

**IF YOU, A FAMILY MEMBER OR FRIEND HAVE DIFFICULTY TRAVELING TO ONE OF OUR LAW OFFICES, SIMPLY CALL FOR AN APPOINTMENT AND OUR MOBILE LAW OFFICE WILL DRIVE DIRECTLY TO YOUR DOORSTEP.**

**LAW OFFICE LOCATIONS:**

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|--|--|--|--|---|
| <b>Bronx Office</b><br>3265 Johnson Avenue<br>Bronx, New York 10463<br>(718) 543-1100 Fax (718) 543-9630 | <b>Manhattan Office</b><br>515 Madison Avenue, Suite 1118<br>New York, NY 10022<br>(212) 980-0404 Fax (212) 980-9889 | <b>Westchester Office</b><br>571 White Plains Road<br>Eastchester, New York 10709<br>(914) 771-4100 Fax (914) 771-6229 | <b>Long Island Office</b><br>149 Broadway<br>Amityville, New York 11701<br>(631) 598-0404 Fax (631) 598-4781 | <b>Capital District Office</b><br>29 Boyack Road<br>Clifton Park, New York 12065<br>(518) 383-0806 Fax (518) 383-1733 |
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