

WHAT NEW FIREFIGHTERS SHOULD KNOW ABOUT LINE OF DUTY INJURIES

NYS law permits lawsuits for injuries

With so many new members joining the FDNY, we thought this would be a good time to revisit a critically-important law enacted specifically to protect firefighters, General Municipal Law §205-a. It states that if you're hurt in the line of duty as the result of a building or contractor's violation, you have a right to sue for monetary damages. Furthermore, the guilty party cannot defend the claim by saying that the accident was your own fault or that you "assumed the risk" of the accident happening because, for example, it resulted from a traditional risk of the job.

In addition, you are permitted to recover under this law regardless of whether the violation causes the accident directly **or indirectly**. In a landmark case that our firm handled, New York's highest court said that as long as the violation "plays a part in producing the result," you are eligible for a recovery. The case, which we brought on behalf of former firefighter, Steve Giuffrida, provides a good illustration. It involved a grease fire in a doughnut shop, where the ANSUL system never activated and wasn't up to code. In fact, the doughnut shop had received several violations about it from the FDNY.

Without fire-suppression, the grease fire spread unchecked. Firefighter Giuffrida was the nozzle man. As his company was making a push for the rear of the shop, towards the seat of the fire, his lieutenant said that they had been ordered out of the shop. Around the same time, Steve's vibralert sounded. But because of the fire's spread, he had to cover the exit for the others before he could make his way out. In the process, he ran out of air and suffered smoke inhalation and burns. The defendants claimed, and two lower courts agreed, that the violations regarding the fire-suppression system were too remote from Steve's injuries. But, we appealed those decisions and New York's highest court agreed with our arguments. The highest court ruled that the depletion of his air was the result of an act of courage that was part of his company's efforts to battle the blaze. The court ruled that that the defective ANSUL system could be deemed an indirect cause of Steve's injuries because it allowed the fire to spread faster, causing more smoke and flames.

In another case, Clow v. Fisher, the court said that "it has been long recognized that ... a firefighter is entitled to recover for injuries sustained in fighting a fire which was started as a result of a violation of a fire preventive ordinance." Thus, although the connection between the alleged violation, improper wiring, and the firefighters' accidents was remote, the court denied defendant's motion to dismiss the case. Three firefighters were injured in the Clow case, one when other firefighters assisted him in escaping from the burning building by pulling him up through a hole that had been cut in the roof. A second fell from a staircase landing, and a third was struck by a falling ceiling. All were able to collect substantial monetary awards thanks to GML §205-a and the Giuffrida decision.

These cases illustrate the broad reach of GML §205-a. By enacting it, New York's legislature meant to provide a wide umbrella of protection for firefighters and to foster compliance with fire-preventative regulations. Know Your Rights!

YOU PROTECT US...
WE PROTECT YOU
WHO WILL
PROTECT
THEM?



This newsletter just wouldn't be complete if we didn't remind you yet again of the importance of having a will. We won't rest until every active or retired firefighter takes advantage of our offer to draft a simple Will, FREE. The only thing it will cost you is maybe 20 minutes of your time.

DO WHAT OVER 3,000 OF YOUR BROTHERS
HAVE DONE, AND GIVE US A CALL TODAY.
DO THE RIGHT THING FOR YOUR FAMILY!

Vol. 67

FIREFIGHTERS' NEWSLETTER



INJURED FIREFIGHTERS PERMITTED TO SUE CITY OF NEW YORK

New York's Labor Law requires City to provide a safe place to work and suitable equipment

Fighting fires is a dangerous occupation. It shouldn't be made more dangerous by the City's negligence. Many injured NYC firefighters are unaware that the law allows them to sue their employer. Over the 25 years that our firm has been representing NYC firefighters, we have seen MANY firefighters injured as a result of workplace hazards that ran afoul of the Labor Law, which resulted in law suits. You would be shocked to hear about how some of these accidents occurred:

- A firefighter sustained a career-ending head injury when a chunk of ceiling plaster fell on him as he was sitting on the toilet (you can't make this stuff up!) He recovered \$750,000.
- A firefighter received an electric shock while exiting his fire truck from live, unsecured wires located inside the truck. He recovered \$700,000 for aggravation of a previous back condition.

- A firefighter whose leg was fractured when a bathroom stall suddenly collapsed on him recovered \$220,000.
- A firefighter who broke an ankle sliding down a firehouse pole that had just been cleaned with soap

- and water obtained \$83,000.
- Two firefighters who were injured when the governor on their pump-trucks malfunctioned, causing a surge in water pressure and a hose line to flail wildly recovered

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Whistleblowing Lawyer Who Exposed Alleged 9/11 Victims' Fund Scam Speaks Out

By NY1 News
Wednesday, February 8, 2017 at 07:12 PM EST



SEE DAILY NEWS ARTICLE ON PAGE 3

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BARASCH MCGARRY SALZMAN & PENSON 11 PARK PLACE SUITE 1801 NEW YORK, NEW YORK 10007
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"You protect us...we protect you."
THIS DOCUMENT CONTAINS IMPORTANT
INFORMATION ABOUT FIREFIGHTER RIGHTS

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- \$600,000 and \$150,000.
- A firefighter who fell down firehouse stairs that were wet from rain, and unusually slippery because they had been painted with paint that did not have grit in it, as required by code, recovered \$350,000.
 - A firefighter who was injured by a closing apparatus door that did not stop descending or reverse direction when it came into contact with him because it was not equipped with any safety devices. The case is pending.
 - Numerous firefighters whose thumbs were crushed by crew-cab doors because a grab handle on the inside of the doors was placed too close to the fulcrum. Their cases are pending.
 - We recovered over \$6 Million on behalf of numerous firefighters who sustained burns because of the City's delays in providing them with bunker gear, as opposed to turnout gear. Each firefighter's settlement was based on the degree of burn, extent of treatment, whether skin graft surgery was required, and/or the extent to which he was left with disfiguring scars.
 - A firefighter who was injured falling from a ladder that slipped out because it lacked non-skid feet recovered \$200,000.
- These cases, and more like them, illustrate that the City of New York is

obligated under the law to provide both suitable equipment, and a safe place to work. When your employer fails to provide either, resulting in injury, injured firefighters are eligible to bring an action against the City.

If injured on the job, make sure you contact an attorney who is well-versed in firefighter law. Be aware that when bringing a case against the City of New York, or any municipal entity, the time to sue is very limited. A suit must usually be started within a year and 90 days of the accident, and a Notice of Claim must first be served within 90 days following the accident.

Know Your Rights!

CD-72 ADVICE: REMEMBER THE CODE WORD "MICE"

By Richard Alles, Deputy Chief FDNY, Ret.

Every firefighter is at least generally familiar with the CD-72, more formally known as the Member Injury Report. From experience, I can tell you that being generally familiar with it isn't nearly enough. The CD-72 is the Fire Department's initial record of injuries that occur while on duty, and its importance cannot be overstated. As firefighters, it is your responsibility to make sure that every line-of-duty injury is documented with a CD-72. Having reviewed countless CD-72s in my 38-year FDNY career, I have found much too often that the accident descriptions are vague and imprecise. Simply stating that an accidental injury happened while performing firefighting duties, or that an accident was "unforeseeable" and "fortuitous" is wrong. It conveys nothing useful to the people who must determine whether your injuries were the result of a line-of-duty accident.

No firefighter should ever feel that an accidental injury is too minor to warrant the submission of a CD-72. No matter how slight an injury may seem, you never really know whether it will ultimately be disabling. Treat every injury seriously and be sure that you describe the accident that caused the injury completely and with descriptive wording. Completely filled out CD-72s must fully detail the cause of the injury and must identify every part of the body that was injured.

While it is the Officer on duty who will fill out the CD-72, it is the member's responsibility to verify its accuracy. Tell the Officer how the accident occurred and which parts of the body were affected. Make sure that your CD-72 is correct and that the accident is described in detail before it is forwarded to BHS. The two most important parts of the CD-72 are section (B) medical history, and section (E) description of accident.

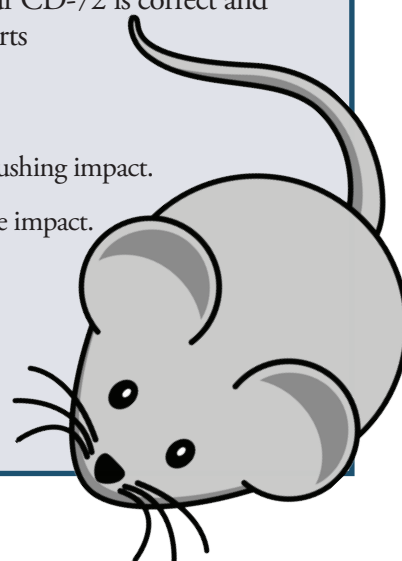
To help you in properly filling out a CD-72, use the simple code word MICE.

Movement: Note if the injury was caused by a twisting or turning movement, or a striking blow, or a crushing impact.

Impact: Note the parts of the body that received an impact and describe the chain of events leading to the impact.

Conditions: Note any particular condition that caused the injury, such as heavy smoke conditions, ice, water, oil, a hole in the floor, a broken step, or falling objects.

Emergency Room: If a visit to the ER occurs, or if you visit a Fire Department Medical Officer, be sure that the physician notes all areas that were injured and how the accident occurred.



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DAILY NEWS

NEW YORK'S HOMETOWN NEWSPAPER

Victims – again

Lender cheated 9/11 heroes & brain-injury NFLers: suit

BY VICTORIA BEKIEMPIS
NEW YORK DAILY NEWS

A LENDING company promised 9/11 and NFL concussion victims attractive advances on payouts — then cheated them out of millions with “unlawfully high” interest rates, the New York State attorney general alleged Tuesday.

RD Legal Funding, based in Creskill, N.J., markets advances to people entitled to money from victim compensation programs and other legal settlements.

The company allegedly tricked 9/11 first responders, suffering from cancer and other Ground Zero-related illnesses, as well as former pro football players reeling from traumatic brain injuries. They were bilked “out of millions of dollars by luring them into costly advances on compensation fund and settlement payouts by lying about the terms of the deals,” said state Attorney General Eric Schneiderman

and the U.S. Consumer Financial Protection Bureau in a federal lawsuit filed in Manhattan on Tuesday.

Their civil claim seeks to stop RD Legal’s allegedly illicit activity as well as hit the firm with penalties.

RD Legal is accused of contacting 9/11 and football victims after they won their claim to relief money, but hadn’t yet received the full amount.

“RD Legal then swooped in with a ‘deal,’ offering the victims an upfront payment of some of the money they had not yet received, which would be paid back when they received the balance of the payout,” Schneiderman (photo inset) said.

Through confusing contracts, RD Legal misrepresented to consumers their obligation to repay these expensive transac-

tions, often collecting from the consumer more than twice what RD Legal had advanced only months earlier.”

Due to the short time between RD giving customers an advance to when they get their award, the agreements “cost” consumers amounts that are equivalent in some cases to rates over 250%,” court papers state.

RD also misled customers by falsely claiming “to expedite funding and ‘cut through red tape,’” the suit says.

NYPD Officer Elmer Santiago was one of RD Legal’s victims, said his lawyer Michael Barasch.

Santiago had to retire from the NYPD because he had developed interstitial lung disease from working at Ground Zero.

Santiago learned in 2014 that he would receive

\$3.9 million for his 9/11-related injuries, but wouldn’t get the money until 2016.

But Santiago was already struggling financially — even living in his car at one point — as he waited for the payout. So when Santiago found out about RD Legal Funding, he took a \$355,000 advance on his settlement to buy a house in Florida, where the weather wouldn’t exacerbate his lung problems.

When Santiago finally received his settlement, he was shocked that his debt had skyrocketed to \$855,000, meaning the interest rate had swelled to 67%.

“They’ve taken advantage of a lot of people, a lot of 9/11 victims,” Barasch said. “RD deserves to be put out of business once and for all.”

Roni Dersovitz, who owns RD, is also being sued, according to court papers.

Dersovitz did not respond to calls seeking comment. RD’s lawyer declined to comment.

WE’VE GOT YOUR BACK: Understanding MRI’s of the spine

It surely comes as no surprise to you that New York City firefighters are at increased risk for back injuries as compared to the average worker. There are many factors that contribute to this, including the rigorous and risky nature of the work that you do and the peculiarities of the gear you wear. Getting proper care for a back injury is especially important for firefighters. If a back injury is not properly treated, it can result in lifelong pain and disability. If you return to work too quickly, you are especially at risk of exacerbating the problem.

Magnetic Resonance Imaging (MRI) is the gold standard for diagnosing injuries to the discs. It uses strong magnetic fields, radio waves, and field gradients to generate images inside the body. If you have a line-of-duty back injury that does not resolve, the FDNY will authorize an MRI scan. In fact, many firefighters have several over the course of their career. These studies will reveal whether there is a problem with the discs, and can yield import-

ant clues as to whether the injury resulted from a line-of-duty accident.

When it comes to spine injuries, the issue that often arises during the pension process is whether a disc injury is the result of an accident, or whether it is part of the normal degenerative process. Disc degeneration is actually a natural part of aging, and it is entirely expected that an MRI study will show some degenerative changes, especially in individuals who wear heavy equipment while performing strenuous work. Not surprisingly, most firefighters who come to us with back injuries have a combination of degenerative and traumatic injuries.

MRI studies contain important evidence about whether an injury can be traced to an accident. When you look at an MRI report, it may seem like you are reading a foreign language. Because it’s so important to the pension process, you should be sure to have a thorough discussion with your physician about the MRI study. Here are some things that doctors look

for on MRI films in order to determine whether there has been a trauma:

- ★ Bone marrow edema can mean that a recent trauma occurred;
- ★ Brightly lighted disc means the disc is healthy and has water in it while darker sections indicate that a disc is drier;
- ★ Brightness on the bone may indicate rubbing which takes years to form;
- ★ Muscle spasm as a result of pain or nerve root irritation could show up as a loss of lordotic curve;
- ★ MRI studies can be compared to previous studies to determine whether there have been traumatic or degenerative changes.

If you have had a line-of-duty spine injury, we are here to help. Firefighters have significant protections under the law, including the right to compensation from those responsible for their injuries. To learn your rights, speak to an attorney experienced in representing firefighters.