

FREQUENTLY ASKED QUESTIONS

Personal Injury

What should I do after a car crash?

Your immediate course of action following a car crash should be to assess yourself and others in your car for any injuries. If you can safely exit your vehicle, get to a safe place and call 911 to report the crash and any injuries and wait for assistance. The police will ask you and other involved drivers for license, registration and insurance information. The police will provide you with the other drivers' information. If there are witnesses, take their contact information and have them speak with the police officers on the scene. While at the scene, if you are able, document as much information as you can by taking photographs showing the roadway and vehicles involved.

Contact your insurance company within 24 hours of the crash and provide them all your information regarding the other drivers and their insurance information.

Seek immediate medical care for any injuries you sustained even if you think they might be minor.

The investigating police officer will instruct you on how to obtain the official police report.

Do I have to report a car crash to the Department of Motor Vehicles?

If you are in a traffic crash that involves a fatality or personal injury, you must report it to the DMV. You must also report any traffic incident or crash that involves \$1000 or more in damage to the property of any one person. The form Report of Motor Vehicle Accident (MV-104) is available at any motor vehicle office, from most insurance agents and from the DMV website (search under Forms).

Should I report my car crash to the insurance company?

Yes. After a car crash, report the incident to your insurance company. You must cooperate with your own insurance company to receive all the benefits you are entitled to. This includes benefits covering medical expenses and lost income. Your insurance company will also protect you if someone brings a claim against you. Do not delay in reporting a crash to your insurance company.



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Should I speak to an investigator or representative of any other insurance company?

You should not speak to any insurance company or investigator representing others involved in the crash. If you are contacted by an investigator or representative from an insurance company for others involved in the crash politely tell them not to contact you again. They could use your words against you. Instead, report the call to your insurance company and call a qualified attorney to discuss your options.

How long do I have to file a claim?

When involved in a car crash in New York you should contact your insurance company within 24 hours of the crash. They will ask you for details regarding the incident and will open a file to process your claim. You are entitled to many benefits under the standard provisions of your New York automobile insurance policy including payment of medical expenses and lost income. To ensure you get the benefits you are entitled to you should contact a qualified attorney to assist you.

If you sustained injuries in a car crash you may seek compensation for pain and suffering in addition to the benefits under your insurance policy. You have three years from the date of the crash to bring a formal court action against those responsible for causing your injuries. This time period is known as the statute of limitations. If the State of New York or other governmental entity is responsible for causing your injuries you must file a Notice of Claim or Notice of Intention to File a Claim (State) within 90 days of the incident to preserve your claim. Failure to follow these strict time constraints (Statute of Limitations and Notice of Claim) will cause the loss of your right to ever bring an action. Contact a qualified personal injury attorney to determine if a Notice of Claim or formal lawsuit should be filed on your behalf.

How much does a personal injury lawyer cost?

Lawyers who handle cases involving personal injuries sustained in a car crash, work on a contingent fee basis. This means there are no up-front costs or fees payable to the lawyer. Under a contingent fee arrangement, the lawyer agrees to accept a fixed percentage for their legal fee, (usually 1/3) of any recovery obtained.

Why do I need a lawyer?

Experienced personal injury lawyers are trained in pursuing claims for their injured clients against insurance companies whose sole interest is to deny and diminish your claim. Insurance companies will not voluntarily pay full and fair compensation to an



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injured person. Only an experienced personal injury attorney can properly represent your interests and obtain full, fair and just compensation for your injuries and losses.

How do my medical bills and lost wages get paid?

In New York, every car owner must maintain insurance that provides minimum mandatory personal injury protection benefits in the amount of \$50,000. These benefits are known as "No-Fault" benefits. If you were injured as a driver or passenger in a car, the insurance company covering the car you occupied will pay your crash related medical bills and economic losses up to \$50,000.

"No Fault" benefits include payments for lost wages when you cannot work due to injuries sustained in a car crash. Your total lost wage benefits and medical benefits will vary based on the coverage you selected when you purchased auto insurance.

If you were employed when you were hurt, you may also be entitled to lost income benefits under a New York State Disability policy maintained by your employer.

What can I get compensation for if I am injured in a car crash?

If you suffered a serious physical injury, as defined in the New York State Insurance Law §5102(d) you can sue in court to recover compensation for your injuries.

Serious injury is defined as personal injury which results in one of the following:

- Death
- Dismemberment
- Significant disfigurement
- Fracture
- Loss of a fetus
- Permanent loss of use of a body organ, member, function or system
- Permanent consequential limitation of a body organ or member
- Significant limitation of use of a body function or system
- Medically determined injury or impairment of a non-permanent nature which prevents the injured person from performing substantially all of the material acts which constitute such person's usual and customary daily activities for not less than 90 days during the 180 days immediately following the occurrence of the injury or impairment.

If you suffered a serious physical injury, you can seek damages for past and future pain,



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suffering, loss of enjoyment of life, past and future medical expenses and past and future lost income.

What happens if I am partially responsible for the accident?

When a car crash occurs between two or more vehicles more than one person can be at fault. In New York State, if a driver is partially at fault for a car crash that driver may still recover for injuries sustained if someone else is partially at fault. New York is a comparative fault State. That means if you are 10% at fault for the crash your monetary recovery for the full amount of damages will be reduced by 10%. Even if you are over 50% at fault you can recover damages under New York's comparative fault rule. (See, NY CPLR §1411)

What happens if the at fault driver is uninsured?

If you are injured by a driver with no insurance you will be covered under your own insurance policy. All New York auto policies must carry at least \$25,000 per person / \$50,000 per incident, in uninsured motorist coverage. This coverage will pay for your personal injury damages up to the limits of the policy if you are injured through the negligence of an uninsured motorist.

Because the minimum uninsured motorist coverage limits are only \$25,000, consider purchasing optional coverage to protect yourself and family from irresponsible motorists. This optional coverage is known as Supplementary Uninsured/Underinsured Motorist Coverage (SUM). SUM coverage can be purchased with limits of \$100,000, \$250,000, \$500,000 and more. Insurance premiums for SUM coverage are very reasonable considering the protection it provides. Speak to your insurance broker or insurance company to add SUM coverage to your policy.



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Medical Malpractice

What is Medical Malpractice?

Medical Malpractice occurs when a medical provider deviates or departs from accepted standards of medical care resulting in injury to a patient.

Can I file a claim if I suffered no damages?

If there was no injury resulting from a health care provider's negligence you will not succeed in bringing a formal lawsuit seeking recovery. Where a patient feels a health care professional fell below accepted standards of medical care, but there is no injury, you may file a complaint with the New York State Department of Health or the Office of Professional Medical Conduct. Complaint forms can be found on-line.

Are there time limits for filing a claim?

Generally Medical Malpractice claims must be filed within 2 ½ years of the alleged malpractice.

This time period is known as the statute of limitations. If the State of New York or other governmental entity is responsible for causing your injuries you must file a Notice of Claim or Notice of Intention to File a Claim (State) within 90 days of the incident to preserve your claim. Failure to follow these strict time constraints (Statute of Limitations and Notice of Claim) will cause the loss of your right to ever bring an action. Contact a qualified personal injury attorney to determine if a Notice of Claim or formal lawsuit should be filed on your behalf.

If you feel you have been injured through Medical Malpractice you should immediately contact an attorney specializing in that area to discuss time limits for filing a claim or lawsuit. Failure to file a claim or lawsuit within required time limits can result in the loss of your right to ever bring a claim.

What kind of compensation can I receive?

You can seek damages for past and future pain, suffering, loss of enjoyment of life, past and future medical expenses and past and future lost income.



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Construction Accidents

What should I do if I am injured on a construction site?

New York State law provides substantial protections for construction workers. Property owners and construction contractors must provide proper protection to all workers employed at a construction site. This includes protecting workers from dangers related to working on ladders, scaffolds and other elevated areas. Workers must also be protected from falling objects and dangerous conditions on the worksite. If you have been injured while working at a construction site, whether it is a private residence or a commercial skyscraper, contact an attorney to discuss your case.

Why should I speak to an attorney if I get hurt at a construction site?

The protections provided to workers at construction sites in New York are substantial. The laws governing your right to full and fair compensation for injuries sustained at a construction site are complicated and sometimes confusing. To protect your rights, consult with a qualified attorney experienced in handling construction site injury claims.

What does it cost?

Lawyers who handle cases involving personal injuries sustained at a construction site work on a contingent fee basis. This means there are no up-front costs or fees payable to the lawyer. Under a contingent fee arrangement, the lawyer agrees to accept a fixed percentage for their legal fee, (usually 1/3) of any recovery obtained.

Can I sue if I am collecting Workers' Compensation?

If you are collecting workers' compensation benefits for injuries sustained on a construction site you can also bring a claim for personal injuries against the owner, general contractor and other sub-contractors who may be liable for your injury. If you recover money from your lawsuit you may have to pay back a portion of your workers compensation payments. To protect your rights, consult with a qualified attorney experienced in handling construction site injury claims.

Who is responsible for ensuring safe conditions at a construction site?

On a construction site, the property owner and general contractor have primary responsibility for ensuring workers are provided with proper equipment and protection from dangerous conditions and activities on the construction site.



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Premises Liability - Slip & Fall

What is Premises Liability?

Property owners must maintain their property (premises) in a safe condition to protect people coming onto the property from needless danger. When property owners fail to maintain their premises, allowing dangerous conditions to develop, exist and remain, they can be held responsible for injuries caused by those dangerous conditions.

What are common causes of slip & fall injuries?

Slip and fall injuries commonly occur in stores and other public places where owners allow accumulations of debris and slippery substances on their floors or icy conditions on their walkways and parking lots. Injuries can occur where there are dangerous and defective conditions due to improper design and maintenance of stairways and walkways.

The factual scenarios leading to slip and fall injuries are too numerous to list here. Property owners, their agents and employees must protect the public from dangerous and defective conditions on their premises. If they don't, they can be held responsible for all resulting damages.

Can I sue after being injured in a Slip & Fall Accident?

If you sustained an injury on another's property due to a dangerous condition or defect you may sue the property owner and anyone else responsible, to recover compensation for your injuries.

Are there time limits for filing a slip & fall lawsuit in NY?

If you sustained injuries due to a dangerous or defective condition on another's property you may seek compensation for your damages by bringing a formal court action against those responsible for causing your injuries. You have three years from the date of your injury to commence a lawsuit. This time period is known as the statute of limitations. If an action is not commenced within three years your right to bring an action is lost forever. If the State of New York or other governmental entity is responsible for causing your injuries you must file a Notice of Claim or Notice of Intention to File a Claim (State) within 90 days of the incident to preserve your claim. Failure to follow these strict time



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constraints (Statute of Limitations and Notice of Claim) will result in the loss of your right to ever bring an action. Contact a qualified personal injury attorney to determine if a Notice of Claim or formal lawsuit should be filed on your behalf.

FAQ's DISCLAIMER

These Frequently Asked Questions (FAQ's) and their answers are for general information only and do not and are not intended to constitute legal advice. Legal advice cannot be given without full consideration of all relevant facts and information relating to an individual's particular situation. The information provided here shall not constitute an offer of representation and is not intended to create or constitute an attorney-client relationship.



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