

AN INTRO TO

Workers' Compensation

An introductory guide to workers' compensation and understanding your case.

Vincent Falcicchio

- Ginarte, O'Dwyer, Gonzalez, Gallardo, Verchick &
Winograd, L.L.P.-



A Publication of



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INTRODUCTION

Helping People Achieve Justice

Serving Victims in the New Jersey and New York Metro Area

After suffering an injury in New York or New Jersey, you are likely facing many questions that concern your family's future. How will I pay my medical bills? Why should I suffer financially, because someone else was negligent? How will my family make ends meet, paying for groceries, bills, cellphones, rent, mortgage, etc.?

The personal injury attorneys at Ginarte, O'Dwyer, Gonzalez, Gallardo, Verchick & Winograd, L. L. P., understand your concerns, because we help people just like you. We realize the devastating effect an injury has on your life, ailing you physically, psychologically and financially.

With over 150 years of combined experience, our attorneys at Ginarte, O'Dwyer, Gonzalez, Gallardo, Verchick & Winograd, L. L. P., represent clients throughout the New York and New Jersey metro area with offices conveniently located in Manhattan, Queens, Newark, Union City, Elizabeth, Clifton and Perth Amboy. Our team of 30 attorneys concentrates on a variety of legal matters, including personal injury, construction accidents, workers' compensation, car accidents, truck accidents, premises cases, medical malpractice and Social Security Disability. With this wide skill-set, and years of experience backing us, we are equipped to provide you with the knowledgeable and professional legal advice you need.



Helping People Achieve Justice

In addition to our skilled attorneys, Ginarte, O'Dwyer, Gonzalez, Gallardo, Verchick & Winograd, L. L. P., also has a 100-plus person support staff. Our attorneys and staff are available at seven convenient offices, so no matter where you are in the New York or New Jersey metro area, we have a location near you. We offer free consultations at all of our offices, so you can come in, and speak to a legal professional about how we can help you. Unable to come to one of our offices? We will come to you, whether at your home, or in the hospital.

At Ginarte, O'Dwyer, Gonzalez, Gallardo, Verchick & Winograd, L. L. P., our New York and New Jersey lawyers have a long history of helping clients navigate the legal system to achieve justice and secure the compensation they deserve. Our cases often result in headlines and seven-figure awards for injured plaintiffs. However, we handle more than just big personal injury cases.

We provide the personalized service you expect and deserve from a premier law firm. We promise to treat you as we would want to be treated—like family. We believe you deserve compensation for your injuries, especially if they were caused by the negligence of another. Our commitment to service, and knowledgeable representation is what has allowed our firm to grow while others downsize, shrink and fade away.



CHAPTER

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ABOUT JOSEPH A. GINARTE, ESQ.

Joseph A. Ginarte, Esq.

In life, a person's experiences can shape their values, attitude, and often, their profession.

This has been the case for firm founder Joseph A. Ginarte. To Ginarte, the success of his firm is directly attributable to a philosophy of hard work and commitment that was instilled in him by his parents when he was a boy growing up in Newark. Both his mother and father worked in factories, and when Ginarte was a college student at Kean University in Union, he too worked in a factory—as a full-time forklift operator—while completing his studies and earning summa cum laude honors. It was that working-class background that drove him to seek a law degree, which he went on to earn at Rutgers School of Law, so that he could represent workers.

“I grew up seeing workers getting hurt and not getting the benefits they deserved,” he says. “My father was a factory worker and I remember seeing him get injured and how it affected our family, especially since he was unable to return to work due to his injuries. I was drawn to the field.”

Joseph Ginarte launched his legal career in 1982, and in the ensuing years, has seen his practice expand into a full service trial law firm with a steadily growing staff of lawyers and support personnel. While many firms have downsized or laid off employees, Ginarte, O'Dwyer, Gonzalez, Gallardo, Verchick & Winograd, L. L. P., has continued to grow.



Joseph A. Ginarte, Esq.

Workplace injury cases, especially construction accidents, premises and car accident cases, have always been a big part of Ginarte's—and the firm's—practice.

In 1995, he handled a case that settled for \$9.5 million involving a young worker who fell at a construction site and broke his back, and was rendered quadriplegic. Contending that the defendant owner and general contractor failed to provide proper safety restraints, Ginarte was ready to go to trial when the settlement offer was made.

The firm has also achieved numerous other seven-figure outcomes for injured plaintiffs and in a variety of areas, including defective equipment, trucking accidents and medical malpractice. “I think what makes our firm distinct is the years of experience that we have, and the personal attention we give our clients,” he says. “We're committed to doing this work.”

“While a lot of firms have downsized or laid-off employees, our firm continues to grow and hire people. I think it's because people know we'll fight for them and that we'll spend whatever it takes to take a case to trial.”

Joseph A. Ginarte, Esq.

Ginarte's work record and his commitment to his clients have also gained him recognition from within the legal profession. He has been an appointee to the New Jersey Supreme Court's Civil Practice Committee and is also a former president of the Top 100 National Trial Lawyer by the National Trial Lawyers Association. Ginarte is admitted to practice law in New York, New Jersey and Washington, D.C.

His outside interests involve charitable work and donations to nonprofit organizations, particularly in New York / New Jersey. He also enjoys golfing and rooting for the New York Yankees, New York Rangers and the New York Knicks.



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Practice Area – Workers' Compensation

Practice Area

Workers' Compensation

You might assume that any work-related injury will be a clear-cut, simple case, and there will be no problem collecting benefits. Unfortunately, there are many cases of injuries on the job in which the claim is denied, or the amount of compensation provided to the victim does not reflect the level of the injuries, and their long-term impact upon the victim's ability to work, live, and enjoy life as well as other issues.

Like many programs, workers' compensation does not always serve the people it insures as well as intended. Injured workers who are initially turned down for benefits, or who do not receive benefits in the amount they think they deserve, may find the appeals process to be confusing and burdensome

Workers' compensation is an insurance system for employees, who are injured while doing their jobs. The program pays benefits to assist injured workers with medical expenses and lost wages resulting from on-the-job injuries. The law requires employers to maintain workers' compensation insurance for most workers.

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Every state has its own version of this program. New Jersey established the nation's first workers' compensation system in 1911. Today, workers in every state, including New York and New Jersey, are eligible to receive medical treatment, wage replacement, and permanent disability compensation, if they suffer job-related injuries or illnesses. Death benefits may also be available for the survivors of workers who die in on-the-job accidents.

Workers' compensation covers injuries that arise out of, and in the scope and course of, employment. This includes injuries caused by accidents on the job as well as by constant or repetitive work stresses, also known as "repetitive trauma injuries." Workers' comp also covers occupational diseases, such as those caused by exposure to toxic chemicals.

Benefits may not be available for workers who suffer self-inflicted injuries, are injured because they were under the influence of alcohol or drugs, or who are injured while traveling to or from their job. There are also a few other narrow exceptions.

The most common on-the-job injuries that workers' compensation benefits typically pay for include:

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- Overexertion (excessive lifting, pulling, pushing, holding, carrying or throwing).
- Falls (on the same level or to a lower level).
- Being struck by an object (such as construction material falling from above).
- Bodily reactions (injury caused by bending, climbing, reaching, sitting, slipping, standing or tripping without falling).
- Being struck against an object (such as pushed into a door or wall).
- Motor vehicle accidents.
- Being caught in, under, or between equipment or objects.
- Assault by another person.
- Contact with extreme temperatures (for example, burns or frostbite).

When a worker is injured, he or she is required to inform the employer about the accident, including when and where it happened. The worker should also state that the injury occurred while working. It is then up to the employer to notify its workers' compensation insurer, and arrange medical assistance for the injured worker. Medical and disability benefits are paid in amounts according to a state-approved formula.

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Filing a workers' compensation claim requires completing a variety of forms that ask for personal, occupational, and medical information. If a claim is denied, a settlement offer is inadequate, or the injured worker's circumstances change, the worker may file an appeal. This requires many more forms and data, plus hearings in which the employer and/or their workers' comp insurance carrier can dispute the worker's claim. In some cases, an employer, or its insurer, will dispute an injured worker's initial workers' compensation claim.

Defective Machinery

Even though state and federal laws protect workers from harm on the job, accidents still happen. Nearly 4 million Americans suffer a workplace injury every year, and thousands more lose their lives. Even more tragic, many of those accidents are entirely preventable — particularly those involving defective machinery.

Many occupations involve the use of equipment that must be operated with care. However, if that equipment is improperly manufactured or maintained, workers are at risk for serious injuries that can cause permanent disabilities and lifelong hardship. Workers' compensation laws help New York and New Jersey workers get assistance for medical expenses and lost wages

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Additionally, sometimes a third party such as a manufacturer or distributor, can be held liable for a defective machinery injury. That's why it's important to talk to an experienced attorney as soon as possible.

Defective machinery can result in devastating and catastrophic injuries for workers. Although workers are vulnerable in virtually any industry, construction is one of the most dangerous occupations when it comes to on-the-job injuries and deaths.

Of the 4,114 workplace deaths in private industry in 2011, 721 — or 17.5 percent — occurred in construction, according to the U.S. Occupational Health and Safety Administration (OSHA).

In fact, construction deaths are so prevalent that OSHA has dubbed the “Fatal Four” most common injuries suffered by workers to include:

- Falls
- Electrocution
- “Struck-by” objects
- “Caught in-between” accidents.

Yet construction workers are hardly the only types of workers who are prone to injuries caused by defective equipment and machinery.



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Victims also include:

- Factory workers
- Utility and cable workers
- Warehouse employees
- Drivers and delivery workers
- Meat processing workers
- Machine operators
- Truckers
- Retail consumers.
- Types of Defective Equipment & Injuries

Large, heavy machinery is a frequent culprit in accidents involving defective equipment, but a tool as small as a nail gun could cause serious harm and even death. That's why proper training is essential for any worker handling dangerous equipment. Even veteran employees should have periodic refreshers on how to safely operate machinery to avoid accidents caused by human error.

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Some of the most common types of equipment involved in accidents include:

- Cranes
- Scaffolds
- Bulldozers
- Conveyor belts
- Drills
- Saws
- Power tools
- Electrical cords
- Glue guns
- Sanders
- Defective safety equipment and harnesses
- Farm equipment
- Exposed blades and belts
- Home power tools

No matter whether the equipment is a forklift or a microwave, the outcomes of defective machinery accidents can be disturbingly similar — and have devastating consequences for the injured individual and their family.

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There are countless types of injuries resulting from defective machinery, such as:

- Brain injury
- Back injury
- Burns
- Cuts and lacerations
- Eye and face injuries
- Amputation
- Struck-by projectiles
- Shocks/electrocution
- Crush injuries
- Strains/sprains.

Who Can Be Held Liable For Defective Machinery Accidents?

There are many reasons why a piece of machinery could fail, such as a design defect, or an alteration of the equipment in some way from its original form. Depending on the circumstances, an injured worker could have two legal claims to make.

The first is a workers' compensation claim. Both, New York and New Jersey have workers' comp systems in place to compensate employees, who are injured or killed on the job. Benefits can help cover the cost

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of medical treatment, missed wages, and compensation for the injury. In cases of death, workers' comp benefits are also available to dependent family members.

Workers' comp is a no-fault system, which means that you do not have to prove that your employer was negligent in order to collect benefits. All you have to do is prove that your injuries occurred during the course of your employment.

However, if the equipment that caused your injury had a flaw that caused it to malfunction, you may be able to file a product liability claim as well. Consumers have the right to expect that the products they buy are properly manufactured, and designed to protect them from harm.

If there is evidence of a manufacturing problem or design defect that caused a piece of machinery to fail, or if there was a failure to warn users of potential hazards inherent in the equipment, several parties may be held accountable under the law, including:

- Manufacturers
- Distributors
- Sellers
- Maintenance companies.

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A successful defective machinery case can provide injured workers and their families with compensation for pain, suffering, and money to cover hospitalizations, rehabilitation, long-term use of medical equipment, such as wheelchairs and oxygen machines. Obtaining the compensation you deserve could ensure that you are financially able to maintain your health in the years to come.

Occupational Diseases and Workers' Compensation

In New York and New Jersey, workers' compensation benefits may be available to those who suffer from occupational illnesses.

The American Academy of Family Physicians defines occupational illnesses as conditions that are caused or worsened by exposures or stressors in the workplace. Many occupational diseases are the cumulative effect of stress or exposure, meaning they develop over time.

When an ill worker needs medical treatment or misses work because of a work-related disease, the worker may be entitled to workers' compensation benefits.

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Workplace Exposures and Conditions that Can Cause Diseases

The National Institute of Occupational Safety and Health (NIOSH) explains that occupational disease and injury develop when a worker is exposed to some kind of harmful substance and the body reacts negatively to it.

Potential hazards that may cause an occupational disease include:

- Chemical agents, including particulates, gases, vapors, liquids and combined forms of these agents.
- Biological agents, ranging from germs and other microorganisms to insects and other animals.
- Mechanical energy associated with labor (stress, strain, etc.).
- Extreme temperatures and humidity.
- Radiant energy (electrical heat, radiation, etc.).

NIOSH says occupational diseases may be contracted by inhalation, ingestion, transcutaneous transport (through the skin), irradiation and “information exchange,” the latter being a cause of mental illness, which may also be compensable under workers’ compensation.

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Common occupational diseases include:

- Asthma. Work-related asthma accounts for at least 10 percent of all cases of adult asthma, the American Academy of Family Physicians (AAFP) says.
- Asbestos-related lung disease. The inhalation of asbestos fibers in the workplace may lead to a number of respiratory diseases, including lung cancer, asbestosis, pleural plaques, benign pleural effusion and malignant mesothelioma.
- Cancer caused by exposure to such toxic agents as asbestos, benzidine, benzene, bis-chloromethyl ether (BCME), chromium VI compounds, vinyl chloride, arsenic, beryllium, cadmium, erionite, ethylene oxide and others.
- Eye disease. More than 65,000 work-related eye injuries and illnesses are reported in the United States each year. The AAFP says work-related allergic conjunctivitis increasingly has been recognized among food handlers and agriculture workers exposed to common spices, fruits and vegetables. The lasers increasingly used in industry and medical settings can cause cataracts.
- Lead poisoning. Occupational lead overexposure and lead poisoning in the United States remains a serious problem, despite awareness of its adverse health effects, the AAFP says. Lead poisoning can cause irreversible health effects, such as hypotension, central nervous system problems, anemia and hearing loss.
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- Mental and behavioral disorders, including post-traumatic stress disorder (PTSD), which can occur after being involved in or witnessing a catastrophic event at a jobsite.
- Musculoskeletal disorders caused by repetitive movements, forceful exertions and extreme postures (bending, stooping, twisting), including carpal tunnel syndrome and bursitis.
- Respiratory diseases, including pneumoconioses caused by inhaling fibrogenic mineral dust, and chronic obstructive pulmonary disease (COPD) caused by inhaling wood, paper, grain, animal or textile dusts.
- Viruses, including hepatitis B virus (HBV) and hepatitis C virus (HCV).

Many of these diseases develop over time from repeated exposure to the agents, conditions or activities in the workplace that caused them. Workers' compensation claimants must show that their disease was in fact caused by their work.

Because occupational diseases are not as clear-cut as workplace accidents, an employer may be more likely to challenge a workers' compensation claim based on an occupational disease or illness.

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You must see the doctor your employer directs you to, but you may also get a second opinion. A second opinion should include a proper work history, along with a medical diagnosis, for example, and an evaluation of any potential association between your disease symptoms and work duties.

Occupational Hazards

Occupational hazards are present in all types of work environments. Although people tend to associate workplace injuries with high-risk occupations like construction, jobs with few obvious dangers can cause devastating injuries and deaths as well. Many workplace accidents are the direct result of someone else's negligence. The most common workplace hazards involve materials, equipment, other employees, and the working environment itself.

Employers are expected to adhere to safety standards set forth by the state and federal Occupational Health and Safety Administrations. When an occupational hazard causes an accident that injures another person, it is important to determine who may be at fault for the injury and if you have a valid legal claim against them.

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An occupational hazard can be defined as any danger in the workplace that creates or increases the risk of injury to someone else. Workplace hazards also include any conditions that result in occupational illnesses, such as cancer or asthma.

Not surprisingly, construction and other industrial sites are filled with hazards that pose serious threats to workers. Job sites are incredibly busy, with groups of workers engaged in a multitude of different, dangerous, tasks. Even with safeguards in place, there is still a strong possibility that serious dangers will go unobserved until it is too late.

Examples of occupational hazards include:

- Heavy machinery — There is no shortage of heavy equipment on construction work-sites, such as cranes, forklifts, diggers, bulldozers, wrecking balls, jackhammers, and power tools. Workers are often injured when they are struck by, or caught between, heavy machinery on the job.
- Heavy materials — Hauling around heavy materials such as sand or shingles, puts a lot of pressure on the body. The Bureau of Labor Statistics has found that musculoskeletal sprains and strains are among the top causes of workplace injuries. Those types of injuries can happen in other jobs too. Health care workers often strain their backs lifting patients.

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- Electrical hazards — Electrocution is one of the most common killers in the construction industry, according to OSHA. Workers in close proximity to power lines, faulty extension cords, pooling water, and improperly grounded equipment are at risk for electrocution and severe electrical burns.
- Power tools — Even household power tools can be manufactured or designed improperly. A malfunction could cause all types of injury, ranging from amputation and brain injury to serious cuts and lacerations.
- Ladders/scaffolds — Falls are the leading cause of death on construction sites. Working at heights is inherently dangerous, and can lead to broken bones, paralysis, and other injuries.
- Asbestos and silica dust — Asbestos has been linked to mesothelioma, an incurable lung disease that has become the subject of lawsuits across the nation. Inhalation of silica dust and other particles is also linked to lung cancer, lung scarring, and inflammation of the lining of the lungs.
- Toxic fumes — Exposure to dangerous fumes, such as welding dust and chemicals, has been associated with cancer, delayed development, rashes, infertility, and other serious diseases. Some of the dangerous substances that people are exposed to include: carbon monoxide, cyanide, formaldehyde, lead, arsenic, mercury, and gasoline.

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- Noise — Some jobs are routinely noisy. The National Institutes of Health found that sounds over 85 decibels (like you might hear in city traffic) have been associated with hearing damage. A one-time exposure, such as an explosion, can cause deafness. Continuous exposure can have the same outcome, just over a longer period of time.
- Co-workers — A co-worker could accidentally make a deadly error that could have been avoided with the proper education. The Occupational Health and Safety Act requires employers to provide appropriate safety information to workers by implementing practices such as training, warning labels, alarms, information sheets, and safety gear.

Some injuries are obvious, and require immediate medical treatment. Others, particularly occupational illnesses, do not manifest for months, years, and even decades after exposure. Either way, employees who have been harmed due to an occupational hazard should have their medical and wage losses compensated through New York and New Jersey workers' compensation programs. Because it is a "no-fault" system, employees do not have to prove the employer caused the injury to get coverage.

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A Pre-Existing Condition and Your Current Injury

A pre-existing condition may change how your workers' compensation claim is viewed. Let's say you injured your knee in a car accident years ago. After years at an industrial job that requires you to climb stairs, stoop and squat, your knee is now damaged to the point that you cannot perform your job duties.

You contend in a workers' compensation claim that, even with your pre-existing condition, your current injury is job-related. Your employer says your knee's degeneration was caused by your previous condition. It does not want to pay your workers' compensation insurance claim.

But, a pre-existing condition made worse by job duties or workplace conditions may be a compensable injury under New York and New Jersey workers' compensation laws. Your employer should pay for the medical treatment you require for your knee, and you deserve wage-loss benefits for your time away from work.

If the car accident that injured your knee was also a workplace accident and you are receiving partial disability benefits because of it, your previous benefits may affect your final settlement.

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If your employer disputes your claim, you will need evidence from a doctor's examination that indicates your current injury and disability were caused by your job duties to obtain appropriate benefits. You must see the doctor your employer sends you to to remain eligible for workers' comp benefits, but you are not prevented from seeing additional doctors. A second opinion from a doctor who understands how pre-existing conditions are viewed in workers' compensation claims can properly explain your injury as part of the claim or appeal you file.

A workers' compensation attorney from the Ginarte Law Firm can help you obtain a fully considered examination of your current injury and how it was affected by a pre-existing condition. With evidence that your occupational duties exacerbated a pre-existing condition or that they alone caused your current condition, our attorneys can provide you with professional, experienced representation before New York or New Jersey workers' compensation judges.

Repetitive-Trauma Injuries

Repetitive-trauma injuries occur in a variety of work situations. They are caused by continuous stress or strain on some part of the body due to the repetitive nature of one or more job duties. These types of occupational injuries are often referred to as repetitive-stress or cumulative-stress disorders.

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Common job tasks associated with repetitive-trauma injuries include placing, grasping or lifting and moving objects, as well as repetitive movement of tools, and such work activities as typing, keyboarding or other types of clerical data entry.

Repetitive trauma can cause musculoskeletal or neuromuscular disorders, which include sprains, strains and tears of muscles, tendons, ligaments and nerves. Carpal-tunnel syndrome, which is a painful neuromuscular condition that affects the hands and wrists, is a well-known repetitive-trauma injury.

Severe repetitive-stress injuries can cause missed work and ongoing disability. A worker in this situation may be able to obtain workers' compensation benefits that pay medical bills and make up for a portion of lost wages.

Repetitive motions, such as grasping tools, scanning groceries and typing, can cause injuries that result in lengthy absences from work or even permanent disability.

Injuries and illnesses incurred from repetitive motion involving these kinds of tasks account for 3 percent of all occupational injury and illness cases, the Bureau of Labor Statistics (BLS) says. Workers who sustained repetitive-trauma injuries or illnesses require a median of 23 days away from work – nearly three times as many days as necessary for all types of injuries and illnesses.

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There were some 34,300 repetitive-motion injuries in one recent year that forced a worker to miss a day or more of work, according to the BLS.

Occupations that most commonly report repetitive-motion injuries requiring days away from work include:

- Assemblers.
- Machine operators.
- Laborers (non-construction).
- Textile sewing machine operators.
- Secretaries.
- Cashiers.
- Packaging and filing machine operators.
- Electrical and electronic machine operators.
- Data-entry workers.
- Hand packers and packagers.
- Welders and cutters.
- Butchers and meat cutters.
- Bookkeepers, accountants and auditing clerks.
- Freight, stock and material handlers.
- General office clerks.
- Production inspectors, checkers and examiners.
- Carpenters.
- Stock handlers and baggers.

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Repetitive-trauma injuries may take months, years or even decades to develop. Regardless, employees who have been injured because of the repetitive tasks required by their job duties may deserve to have their medical expenses and wage losses compensated through New York or New Jersey workers' compensation programs.

Because workers' compensation is a "no-fault" insurance system, claimants do not have to prove the employer did anything wrong. But they do have to meet the complicated and rigorous requirements of the workers' compensation system.

Types of Workers' Compensation Benefits in NY & NJ

The workers' compensation systems in both New York and New Jersey pay medical and cash benefits to workers who are injured or get sick because of their job duties. Workers' comp also provides a death benefit to the families of workers whose death was due to a job-related accident or illness.

Each state administers its own workers' compensation insurance program, which most employers are required to buy as coverage for their employees.

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If you have been injured in a worksite accident or have suffered an occupational disease, it is likely that you qualify for workers' compensation benefits. As with other insurance programs, the details of its policies and procedures – and the insurance company's profit motive – can make it hard to obtain a proper settlement.

Benefits for Medical Expenses, Lost Wages

Most workers are covered by state-administered workers' compensation insurance programs. Most employers must carry workers' compensation insurance for their employees. Certain workers, such as independent contractors and unpaid student interns, may not qualify for workers' comp. Companies that employ very few workers may not be required to obtain coverage. Federal employees are covered by federal insurance programs.

An employer that has workers' compensation coverage or the insurance carrier pays eligible workers for necessary and reasonable medical treatment, loss of wages during the period of rehabilitation and benefits for defined disabilities.

Wage-loss, disability and death benefits are based on a percentage of the worker's previous pay, subject to maximums established by the state. They are typically paid in weekly checks.

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The New York and New Jersey programs have minor differences, but workers' compensation benefits available to qualified employees include:

- Medical benefits. Workers' compensation pays all related medical treatment costs, including those for therapeutic treatments and the cost of travel to and from appointments.
- Temporary total disability. When a doctor certifies that a worker cannot work because of a work-related injury, workers' comp provides a weekly stipend up to a maximum period of time or until the worker's doctor says the worker has recovered enough to return to work.
- Temporary partial disability. Workers who return to "light" work that pays less than their regular job may obtain payments to help make up the difference in wages.
- Permanent partial disability. Workers who suffer a lasting injury may obtain compensation for the effect their partial disability will continue to have on their ability to earn a living.
- Permanent total disability. Workers who are determined to be unable to perform any paying job may obtain benefits for life, but they will have to show that they are still totally disabled to receive payments after 450 weeks (about 8 ½ years).
- Death benefits. Dependents of a worker who has died from a job-related injury or illness may obtain payments for up to 450 weeks. Death benefits also include a funeral allowance.

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An injured worker does not have to prove anyone was at fault to obtain workers' compensation insurance benefits. He or she must show that the injury or illness was related to job duties. Certain actions, such as being drunk or on drugs, may disqualify an employee from receiving benefits.

Many claims are denied or approved at rates that are not what the employee deserves. Rules and regulations of the workers' comp program can be confusing or overwhelming. This may result in problems with a claim. Too often, the employer or the insurance company fights the worker's claim and prevails.

Uninsured Employers and Workers' Compensation

Most employers in New York and New Jersey are required by law to obtain workers' compensation insurance for their employees, or self-insure. Despite criminal penalties and civil liability for not obtaining workers' comp insurance, there are employers who fail to carry coverage.

Each state has established an Uninsured Employers Fund for workers who are injured on the job and find that their employer has no workers' compensation insurance. The funds provide medical expenses and lost wage reimbursements for approved claims.

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If you are seeking workers' compensation benefits for an occupational injury or illness and find your employer has no insurance, don't give up. You may still have legal options for obtaining the compensation you deserve.

First you should make sure your claim is forwarded to your state's Uninsured Employers Fund. In New Jersey, the worker or must submit a specific motion to the Division of Workers' Compensation to join the Uninsured Employers Fund. An attorney from the Ginarte Law Firm can help with this filing.

The Uninsured Employers Fund pays medical benefits and compensation for loss of work (temporary disability benefits) in lieu of payments from the employer, once these benefits have been awarded by the workers' compensation board.

However, the employer remains liable for these payments to the injured employee. You may sue your employer for this money. If you work for a corporation that has failed to buy workers' compensation coverage, the corporation's president, secretary and treasurer may be personally liable for the medical care and compensation payments you are due. They may be named defendants in a lawsuit. They may also face criminal penalties.

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If you recover money from your employer, you may have to repay money you received from the Uninsured Employers Fund. A properly drawn lawsuit could more than make up for this, as it makes sure you have the compensation you require for a full recovery or a life with the work-related disability you have sustained.

We can ensure that your workers' compensation claim is sent to the Uninsured Employers Fund without delay and is properly processed. We can also file appropriate legal action in New York or New Jersey to compel your employer to provide you the financial assistance you are due.

Unsafe Work Practice Injuries

All workers should feel confident that their workplace is reasonably secure from hazards, but if unsafe work practices jeopardize their health, and an accident happens, the consequences can be life-altering. Thousands of hardworking Americans are injured or killed on job-sites each year, and many of those accidents are entirely avoidable.

Unsafe work practices are responsible for all types of injuries. Poor conditions could cause slips or trip-and-fall accidents, and other mishaps, that can have a lasting impact on an employee's physical and mental well-being.

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Both, New York and New Jersey workers' compensation and personal injury laws provide protections for workers if they are injured due to dangerous working conditions. Contacting an experienced attorney can help you decide if you have a right to compensation.

Types of Unsafe Work Practices

Employers have an obligation to ensure their working environment protect their employees from foreseeable harm. Unfortunately, those rules are sometimes violated. Employers may avoid repairing a dangerous condition out of pure laziness, or because it is expensive to fix. In other cases, a lack of supervision and training may result in accidents that severely injures others.

At some jobs, the risks are obvious. Construction sites are filled with hazards, such as ramps, ladders, scaffolding, heavy equipment, and power tools that could cause devastating injuries. That's why it's crucial for employers to have safety procedures in place. Not only that, but they must take steps to make sure all policies are followed.

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Examples of unsafe working conditions include:

- Slippery/ debris littered floors
- Improperly secured machinery
- Poorly maintained equipment
- Bad lighting
- Dangerous stairways
- Large obstacles left in the path of workers or blocking exits
- Trailing extension cords
- Not providing safety gear (harnesses, safety masks, hard hats, etc.)
- Failure to secure dangerous chemicals and substances
- Falling objects
- Providing equipment to workers that has been modified from its original form
- Requiring workers to use equipment for something other than its intended use
- Unsecured openings

Practice Area

Workers' Compensation

Other professions have less apparent, but serious, health risks. Assembly workers, typists, and cashiers often suffer from repetitive injuries caused by performing the same task over and over again. Office workers may sustain painful muscle strains and sprains, if employers do not take proper ergonomics into account.

There are also invisible occupational hazards, and those can be particularly deadly. Some materials, such as asbestos, can cause lung and abdominal diseases, when ingested or inhaled. Benzene is associated with leukemia and blood disorders, and many other harmful substances found in workplaces can also cause incurable diseases.

Your Rights To Protection From NY/NJ Unsafe Work Practices

You have the right to report unsafe work practices to your employer, and expect them to be fixed in a timely fashion. You also have the right to contact the Occupational Health and Safety Administration to report an unsafe condition, and request an inspection. Laws also can protect you from retaliation by your employer, if you are fired or demoted for reporting the unsafe work practice.

Practice Area

Workers' Compensation

If the dangerous work practice results in an injury, your employer is not the only one who may be held accountable. Although New York and New Jersey workers' compensation laws prevent you from suing your employer, they are required to provide compensation to you for your medical expenses and time off from work.

Other possible responsible parties include: owners, general contractors, subcontractors, architects, product manufacturers, and insurance companies.

CHAPTER

4

Our Offices

Our Offices

Newark

Newark NJ Hospitals and Medical Centers

If you have been hurt in a personal injury situation or a motor vehicle accident, hospitals and medical centers serving Newark, NJ, residents include:

- The University Hospital, 150 Bergen Street, C- 431, Newark, New Jersey 07103. Phone: (973) 972-4300
- Newark Beth Israel Medical Center, 201 Lyons Avenue at Osborne Terrace, Newark, NJ 07112. Phone: 1-800-843-2384
- Saint Michael's Medical Center, 111 Central Avenue, Newark, NJ 07102. Phone: (973) 877-5000

Our Newark, New Jersey, Location

The law firm of Ginarte, O'Dwyer, Gonzalez, Gallardo, Verchick & Winograd, L. L. P., has an office conveniently located at the Ginarte Professional Building at 400 Market St. in Newark. Call our Newark office at (973) 854-8400 to put our New Jersey personal injury law firm to work for you.

Our Offices

New York

New York City, New York Hospitals and Medical Centers

If you have been hurt in a construction site accident, seek medical care immediately. There are 184 hospitals and medical centers in the New York metropolitan area, which includes Long Island, Westchester County, and northern New Jersey. Area hospitals and medical centers include:

- Lenox Hill Hospital, 100 East 77th Street, New York, NY 10075. Phone: (212) 434-2000
- NYU Langone Medical Center and School of Medicine, 550 First Avenue, New York, NY 10016. Phone: (212) 263-7300
- New York-Presbyterian University Hospital of Columbia, 622 West 168th Street, New York, NY 10032. Phone: (212) 305-2500
- New York-Presbyterian University Hospital at Cornell, 525 East 68th Street, New York, NY 10065-4870. Phone: (212) 746-5454

Our NYC, New York Location

The law firm of Ginarte, O'Dwyer, Gonzalez, Gallardo, Verchick & Winograd, L. L. P., has an office conveniently located at 225 Broadway in New York City.

Our Offices

Queens

Jackson Heights, NY, Hospitals and Medical Centers

If you are the victim of a personal injury or a serious Jackson Heights vehicle accident, it is vital to seek medical care immediately after the incident. There are many hospitals and emergency medical facilities that serve Jackson Heights accident victims, including:

- Elmhurst Hospital Center, 79-01 Broadway, Elmhurst, NY 11373. Phone: (718) 334-4000
- Jackson Heights Family Health Center, 7315 Northern Blvd., Jackson Heights, NY 11372. Phone: (718) 424-2788
- Queens Medical Office, 9033 Elmhurst Ave., Jackson Heights, NY 11372. Phone: (718) 457-7000
- The New York Hospital Medical Center of Queens, 7315 Northern Blvd., Jackson Heights, NY 11372. Phone: (718) 925-6029

Our Offices

Union City

Union City, NJ, Hospitals and Medical Centers

If you have been hurt in a vehicle accident or received some sort of personal injury in Union City, it is important to seek medical care immediately. Hospitals and medical centers serving Union City, NJ, residents include:

- Palisades Medical Center, 7600 River Road, North Bergen, NJ, 07047. Phone: (201) 854-5000
- Jersey City Medical Center, 355 Grand Street, Jersey City, NJ 07302, Phone: 201-915-2000
- Meadowlands Hospital Medical Center, 55 Meadowlands Parkway, Secaucus, New Jersey 07096, Phone: 201-392-3100
- Christ Hospital, 176 Palisade Avenue, Jersey City, NJ 07306. Phone: (201) 795-8200

Our Union City, New Jersey, Location

The law firm of Ginarte, O'Dwyer, Gonzalez, Gallardo, Verchick & Winograd, L. L. P., has an office conveniently located at 4430 Bergenline Avenue in Union City. Call our Union City office at (201) 809-1100.



Our Offices

Elizabeth

Elizabeth, NJ, Hospitals and Medical Centers

If you have been hurt in a motor vehicle accident, or any other type of personal injury accident, it is important to seek medical care immediately to assess the damage that has been done. Hospitals and medical centers serving Elizabeth, NJ, residents include:

- Trinitas Regional Medical Center, 225 Williamson St., Elizabeth, NJ 07202. Phone: (908) 994-5000
- The University Hospital, 150 Bergen Street, C- 431, Newark, New Jersey 07103. Phone: (973) 972-4300

If you or a loved one has been harmed in an Elizabeth, NJ, personal injury accident, please call our personal injury lawyers for immediate attention at 1-888-GINARTE.

Our Elizabeth, New Jersey Location

The law firm of Ginarte, O'Dwyer, Gonzalez, Gallardo, Verchick & Winograd, L. L. P., has an office conveniently located at 948 Elizabeth Avenue in Elizabeth. Call our Elizabeth office at (908) 372-1700 for help with your New Jersey personal injury or accident claim.

Our Offices

Clifton

Clifton, NJ, Hospitals and Medical Centers

If you have become the victim of a serious personal injury or accident in Clifton, it is important to seek medical care immediately. Hospitals and medical centers serving residents of Clifton, NJ, include:

- Advanced Surgery Center, 1200 US Highway 46, Clifton, NJ 07013. Phone: (973) 773-5600
- Bergen Passaic Ambulatory Surgery, 1084 Main Avenue, Clifton, NJ 07011. Phone: (973) 473-4040
- St. Mary's Hospital, 350 Boulevard, Passaic, NJ 07055. Phone: (973) 365-4300

Our Clifton, New Jersey, Location

The law firm of Ginarte, O'Dwyer, Gonzalez, Gallardo, Verchick & Winograd, L. L. P., has an office conveniently located at 1137 Main Avenue in Clifton. Call our Clifton office at (973) 859-5500 to get us started on your New Jersey personal injury or accident case.

Our Offices

Perth Amboy

Perth Amboy, NJ, Hospitals and Medical Centers

If you have been hurt in a personal injury accident, seek medical care immediately. Hospitals and medical centers serving Perth Amboy, NJ, residents include:

- Raritan Bay Medical Center, 530 New Brunswick Avenue, Perth Amboy, New Jersey 08861. Phone: (732) 442-3700
- St. Peter's University Hospital, 254 Easton Avenue, New Brunswick, NJ 08901. Phone: (732) 745-8600

Our Perth Amboy, New Jersey, Location

The law firm of Ginarte, O'Dwyer, Gonzalez, Gallardo, Verchick & Winograd, L. L. P., has an office conveniently located at 352 New Brunswick Ave, in Perth Amboy. Call our Perth Amboy, New Jersey office at (732) 376-1911 for help with your Garden State personal injury or accident claim.