



LEGAL REPORT

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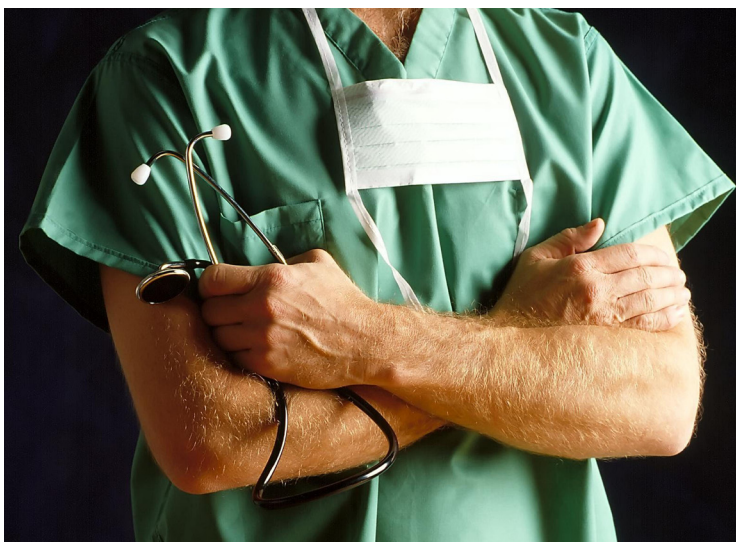
Injured Surgeon Awarded Nearly \$250,000

Following lengthy litigation, Mike, * a surgeon, was awarded Workers' Compensation benefits entitling him to payments of \$550.00 per week over the next eight-and-a-half years.

Mike was assaulted by a co-worker and suffered injuries to his upper extremities and cervical spine. Due to the nature of these injuries, Mike was no longer able to perform the complex surgeries his job required. As part of his pre-injury job duties, Mike was also required to examine 35-45 patients a day, four days a week. In addition, he acted as a rotating, on-call physician at a local hospital, which became more difficult after the injury.

The effects of the injury reduced Mike's ability to work. After the injury, he at-

tempted to return to work as a surgeon. However, he soon began to experience numbness, loss of dexterity, and weakness



while performing surgery. Mike's surgical specialty required him to use precise instruments when performing operations, which he could no longer do after the injury. As a result of the injury and his inability to perform surgery, Mike had no choice but to give up his job. After giving up his job, Mike started his own practice, hoping he could work at his own pace.

Insurance Carrier Fights the Case

The insurance carrier disputed the idea that Mike had lost the ability to earn his prior salary and hired a "vocational expert"

to try and fight Mike's case. They argued that Mike could still earn a living working in his previous job and could earn more money than he would by being self-employed.

A firm we work closely with was able to successfully argue that his ability to earn his previous wages was ruined. As he was found to have over an eighty percent loss of wages, Mike may seek additional payments in the last year of his 8.65 year payout. The award also states that the insurance carrier must pay the State nearly \$200,000 if the claim is not settled in six months.

This case highlights the fact that regardless of their job, workers in New York State are given protection following serious work injuries. In addition, workers who are injured but can still work can be entitled to Workers' Compensation benefits. These benefits can include coverage of medical expenses related to the injury and replacement of a portion of lost wages.

* The client's name has been changed to protect confidentiality.

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Reasons to Hire a Workers' Compensation Attorney in New York

There are many reasons to hire a Workers' Compensation attorney to handle your case. If you have been injured at work and are unsure how to go about obtaining the benefits you deserve, an experienced attorney can help. Here are some reasons to consider hiring a Workers' Compensation attorney:

- You have been recently injured on the job and are unsure how to file your claim.
- There are important time deadlines to meet regarding your Workers' Compensation case in New York State. A qualified attorney can assure you meet these deadlines.
- Important decisions about your case will be made early on in the process. These decisions can affect the level of benefits you receive. An attorney can assist with this part of the process.
- You have been injured at work and are not receiving proper medical treatment in a workers' compensation case.
- Your Workers' Compensation claim has been denied by the insurance company.
- An attorney can make sure the insurance company is paying your benefits in a timely manner and you are receiving the benefits you deserve.

Occupational Injuries in a Variety of Jobs Cause Missed Work Days

Occupational injuries that may qualify an employee for Workers' Compensation benefits can happen in any job. These injuries often result in missed work days. The following statistics highlight the impact of work-related injuries and illness:

- The Department of Labor (DOL) reported that workers missed over 1 million work days due to injury.
- The New York State Bureau of Labor Statistics (BOLS) reported 220,000 cases of occupational injury or illness in 2011.
- The New York State Department of Health reports 184 out of every 10,000 hospitalizations were due to work-related illness or injury in 2010.

Nationwide, the DOL found that workers in the following five categories of jobs accounted for 20% of all cases with missed work days:

- Laborers
- Nursing aides
- Janitors/cleaners
- Heavy truck and tractor-trailer drivers
- Police officers

Musculoskeletal Disorders Most Common

Work-related injuries can fall under many categories, but the most common type are musculoskeletal disorders (MSD). MSD affect muscles, joints, and bones. The DOL reports the following statistics on MSD:



- MSD accounted for 33 percent of all injury cases in 2011.
- MSD required an average of 11 days for an employee to recuperate and return to work. The average for heavy and tractor-trailer drivers was higher at 21 days.

A work-related injury can happen to anyone, but certain occupations put workers at greater risk. Based on the statistics above, occupational injuries and illnesses often cause missed work, which means lost income, in addition to the effects on health. If you've been injured at work, notify your employer immediately. It may also be advisable to consult an attorney knowledgeable in Workers' Compensation claims to obtain the maximum benefits allowed by law.



Questions?

As a client, you can be assured that your case will receive special care and consideration. That means providing you with the most up-to-date legal advice. It also means taking time to fully explain the legal procedures we recommend, including all the options available to you.

Schedule your Free Consultation today. Contact us toll-free at: 1-855-847-8969

The Basics of NYS Workers' Compensation

Workers' Compensation laws are in place to protect workers if they are injured or become ill on the job. Workers' Compensation is insurance paid for by your employer to provide benefits for injured employees.

Types of Injuries

New York State Workers' Compensation laws cover two types of conditions.

The first are accidental injuries, which are injuries to muscles, bones, and connective tissue. Examples of accidental injuries are:

- Fractures
- Dislocations
- Lacerations
- Burns

The second type of conditions are occupational diseases. These are conditions that develop over a long period of time. Examples of common occupational diseases are:

- Carpal Tunnel Syndrome
- Asbestosis (from asbestos exposure)
- Exposure to toxic chemicals

Time Deadlines Are Important

If you are injured at work, time deadlines are important. You must provide written notice of the injury to your employer within 30 days of the injury occurring. A claim must be filed with

the Workers' Compensation Board within two years of the injury. If you have an occupational disease, the claim should be filed no more than two years from when you realized the condition was work-related.

Your Benefits Under Workers' Compensation

Workers' Compensation benefits will cover medical treatments related to your work injury or illness. Insurance companies will base how long they pay for treatment on their own medical treatment guidelines. Certain benefits (like physical therapy or chiropractic treatments) may have limitations on how many treatments you can receive.

If you are unable to work, or if you go back to work and your injury or illness prevents you from earning the same wage as before, you may be entitled to a benefit that makes up two-thirds of the difference in your salary.

Workers' Compensation cases are complex. Many important decisions are made about your case early in the process. A qualified Workers' Compensation attorney can assist with these decisions and get the benefits you deserve.



Workers' Compensation Questions and Answers

If I'm hurt at work and don't file a claim, what will happen?

You may lose your benefits related to the injury.

Are all jobs covered by Workers' Compensation?

Most occupations are covered by New York State Workers' Compensation. The exceptions to this are New York City Police and Firefighters, teachers, sanitation workers, federal employees, and clergy.

Should I hire an attorney for my Workers' Compensation case?

There are important time deadlines in a Workers' Compensation case. The paper-

work can be complex. Insurance companies will try to limit your benefits. For these reasons it may be advisable to hire a skilled Workers' Compensation attorney.

Will I have to pay an attorney out-of-pocket?

No. A fee will be decided by a Workers' Compensation Judge and will be taken out of any settlement you receive.

Someone from the insurance company contacted me. Should I speak with them?

No. Investigators from the insurance company do not have your best interest in mind. They are hired to save the insur-

ance company money and make sure you receive the least amount possible.

Are prescription medications related to my injury covered by Workers' Compensation?

Yes. Pharmacies will bill the insurance carrier for any medications. The law requires the carrier to pay for medications related to the injury.

You may be required to use a pharmacy chosen by the insurance carrier (unless it is an emergency).

Steps in a Typical New York State Workers' Compensation Case

Seek Medical Treatment

- If an employee has been injured at work, the first step is to immediately seek medical treatment. The injured person will likely see either their family doctor or an emergency room physician.
- Let the medical staff know that the injury is work-related. The employee should not pay the doctor or hospital directly for medical treatment.
- After receiving medical treatment, it may be advisable to contact an attorney knowledgeable in Workers' Compensation cases. The legal team at Jeffrey Freedman Attorneys can guide you through the next steps in the process.



- Private health insurance should not be used to pay for a work-related injury. The doctor should send any bills to either the Workers' Compensation Board or your employer. The employer's insurance company should pay the medical bills.
- Under New York State law, the insurance company must make payments or deny the claim within 18 days of disability or within 10 days of knowing the injury happened.
- The employer has the right to have the injured worker examined by a doctor to determine the severity of the injury.
- If an employer is not notified, the injured worker may lose their benefits.
- The injured worker should also fill out form C-3 to file a claim with the Workers' Compensation Board. This should be done within two years of the injury.

Receiving the Benefits You Deserve

- If the insurer does not dispute the case, the insurer will pay the medical bills related to the injury.
- Depending on the case, the injured worker may be able to collect lost wage benefits. This can be up to 2/3 of the worker's average salary. In New York State, the maximum allowable weekly benefit is \$803.21 per week. These benefits are not subject to taxes.

Notifying Your Employer

- The employer should be notified in writing as soon as possible after the injury. Under New York State law, an injured worker has 30 days to report an injury to an employer.

Contact Us

Providing excellence in legal services has been a top priority at Jeffrey Freedman Attorneys, PLLC since our firm was founded in 1980. Our commitment to the highest professional and ethical standards is the foundation for the services we provide.

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