

# THE COMMON Law

The Newsletter From The  
Law Offices of John C. Dearie



## The Working and Retired Families' Lawyers

### SPRING 2000

3265 Johnson Avenue • Riverdale, NY 10463 • 718.543.1100 or call toll-free at 1.800.2.DEARIE  
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## THE "TIP-OFF"

Dear Friends:

I am proud to introduce you to our firm's new quarterly newsletter – The Common Law. This title reflects our desire to take legalese and translate it into plain English for busy, working and retired families. "Common Law" itself is a historical term used to describe the laws which affected workaday lives. It also reflects who we are at the firm, and whom we have the honor to represent – hard working and retired families – just like mine. I myself am the son of a plumber who died of job-related lung cancer at age 66.

Family-life is the common thread running through everything we do. The law touches us all in different ways at different times, but sooner or later it does touch us all. It affects everyone from children to grandparents. If a father or husband is injured on the job, or has been diagnosed with Asbestosis, every family member will be impacted. Similarly, if a relative passes away, the law will impact all the surviving family. Every stage of life brings new legal responsibilities - buying a home, protecting your children and investments and so on.

Our firm's approach to practicing the law is shirt-sleeved and passionate. We strive to create a bond with our clients built on trust that persists over a lifetime. *Our goal is to make you feel protected, not intimidated, by the law.*

Growing up in the Parkchester neighborhood of the East Bronx, some of my most vivid memories are of my father, Charlie, a plumber with the Local 2 for more than 40 years -- of waiting for him to return home from work when my mother Grace, sister Eileen and I would cover his callused and cracked hands with Vaseline and then a sock to help heal them overnight. And, how very early each day, he left for work with a metal lunch box just after the coffee kettle sounded.

My firm specializes in the type of law that applies to working and retired families. All of my associates are as equally committed to creating a warm and friendly atmosphere as I am. In fact, we too are a sort of extended family ourselves. Simply put ... When you allow us the responsibility to represent you, you become a part of our family, and we become a part of yours.

People's problems have always been my greatest concern. Having spent three years at the United Nations, I was afforded the rewarding chance to travel all over the world. The next two decades were spent in the New York State Legislature as an Assemblyman, having had the honor to represent Bronx families in Albany. Continuing my work on issues which impact working and retired families, I served on the Aging Committee and the Housing Committee. Authoring the Economic Development Zone (EDZ) and the Business Improvement Districts (BID) Legislation which created thousands of new jobs throughout New York State represents a proud accomplishment for me. It has been a logical transition from serving my constituents to serving my firm's clients. SERVICE is, and has always been, the cornerstone of all my efforts.

So, look for The Common Law every quarter. We will work hard to make it informative and to update you on any changes in the law that will affect you and your family. We hope that the New Year will bring you joy and good health, and we are always ready to be of service to you.

Warmest regards,

718.543.1100  
or call toll-free, 24 hours a day at  
1.800.2.DEARIE



John C. Dearie



How fortunate I was to have had the opportunity to attend the University of Notre Dame on a basketball scholarship. As a 6'6" forward, one of the most important lessons I learned was that teamwork gets the job done. And, every member of my firm feels the same way.

**"When you talk to us, we listen. When we represent you, your problems become our problems and your concerns become our concerns."**

*The Dearie Law Firm Philosophy*

## REAL ESTATE



*Sam Morris works with Office Manager, Gloria Salacan, double checking the details of the closing papers for a family's new home. Gloria has been a comforting presence during many family's most anxious day. Sam runs our Real Estate Department. Put Sam's vast knowledge, plus his remarkable negotiating skill, to work for you.*

### MEET "MR. REAL ESTATE"... SAM MORRIS

When Sam Morris started to practice law 59 years ago, Hawaii wasn't a state, the mimeograph was a new invention, WWI was still the only world war and space travel was science fiction.

Since then he has helped thousands, of families purchase or sell first, second and then, even their retirement homes. Putting people into homes, says Sam, is his favorite part of practicing the law.

The friendly, white-haired Bronx native says "I am a people person. 75% of the practice of law is the ability to reach out to people who have concerns and then to reassure them that they are safe to the extent that the law permits."

One of the most anxiety provoking transactions in life is the sale or purchase of a home. "People sew up all their hopes and dreams in their home. It's where they raise their family and live their lives. If I can help

make this important step more comfortable for them, then that's been a good day at work for me," explains Sam.

"It's like having children – putting people in their first home," says Sam. He continues, "I feel responsible for them and I just won't let them make a bad decision. I go over the engineering report with a fine-toothed comb for each client. These reports can be very daunting to a first time buyer. Having reviewed thousands, they don't scare me one bit. I cut through all that technical stuff, getting to the core, to help my client's decide if the pros outweigh the cons. And, then I let them make up their own minds."

Sam, an NYU grad, lives with his wife of 60 years, Lillian. They have three children and five grandchildren. At 83, Sam has no plans to retire anytime soon. He has trained several generations of young lawyers in his area of practice.

## PERSONAL INJURY/MEDICAL MALPRACTICE

Accidents, no matter how careful we are, happen. They can happen anywhere – at work, at home, while traveling, shopping or in school. While there is nowhere that is completely accident-free, when an accident is the result of negligence the injured is entitled to compensation for lost earnings, pain and suffering, medical expenses and in some cases, more.

When injury is the result of Medical Malpractice the law becomes even more complex and the Statute of Limitations becomes shorter. Unraveling the complexities of both the law and medicine require the experience of the well seasoned attorneys at our firm. Therefore, if you believe you have been injured by a doctor, dentist or medical institution it is important to speak with a lawyer immediately.

The goals of the law in the personal injury/medical malpractice field are twofold – they protect the individual and their family against negligence and ensure a safe community by obtaining full financial compensation

for those who have been injured. Additionally, settlements are given so that you can continue to provide for your family even if an accident makes it impossible or difficult for you to continue to work. The area of Personal Injury and Medical Malpractice is complicated, especially when you are facing tough times physically, emotionally and financially.

The New York State Statute of Limitations, the time frame within which a lawsuit must begin after an accident, is vitally important. An individual may have a legitimate and substantial claim that could result in a large monetary award, but all could be lost if the suit is not begun within the time frame allowed. Each type of injury is subjected to different Statutes of Limitations and that is also why it is important to be in touch with a lawyer as soon as possible after you, a family member or friend have been injured.

Consultations in our offices are free and there is no legal fee unless you win a financial settlement or jury award.



*Oscar Holt leads the Personal Injury and Medical Malpractice Department. He brings both concern and compassion to each case he handles. Oscar also is a tenured professor of the Law at St. John's University. Oscar's extensive courtroom litigation experience, combined with his teaching and academic expertise, makes him an extraordinary attorney to have on your side if you suffer a personal injury.*

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# ASBESTOS – CATCHING THE INVISIBLE WORKPLACE THREAT TO ACTIVE AND RETIRED WORKERS



A former Bronx County Assistant District Attorney, Patrick Timmins is the firm's Chief Litigator and runs the Asbestos Litigation Department.

Our firm has developed an active practice helping people who have been injured by years of exposure to Asbestos-based products in the workplace. John's own father, a plumber with over forty years on the job, died of lung cancer, never realizing the dangers at countless work sites where he unknowingly breathed in Asbestos dust every minute.

John's personal family experience triggers the emotional commitment he has to aid a family whose loved one is diagnosed with such an Asbestos-related illness. This strengthens our firm's resolve to assist working and retired people who have been exposed to Asbestos products by making them aware of their rights, as well as providing information about the testing and litigation process in a clear and understandable way.

Geographically-convenient testing programs operate year-round and are available in numerous locations from New York to Florida. An Alternative Testing Program for those who can not make it to Asbestos Testing locations on the day they are scheduled in their neighborhood are also available.

Our firm works with retired and active, union and non-union, workers whose occupation has placed them at the highest risk of exposure (see

Asbestos "Quick Facts"). Everyone at the firm is determined that our clients will never feel alone in their fight.

We are very much aware that responsiveness and communications are a client's greatest concern, and we have a special asset, Linda McNab, our Asbestos Department Coordinator. Linda and her team have been a dynamic force in responding with enormous knowledge to every request for status information on an individual's case, or any inquiry concerning our Asbestos Program. Much of our ability to deal with our cases so effectively is their sincere attention to detail and boundless energy.

You can count on our personal involvement in your case from start to finish. Our consultations about Asbestos-related illness are always free of charge and you will never pay a legal fee unless we get you a settlement. And of course, we have won many sizable, tax-free monetary judgments against manufacturers of the Asbestos products to which you have been exposed in the workplace.

## ASBESTOS "QUICK FACTS"

■ **High Risk Trades:** Carpenters, Laborers, Building Superintendents, Utility Workers, Sheet Metal Workers, Janitors, Fire Fighters, Steam Fitters, Electricians, Iron Workers, Asbestos Removers, Transport Workers, Police Officers and Custodial Engineers.

■ **The Screening Test** consists of a two-view chest X-Ray which is used by a specially trained workplace/occupational Radiologist, known as a "B Reader", to diagnose the medical condition of your lungs. If the test results are positive, a follow-up Pulmonary Function Test, which measures the volume capacity of your lungs, will be necessary.

■ **Duration of Test:** Expect the Asbestos Exposure Test to take about 45 minutes on test day.

■ **Screening Test Information:** Call our toll-free number, 1-800-2-DEARIE, to obtain information on testing sites, dates and times.

■ **Asbestos Exposure:** Doctors indicate that exposure must be over a period of 20 to 25 years from the time of initial contact with Asbestos products to X-Ray detection. Our experience shows that unless the Radiologist is specifically trained to detect workplace-related medical conditions, an Asbestos disease may possibly be overlooked.

■ **Test Results:** Everyone who is tested receives a medical diagnosis of his/her chest X-Ray, whether positive or negative, by mail sent to any address you indicate within six weeks of the test date.

■ **Changes in Medical Condition:** If you are diagnosed with an Asbestos condition, or lung cancer, and your medical condition changes during the course of your lawsuit, it is critical that our office is notified. If you have had extensive Asbestos exposure and your initial screening resulted in a normal diagnosis – and if there are any medical changes, especially in the lungs or respiratory system, we should be immediately notified.

■ **Worker's Compensation:** An individual diagnosed with Asbestosis is strongly advised to file a Worker's Compensation Claim. While our firm does not practice in this field, we can refer you to attorneys who do. This is very important because a Worker's Compensation Claim must be filed within two years of learning of the Asbestosis condition.

■ **Wrongful Death:** If an individual dies during the course of his or her law suit, the legal action can continue as a "wrongful death" claim brought by a spouse or family member with the proceeds going to the Estate of the deceased.

## ASBESTOS SCREENING TEST LOCATIONS 2000

Se Habla Español  
Tests will be available in the following locations (listed alphabetically). For more information on specific test dates and sites, call our Asbestos Department Appointment Coordinator, Harriet Windman toll-free at 1-800-2-Dearie (1-800-233-2743)

Albany NY	Orlando, FLA
Bronx, NY	Palm Beach, FLA
Brooklyn, NY	Palm Coast, FLA
Clearwater, FLA	Queens, NY
East Durham, NY	Rockland County, NY
Ft. Lauderdale, FLA	Saddlebrook, NJ
Ft. Myers, FLA	Sarasota, FLA
Manhattan, NY	South Plainfield, NJ
Melbourne, FLA	Staten Island, NY
Naples, FLA	Suffolk County, NY
Nassau County, NY	Westchester County, NY



Linda McNab is a paralegal who coordinates our Asbestos Department. You will most likely speak with her several times before, after and during the testing process. Her warmth and concern mean a great deal to those coping with Asbestos-related illnesses. Her professionalism has been a great asset to our clients who count on her in so many ways.

### ALTERNATIVE ASBESTOS SCREENING TEST PROGRAM

If you are unable to attend an Asbestos Screening Test in your area, or on the date scheduled, there are other options which include rescheduling an appointment for the next screening in your area, or forwarding a recent chest X-ray to our office for a Radiologist's "B Reader" diagnosis.

For more information, contact Kathy Fadda, Asbestos Litigation Coordinator at our toll-free number **1-800-2-DEARIE (1-800-233-2743)** and she will help to best accommodate your needs.



Robert Reid works with a client reviewing the Probate process. Robert heads the Wills and Estates Department for the firm.

## #1 SYMPTOM OF ASBESTOS DISEASE... SHORTNESS OF BREATH

The number one symptom of Asbestos-related illness is shortness of breath. Just because you are a smoker, you should not assume that it is the cause of your shortness of breath. If you have been employed in any of the high-risk trades, or know that you have been exposed to Asbestos, you should most definitely be tested.

Often, Doctors unfamiliar with Asbestos-related illnesses can diagnose lung cancer, esophageal or respiratory illnesses, or even colon cancer, without considering the medical link to workplace Asbestos exposure.

## OUR OFFICE: *Just a glimpse...*



Visiting us in any of our five Law Offices, you will immediately appreciate the cozy and comfortable decor which underscores our sense of family. Our offices are designed to provide maximum privacy and comfort to our clients. A homey feel is created with mahogany and chandeliers plus John's collection of antique scales.

Whether you come in for a closing, consultation or a negotiation session, you will find the environment relaxing and friendly, designed to make you feel right at home.

## WILLS AND ESTATES

Few people like to think about their own passing or that of a loved one. However, leaving a properly executed Will is the only way to ensure that your final wishes are carried out. If you do not leave a Will, the State of New York will decide, pursuant to the laws of the State, how your assets will be distributed. For a nominal fee, we will prepare your Will and help you to comply with all the formalities so that your Will can have full legal effect.

You can change your Will at anytime during your life and as often as you would like. We are also here to help you understand the complexities of how to distribute the assets you have accumulated during your lifetime.

Whether it is large or small, resolving the Estate of a loved one who has passed away is often a painful and difficult process. Our

experienced attorneys will help you during these hard times with all the interest of a family member.

Some of the many legal questions surviving family members must often cope with include: How do I Probate a Will? What is Probate? What happens if there is no Will? How do we collect insurance proceeds or transfer stocks? How will personal affects be distributed? What sort of estate or inheritance taxes must be paid? Are there pension benefits to be collected and how to distribute family property? We will also help you file any and all necessary legal documents. Our goal is always to hear your needs and help ease the stress of this difficult time. Living Wills, Trusts, and Healthcare Proxies are also part of every day practice in this Department.

## WE'RE A FAMILY...

*The members of our firm are also a family of many generations, spanning more than eight decades, and of many diverse backgrounds.*



*Pictured here are the Dearie Law Firm's Attorneys and Senior Department/Unit Staff (from left to right , seated): Gloria Salacan - Office Manager, Samuel Morris, Esq., John C. Dearie, Esq., Linda McNab - Asbestos Department Coordinator, Oscar Holt, Esq., (from left to right , standing): Thomas Walsh - Chief Investigator, Davita Cook - X-Ray Control Unit Coordinator, Harriet Windman - Asbestos Department Appointments Coordinator, Patrick Timmins, Esq., Jean Marie Idoni - Staff Supervisor and Real Estate Department Coordinator, Laticia Thornton - Senior Personal Injury Paralegal, Robert J. Reid, Esq., Richard M. White, Esq., Jordan Rogers - Settlement Unit Coordinator.*

## QUESTIONS? WE GET QUESTIONS...

*And we're happy to answer them!*

We specialize in the areas of the law which most affect the lives of hard working and retired people. Our Practice focuses on:

- Personal Injury/Medical Malpractice
- Asbestos Exposure
- Real Estate
- Wills and Estates

Over the years, many of our clients have frequently raised the same excellent questions. Here are the answers to some of the most frequently asked questions in each of the areas. If you would like more answers to commonly asked questions, my staff would be glad to provide you with free copies of brochures. (See page 6).

### **REAL ESTATE:**

***Q. Is a Binder legally enforceable on either the Buyer or Seller?***

***A.*** No, it is not a legally enforceable document against either party. It is merely an act of "good faith" on each

party's side expressing an interest to buy or sell real estate.

### **PERSONAL INJURY/MEDICAL MALPRACTICE**

***Q. What is the Statute of Limitations for personal injury actions?***

***A.*** A Statute of Limitations is the time period, set by state law, during which your lawsuit must begin. In New York State, most personal injury cases have a three year Statute of Limitations which is calculated from the actual date of the accident/injury. However, under some special circumstances there are shorter time frames, like for "Medical Malpractice" which is two and a half years, or "Wrongful Death" which is two years.

### **WILLS AND ESTATES**

***Q. What happens if a person dies without making a will?***

***A.*** When an individual does not make a Will during his or her lifetime, it is said that person dies "intestate" –

which means without a Will. This situation results in State Statutes directing how property must be distributed, rather than reflecting the wishes of the individual.

### **ASBESTOS EXPOSURE**

***Q. If a member of my family (husband, wife, daughter, son, etc.) died from an Asbestos related disease can I file a lawsuit?***

***A.*** Yes, the impact of an asbestos disease can be sudden, serious and sometimes fatal. Consequently, the Estate of a victim for this disease can initiate a law suit to recover or collect damages even after that person has passed away. It must be understood that this Estate action for Wrongful Death must begin within two years of the victim's death under the Statute of Limitations in the State of New York.

Visit us at [www.dearielaw.com](http://www.dearielaw.com)

# THE DEARIE LAW FIRM... SEEN AND HEARD

Built on John Dearie's two decades in public office, where communication to constituents, now clients, has always been his trademark, continues today with weekly television and radio programming. We invite you to become a regular viewer and listener!

## IRISH RADIO.COM

*Co-hosted by Adrian Flannelly and John Dearie*

Each Saturday morning, John co-hosts "Irish Radio.com" with Irish-American's most famous broadcaster, Adrian Flannelly, who is currently in his 30th consecutive year of broadcasting. The show, live from 11:00 a.m. to 1:00 p.m., each Saturday, is heard throughout the Irish Radio.com network -- on 1380 AM (WKDM) in the

New York Tri-State Area -- and throughout Ireland, in both audio and visual format, on the Internet. Leading Irish-American Government Officials, entertainers, athletes and community activists, along with lively music, make up the popular show's magazine format. Plan to join us for a marathon eight-hour St. Patrick's Day Broadcast.



*Carroll O'Connor, the legendary Archie Bunker of All In The Family, recently joined John in the studio to discuss his New York City and Irish-American roots.*

## THE COMMON LAW

*Monday nights on Bronx Net Ch. 67 and weekdays at noon.*



*On a recent "The Common Law" show, John Dearie discussed the Effects of Asbestos on the Respiratory System, with Dr. Marshall Kramer, Chief, Thoracic Surgery Department, Our Lady of Mercy Hospital.*

John's weekly cable television show, "The Common Law", tackles one legal subject each show, with informative discussion by prominent Judges, leading attorneys, and experts in the specific field. Some topics on recent shows have included: "Construction Site Accidents", "Buying and Selling Real Estate", "The Value of a Will and the Probate Process", "If I Am In an Automobile

Accident, How Does The No-Fault System Work?", "Slip and Fall Injuries on a City Sidewalk or in a Neighborhood Supermarket", "The Asbestos Litigation Process from X-Ray Screening to Trial". "The Common Law" can be seen in the Bronx on Channel 67, Bronx Net, Monday evenings at 9:30 p.m. and Monday through Friday, at noon.

### LETTERS, WE LOVE LETTERS... YOURS!

We are always glad to hear from you. You can reach us at 718-543-1100, or Toll-Free, 24 hours a day at 1-800-2-DEARIE (1-800-233-3743).

You can also visit us at [www.dearielaw.com](http://www.dearielaw.com), or send an e-mail to [dearielaw@aol.com](mailto:dearielaw@aol.com).

If you are calling with either a question or suggestion, you can count on us getting back to you right away.

## FEEL FREE...

**FREE**

### LEGAL QUESTION BOX

Please feel free to write us your question and our attorneys will respond with your answer immediately, also include your return address.

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Mail to: Law Office of John C. Dearie & Associates, 3265 Johnson Avenue, Rivedale, NY 10463.

✓ Please check box to receive free informational brochure on any of the following topics.

<input type="checkbox"/> Asbestos	<input type="checkbox"/> Wills	<input type="checkbox"/> Estates
<input type="checkbox"/> Real Estate	<input type="checkbox"/> Personal Injury	<input type="checkbox"/> Medical Malpractice

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