

Workers' Compensation and Third-Party Lawsuits in New York Construction Accidents

Committed workers' comp attorneys fighting for injured New Yorkers

[Workers' compensation](#) and [third-party lawsuits](#) might sound like dry legal terms, but if you've just been hurt on a New York construction site, they can be the difference between just getting by and truly getting back on your feet. When ladders slip, scaffolds fail, or heavy equipment malfunctions, the law gives you more than one way to pursue compensation.

The catch is that each path has its own rules, limits, and opportunities. Choosing only one can sometimes leave a lot of money on the table. Read on to learn how workers' compensation and third-party lawsuits differ in New York construction accident cases, how they can work together, and what that means for you or someone you care about after a serious job-site injury.

What is workers' compensation in New York?

Workers' compensation is a state-mandated insurance system that most employers in New York are legally required to carry for their employees. It's designed to provide financial support when workers are injured while performing job-related duties, whether that's on an active construction site, traveling between sites, or doing other tasks related to the job.

The key feature of workers' compensation is that it's "no-fault," which means you generally don't have to prove that your employer did anything wrong in order to receive benefits. In practical terms, if you're a covered construction worker and you get hurt while working, workers' compensation should step in regardless of whether the work accident was partly your fault.

However, there are exceptions, such as injuries caused by intoxication, intentional self-harm, or other limited circumstances. But for most legitimate work-related injuries, eligibility is not about who caused the accident. It's about whether the injury arose out of and in the course of employment.

What benefits does workers' compensation actually provide?

Workers' compensation is designed to provide essential financial and medical support after a work injury, but it's not intended to make you completely whole. It functions as a safety net rather than a full replacement for everything you've lost. It provides:

- Coverage of reasonable and necessary medical treatment related to your work injury
- Payment for doctor visits, hospital stays, surgery, and physical therapy when required

- Access to long-term care or rehabilitation if it's considered medically necessary and related to the injury
- Partial wage replacement if you are unable to work because of your injury
- Wage benefits calculated as a percentage of your average weekly wage, subject to statutory caps and formulas
- Possible disability benefits or "schedule loss of use" awards for permanent impairment, depending on the body part and severity
- No compensation for pain and suffering, emotional distress, or loss of enjoyment of life

What is a third-party lawsuit in a New York construction accident?

A third-party lawsuit is a completely separate type of claim from workers' compensation. Instead of being filed through the workers' compensation system against your employer's insurance, it's a civil lawsuit against another person or company that's not your direct employer or co-worker. On a construction site, there are often multiple companies and entities involved, and any of them could potentially be the "third party" if their negligence contributed to your injury.

Common examples of third-party defendants in New York construction accidents include:

- Building owners
- General contractors
- Subcontractors from other companies
- Property managers
- Equipment or tool manufacturers and suppliers
- Drivers of vehicles or trucks not employed by your company

In New York, certain construction-related laws, such as those dealing with scaffolds and ladders, impose heightened safety duties on owners and general contractors. When those duties are violated, it can open the door to powerful third-party claims that go far beyond what workers' compensation offers.

What types of compensation can a third-party lawsuit provide?

While workers' compensation focuses on limited benefits, a third-party lawsuit aims to fully compensate you for the harm caused by another party's negligence. That means you can potentially recover both economic and non-economic damages. Economic damages include the full amount of your medical expenses (past and future). They also include full lost wages, loss of future earning capacity if you can't return to the same kind of work, and other out-of-pocket

costs like transportation to medical appointments, home or vehicle modifications, and necessary medical devices.

Non-economic damages are often where a third-party lawsuit truly separates itself from workers' compensation. In a successful lawsuit, you may seek compensation for pain and suffering, emotional distress, anxiety, depression, loss of enjoyment of life, disfigurement, scarring, and the overall impact of the injury on your daily activities and relationships. In particularly extreme cases involving reckless or egregious conduct, punitive damages might also be on the table, although those are less common.

How do the legal standards differ between workers' comp and lawsuits?

The biggest legal difference between workers' compensation and a third-party lawsuit is the role of fault. Workers' compensation is a no-fault system. To receive benefits, you mainly need to show that your injury is work-related and that you are covered by the system. You don't have to prove that your employer or anyone else was negligent; the focus is on the fact of the injury and its connection to your job.

By contrast, a third-party lawsuit is fault-based. You must prove that the third party failed to act reasonably under the circumstances by:

- Violating safety rules
- Ignoring known hazards
- Failing to maintain equipment
- Not providing proper fall protection

This failure caused or contributed to your accident, which then resulted in your injuries and damages.

In most situations, workers' compensation law bars you from suing your own employer for ordinary negligence. That's why identifying responsible parties outside your employer is so crucial in serious construction injury cases.

How does the process of each type of claim work?

Workers' compensation and third-party lawsuits not only have different legal standards, they also move through different systems. A workers' compensation claim is handled through the administrative process of the [New York Workers' Compensation Board](#).

You must promptly notify your employer of your injury and then file appropriate forms within specific deadlines. The insurance company may send you to independent medical examinations, monitor your treatment, and either accept or contest various parts of your claim. Disputes over benefits can lead to hearings before an administrative law judge, who will issue decisions on contested issues.

A third-party lawsuit, on the other hand, is brought in civil court. The process typically begins with an investigation, gathering evidence such as accident scene photos, witness statements, safety logs, incident reports, and maintenance records. A formal complaint is then filed, outlining your allegations.

The case moves into discovery, where each side exchanges documents and takes depositions of witnesses, experts, and parties. Settlement negotiations with insurance companies often run alongside this process. If no settlement is reached, the case may proceed to trial, where a judge or jury decides liability and damages.

Can you pursue both workers' comp and a third-party lawsuit?

In many New York construction accident cases, you can pursue both a workers' compensation claim and a third-party lawsuit at the same time, because they address different aspects of your situation. The two types of claims don't cancel each other out. In fact, it's common and often advisable in serious construction cases to have both types of claims active. The key is coordinating them carefully so that one doesn't unintentionally undermine the other and so that you maximize your overall financial recovery.

What deadlines and notice requirements should I know about?

Both workers' compensation claims and third-party lawsuits are subject to strict time limits, and missing them can seriously harm your case. For workers' compensation, you generally must notify your employer of the injury within a relatively short time after the work accident, and you must file a formal claim with the New York Workers' Compensation Board within specified deadlines. Waiting too long to report or file can give the insurance company an excuse to deny benefits.

Third-party lawsuits have their own separate statute of limitations, which sets the outer time limit for filing a lawsuit in civil court. For third-party work injury claims, it's three years from the date of the accident. For wrongful death claims, it's two years from the date of the worker's death. If you miss the statute of limitations, you may lose the right to bring the lawsuit entirely, no matter how strong your evidence might have been. Because these timelines can be complicated, it's important to speak with an attorney as soon as possible to protect your rights.

Should I hire a New York workers' compensation lawyer?

If you were hurt on the job anywhere in New York, you don't have to juggle medical appointments, lost wages, workers' comp forms, and insurance company pressure on your own. The team at [Pasternack Tilker Ziegler Walsh Stanton & Romano, LLP](#) has spent more than 90 years standing up for injured workers, coordinating both workers' compensation claims and potential third-party personal injury cases so you can pursue every dollar the law allows. We handle everything from filing your workers' comp claim and fighting denials to investigating whether a negligent property owner, contractor, or other third party can be held liable. We

know how to build a comprehensive strategy that protects your income, your medical care, and your future.

Our law firm serves injured workers across New York City, Long Island, the Hudson Valley, and upstate communities, bringing a statewide perspective to local cases. Plus, we work on a contingency fee basis, which means you pay no attorneys' fees unless we recover compensation for you, whether through workers' comp benefits, a third-party settlement, or both.

[Contact us](#) today for a free consultation by filling out the online form, calling us, or visiting one of our New York law offices. We can walk you through your legal options and explain how we can fight for you.