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AN INTRO TO

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# Personal Injury

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An introductory guide to personal injury and  
understanding your case.

Vincent Falcicchio

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



A Publication of



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CHAPTER

1

**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.



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CHAPTER

2

**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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CHAPTER

3

**Practice Area – Personal Injury**

# Practice Area

## Personal Injury

When you are injured in an accident, you incur many costs — both physical and financial. You are likely to have expensive medical bills, and you may be temporarily or permanently unable to work. Your injuries might also cause you significant pain and suffering, as well as emotional distress. In the event an injury leads to death, the victim's family members could be left without the financial and emotional support previously provided by their deceased relative.

New York and New Jersey laws protect those who suffer a personal injury because of someone else's intentional wrongdoing or careless acts. Those who suffer such an injury can file a personal injury tort lawsuit in order to obtain compensation for their losses.

In order to recover compensation after a New York or New Jersey accident, there are several key things that you will need to prove. In general, you will need to show:

- That the defendant owed a duty of care to you.
- That the duty of care was breached.
- That the breach directly led to your harm or injury.
- That you suffered compensable damages (something you can be paid for).

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The specifics of proving these required elements differ depending on the type and cause of your injury. For instance, workers' compensation cases use strict liability. This means the employer doesn't have to be negligent, in any way, in order for you to recover benefits. In almost all cases, it is enough that the injury happened while you were at work.

In most other cases, however, you will need to prove negligence or recklessness by comparing the defendant's actions to what a reasonable person would have done in his or her situation. The specifics of what constitutes negligence or recklessness also vary by case. Our New York and New Jersey personal injury lawyers can explain to you in more detail exactly what you need to prove.

### New York and New Jersey Personal Injury Damages

The types of personal injury damages available also differ depending on the type and cause of your injury. For instance, in some cases, you may be entitled to receive not only actual damages to compensate you for your loss, but also punitive damages. In workers' comp cases, on the other hand, your damages are more limited than in other kinds of personal injury actions.

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## Personal Injury

In general, for most personal injury claims, you may be able to receive compensation for:

- Past and future medical costs.
- Lost income, if your injury causes you to miss work or limits your earning potential.
- Pain and suffering.
- Emotional distress.

If you are making a wrongful death claim for a deceased family member, additional damages may be available for your loss, including compensation for the loss of companionship of your loved one.

### *Accidents at Sea*

A seaman injured while working on a vessel is not covered under traditional state workers' compensation systems. When a worker is injured aboard a vessel, he or she must turn to other legal avenues for benefits and compensation. An injured maritime worker may be entitled to "maintenance and cure" benefits under maritime law. This provides injured seamen with a mandatory recovery right against the vessel under threat of severe financial penalties against the vessel.

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## Personal Injury

Maintenance and cure benefits are similar to wage replacement and medical coverage under a traditional workers' compensation system. "Maintenance" is a daily allowance that is intended to cover the food and shelter that a maritime worker would have received if he or she were aboard a vessel at sea. The daily allowance is typically in the range of \$25 to \$40 per day. "Cure" refers to the employer's obligation to provide medical services and rehabilitation to the injured employee until he or she is able to return to work.

An employer's responsibility to pay benefits under the maintenance and cure doctrine is a very strong one. The Supreme Court has held that an employer's duty to pay maintenance and cure benefits to an injured seaman is intended to be a "broad and all-encompassing" duty. There are very few defenses available to an employer that allow it to escape the payment of these benefits. The law is very clear that if any doubt or ambiguity exists with regard to an employer's duty to pay maintenance and cure benefits to a worker, those doubts must be resolved in favor of the injured seaman. An employer that fails to pay maintenance and cure benefits to a worker faces severe financial penalties, including additional compensation to the injured worker if he or she has to resort to the filing of a lawsuit in order to pursue a rightful claim to benefits.

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## Personal Injury

In addition to wage replacement and medical coverage, which are mandatory under maritime law, there are also additional rights for a seaman to sue for pain, suffering, disability, and impairment under the Jones Act. The Jones Act is a federal statute that specifically covers injured maritime workers. The Jones Act allows an injured maritime worker to seek this additional compensation, when he or she is injured as a result of the negligent acts of a co-worker or employer. It is important to note, however, that unlike workers' compensation law, or maintenance and cure rights, the Jones Act does not create a no-fault system for compensation. In other words, an injured maritime worker is required to prove that his or her employer and/or another crew-person breached a duty of care in order to recover under the Jones Act.

Under the Jones Act, an injured maritime worker may bring an action in either federal or state court against the negligent party. An action for damages under the Jones Act must be brought in the district in which the defendant employer resides, or where the employer's principal place of business is located. The Jones Act also specifically gives the plaintiff the right to a jury trial when a claim is brought under the act.

What Other Benefits Are Available Under the Jones Act?

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## Personal Injury

An injured maritime worker may be entitled to benefits above and beyond maintenance and cure benefits offered under the Jones Act. Under the Jones Act, an injured maritime worker may also be entitled to compensation that is similar to compensation awarded in a traditional personal injury lawsuit. For example, these important pain and suffering benefits could be available. If a maritime worker is fatally injured aboard a vessel, the survivors may be entitled to benefits for their loss as well.

A maritime worker may also have a valid claim against the owner of a vessel, if the vessel is unseaworthy. A vessel does not need to be on the verge of sinking in order for it to be considered unseaworthy. The owner of a vessel has as a duty to provide a vessel that is loaded with all the required safety equipment, is fit for use, has an adequate number of crew-members, and is generally a safe working and living environment. If an owner breaches this duty, a maritime worker may be entitled to compensation for any injuries that result. The Jones Act claims for negligence and the claims for unseaworthiness are usually joined together in the same lawsuit. In that lawsuit, the seamen may receive pain and suffering, disability and impairment benefits.



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## Personal Injury

Under certain circumstances, a maritime worker may be entitled to compensation from a third party. When someone other than an employer or another crew-person causes a worker's injuries, he or she may be entitled to sue that third party. For example, if the owner of another vessel is the negligent party, the worker may be entitled to bring a third-party claim.

Because maritime law is such a complicated and complex area of the law, it is imperative that an injured worker obtain the services of a qualified and experienced accident at sea attorney to ensure that he or she receives all of the benefits and compensation available.

### *Bicycle Accidents*

People choose to ride a bicycle for economic, environmental and fitness reasons, as well as for the sheer enjoyment of cycling. Sadly, many bicyclists suffer serious injuries in traffic accidents each year. If your life has been changed by a bicycle accident, no one can turn back the clock and prevent the outcome of the accident; however, you can hold the negligent party responsible.

If you have been injured in a New York or New Jersey bicycle accident, or you have lost a loved one as the result of a fatal bicycle accident, you could be entitled to compensation for your injuries or your loss.



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Not surprisingly, a significant number of people choose to ride a bicycle in New York. With traffic congestion a daily struggle in the Big Apple, it is often quicker to get from point A to point B on a bicycle than it is in a car. Unfortunately, the mix of motorized and non-motorized traffic often produces serious injuries or fatalities. According to the New York State Department of Motor Vehicles, there were 6,276 bicycle/motor vehicle accidents in 2010. Of those accidents, 36 were fatal and another 6,206 caused non-fatal personal injuries. Not surprisingly, all 36 fatalities were bicyclists, not motorists. Of the personal injury accidents, 665 were classified as serious, 1,831 moderate and 3,133 were considered minor.

Although less than 2 percent of all motor vehicle crash deaths are bicyclists, 618 people across the country lost their lives in pedal-cyclist (a non-motorized vehicle with at least two wheels) accidents in 2010, and another 52,000 were injured. In New Jersey, there were 12 pedal-cyclist fatalities in 2010, which represented 2.2 percent of all fatal accidents.

### Bicycle Accident Risk Factors

According to information published by the National Highway Traffic Safety Administration (NHTSA), certain factors may put you at a higher risk of being involved in a bicycle accident. They include:

72 percent of all fatal bicycle accidents occurred in an urban setting in 2010.



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## Personal Injury

The highest percentage of fatal bicycle accidents occurred between 4 p.m. and 8 p.m., followed by the time periods between 8 p.m. and midnight and noon to 4 p.m.

Two-thirds of all cycle accidents occurred at a non-intersection location.

The average age of the victim of a fatal bicycle accident in 2010 was 42. The average age of someone injured was 31. The average age of both has been steadily increasing over the past 10 years.

The highest numbers of deaths in bicycle accidents are reported during the months of June, July, September and October.

Male victims outnumber females by almost 7 to 1. In 2010, 534 men were killed in bicycle accidents and another 39,000 were injured, while 84 women were killed and another 13,000 injured.

Alcohol was involved (either the driver of the motor vehicle or the cyclist) in 34 percent of all fatal bicycle accidents.

New York and New Jersey Bicycle Laws and Legal Remedies



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Both New York and New Jersey have laws that apply to cyclists as well as to vehicles that may come into contact with bicycles. Some examples include:

- New York § 1231 — Traffic laws apply to persons riding bicycles or skating or gliding on in-line skates. Every person riding a bicycle or skating or gliding on in-line skates upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except as to special regulations in this article and except as to those provisions of this title which by their nature can have no application.
- New York § 1146 — Drivers to exercise due care. Notwithstanding the provisions of any other law to the contrary, every driver of a vehicle shall exercise due care to avoid colliding with any bicyclist, pedestrian, or domestic animal upon any roadway and shall give warning by sounding the horn when necessary.
- New Jersey § 39:4-14.1 — Rights and duties of persons on bicycles. Every person riding a bicycle on a roadway is granted all the rights and subject to all of the duties of the motor vehicle driver.

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A motorist who fails to use due care when he or she comes into contact with a bicyclist may face fines and/or incarceration. Traffic and criminal laws, however, do not address the injuries suffered by the victim of a bicycle accident. A traffic court or criminal court judge does not have the authority to order compensation for a victim's injuries or for a family's loss in the case of a fatal accident. A victim who has been injured, or a survivor of a fatal accident, must seek compensation through the civil court system in a personal injury lawsuit or a wrongful death lawsuit in New York or New Jersey.

### *Boating Accidents*

Workers whose jobs require them to work on navigable waters or in areas close to them — such as ports and stations for boats, barges, and ferries — receive special protections from work-related diseases and injuries under the Longshore and Harbor Workers' Compensation Act.

If you have been injured in a New York or New Jersey boating, barge, port, harbor, or ferry accident while working, or you have lost a loved one as the result of one of these types of accidents, you could be entitled to compensation for your injuries or your loss.

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### What Is the Longshore and Harbor Workers' Compensation Act?

Not all injuries fall within the purview of a state-administered workers' compensation system. Some work injuries are covered under federal workers' compensation laws. The Longshore and Harbor Workers' Compensation Act (LHWCA) is an example of one of those laws. The LHWCA covers approximately 500,000 workers who make a living working on the navigable waters of the United States, or in areas that adjoin water, such as docks or areas where vessels are repaired or built (dry docks and shipyards).

The LHWCA covers longshore and harbor workers as well as ship builders, ship breakers, and ship repairers. Certain workers are excluded from benefits under the LHWCA, such as masters or crew members and anyone who is an officer or employee of the United States or of a foreign government.

### What Benefits Are Available Under the LHWCA?

Although the LHWCA is authorized under federal law and administered by the federal government, the benefits available to an injured worker are much the same as those available to an injured worker under most state workers' compensation systems.

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When a worker is hurt on the job, the employee must report the injury to the Office of Workers' Compensation Programs, or OWCP, by completing the Employer's First Report of Injury or Occupational Illness. The claim will then be reviewed and, if approved, the injured worker will be eligible for benefits.

Medical bills associated with the injury will be covered by the program, and the worker will be eligible for wage replacement at the rate of 2/3 of the worker's average weekly wage prior to the injury. If the worker suffers a permanent injury or illness, he or she may be entitled to additional benefits. In the event that a worker suffers a fatal injury or illness, a surviving spouse and any minor children may also be entitled to benefits.

### Why Would an LHWCA Claim Be Denied?

Getting a claim for benefits under the LHWCA approved can be a long and complicated process. Claims can be denied for a number of reasons with the most common being:

- **Technical** — For a claim to be approved, the proper forms must be filled out correctly and filed within the proper time frames. An error on a form, or failure to file a form within the time frame allowable, can result in a denial of benefits.

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- Supporting evidence — A claim can be denied, because supporting evidence was requested and not provided. Sometimes, the evidence a claimant needs is actually in the hands of an employer, which can present a problem if the employer is not cooperating
- Not within scope of employment — For an injury or illness to be compensable, it must have occurred “within the scope of employment.” If an employer claims that the employee was not “within the scope of employment” at the time the injury or illness occurred, then the claim could be denied.
- Pre-existing injury or illness — An employer may claim that the injury, or illness is a pre-existing injury, or illness, meaning that the worker did not sustain the injury or contract the illness as a result of his or her employment.

When a claim is denied, the worker has the right to dispute the decision. The LHWCA provides for informal mediation of disputed claims; however, a worker stands to lose a considerable amount of much-needed income if the dispute is not resolved through mediation. For this reason, a worker should consult with an experienced attorney, who is familiar with LHWCA rules and procedures prior to the scheduled mediation.



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### *Commercial Property Accidents*

The law holds commercial property owners to a very high standard in ensuring that their premises are usually safe for all entering. Commercial properties include: stores, parking garages and lots, stadiums, offices, apartment buildings, and many other places. Such owners may be liable for the injuries of an unsuspecting victim, especially when the property owner knew of the dangerous condition and did nothing to prevent the injury.

### What Is Premises Liability?

We all trust that commercial property owners will do their best to remove any harmful conditions present on their property that could harm a visitor. We also assume that the owner of a commercial property will take steps necessary to ensure the safety of visitors to the property. When a commercial property owner does not remove a potentially hazardous condition, or fails to take steps necessary to protect visitors while on the property, then the victim may have a claim for damages under premises liability law.

Premises liability is the area of the law that addresses injuries sustained by people while on the property of another person. Not only can the owner of a commercial property be held accountable, but someone in possession of the property, such as a business owner who is renting the property, may also potentially be liable for a victim's injuries.



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An injury that occurs on commercial property can take an infinite number of forms; however, there are some common scenarios that result in harm to a visitor, including:

- Slips and falls and trips and falls — A victim may slip and fall because of liquid in an aisle that has not been cleaned up, because snow or ice has not been cleared, or because of other hazards. Uneven floors, broken steps, and other problems could lead to a trip-and-fall accident.
- Inadequate security — A customer, or visitor, could be the victim of a third-party criminal act that would not have occurred had the property owner or renter provided adequate security.
- Assault — A victim could be assaulted while on the premises by an employee or a third party.
- Toxic substances — A victim could fall ill after being exposed to a toxic substance such as asbestos or lead paint.
- Fire or explosion — Lack of proper maintenance could lead to a fire or explosion that could injure anyone on the property.
- Lack of proper lighting — Sometimes lack of proper lighting leads to an assault or an injury accident.

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- Defective railings or stairways — If the owner, or possessor of the property, does not properly maintain a railing or stairway, a customer could be injured in an ensuing fall.
- Elevators and escalators — A commercial property accident lawsuit could arise from an injury caused by a malfunctioning escalator or elevator.
- Unsecured merchandise — Merchandise that is stacked on high shelves may fall and injure an invitee if the merchandise is not properly stacked. Cluttered aisles could also lead to an accident.

### Defective Products

Adults and children are often injured by defects in products we use every day. Such products include: car and automotive components, construction materials and equipment, children's toys, medical care devices and medicine, and other such ordinary products. Manufacturers are responsible for designing and producing safe products, and they can be held liable when they fail to do so.

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### What Makes a Product Defective?

In order to determine whether a defective product may have caused your injuries, it is important to understand exactly what the law means by a “defective product.” Defective products are addressed under the area of the law known as product liability. Under product liability law, a product is most commonly found to be defective because it has a design defect, a manufacturing defect, or because the manufacturer failed to adequately warn consumers about certain inherent dangers.

Design defects — A design defect is something that is inherent in the design of the product. This type of product defect is sometimes referred to as an intentional defect, not because the manufacturer intentionally introduced a defect into the product, but because the defect was part of the intentional design of the product. Typically, all products manufactured with the design in question are defective. Imagine, for example, that a car manufacturer uses a new wiring system in its vehicles; however, the design of the system did not account for water coming into contact with the wires. As a result, vehicles manufactured with the new wiring system begin to catch on fire. All of the vehicles produced with the new wiring system design are faulty and must be recalled. This is an example of a design defect, because the defect is in the design of the wiring system itself.

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**Manufacturing defects** — A manufacturing defect is introduced into the product during the manufacturing phase. Typically, a smaller number of the products are affected by the defect. Using the same wiring system example, assume that the design was fine, and accounted for the wires coming into contact with water as long as a high enough gauge wire was used. One day, however, an employee used the wrong gauge wire at one of the manufacturing plants, where the wires were produced. As a result, the wiring system was not waterproof and subjected the vehicle to fires. This is an example of a possible manufacturing defect, because the defect was introduced by the manufacturing plant, and was not inherent in the design itself.

**Failure to warn** — Some products are so inherently dangerous that there is nothing the designer nor manufacturer can do to make them completely safe. In this case, the law requires a warning to be attached to the product cautioning consumers of the dangers. When a product does not come with adequate warnings, this can be considered a defective product. For example, many household cleaners cannot be made safe. The chemicals used in the product can be dangerous if a consumer comes into contact with them or inhales them, yet they are necessary for the product to work effectively. Because the product cannot be made any safer, a warning is required to advise consumers of the potential danger. If the appropriate warning is not included on the product then it may be considered a defective product.

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### Who Can Be Held Accountable for a Defective Product?

When a product is found to be defective, there are a number of possible defendants. Basically, anyone in the supply chain could potentially be held responsible for the defective product and any ensuing injuries, including the following:

- Manufacturer
- Wholesaler
- Retailer
- Parent companies
- Installer

An injured victim does not necessarily have to know who was responsible for introducing the defect into the product. Often, more than one defendant is named in the lawsuit under the theory of joint and several liability. By doing this, a victim increases the chance of finding the negligent party, and increases the chance of actually receiving compensation for his or her injuries or loss.

Hurt by a Defective Product? Find Out How the Ginarte Law Firm Can Help You!

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### *Safety Equipment Failures*

The use of safety equipment by workers in the construction industry is crucial for protection against the many hazards inherent to construction work. The U.S. Occupational Safety & Health Administration (OSHA) requires that construction sites be designed in a safe manner and that employers provide and train workers in the use of “personal protective equipment” (PPE). OSHA also requires employers to ensure that construction safety equipment is properly inspected and maintained. When construction workers are injured or killed by safety equipment failure, the individuals and corporations responsible should be held accountable.

Employers Responsible for Safety Equipment Failures. Property and company owners, prime contractors, subcontractors, vendors and others must comply with all applicable OSHA standards.

OSHA safety and health regulations for construction sites say employers are responsible for requiring employees to wear appropriate Personal Protective Equipment (PPE) where there is exposure to hazardous conditions. OSHA also has standards for equipping construction sites with protective equipment, such as railings and fall-protection nets on scaffolds or other workplaces at elevated heights.

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### *Fires and Explosions*

Fire and substances that can cause explosions are a constant presence at New York and New Jersey construction sites. Fires and explosions can kill, of course, but even in less destructive incidents, the force of an explosion can cause severe harm, and burns are among the worst injuries a person can suffer.

The U.S. Bureau of Labor Statistics reports that there was a 65 percent increase from 2009 to 2010 in the number of fatal work injuries resulting from fires and explosions in the United States. The U.S. Occupational Safety and Health Administration (OSHA) addresses fire safety in the construction industry with standards for fire prevention and use of hazardous materials. OSHA has specific standards for welding, cutting and brazing.

When safety rules are ignored and workers are injured or killed, those who neglected the safety regulations should be held accountable for the workers' losses, pain and suffering.

The Risk of Fire and Explosions at NY / NJ Construction Sites



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The mix of flammable gases, chemicals, heat sources, sparks and even open flames at a construction site creates a potentially deadly environment. The risk of fire and explosion is one that thousands of New York and New Jersey construction workers are exposed to every day. The risk is acceptable in part because regulations implemented by OSHA as well as NY labor laws and the NY Industrial Code impose numerous restrictions for fire safety at all construction sites.

Regulations cover the presence of firefighting equipment (fire extinguishers and sprinkler systems, for example) and the development of fire escape plans. OSHA has rules for storing and using dangerous liquids, gases and pressurized containers to reduce the chance of fire and/or explosion.

OSHA also requires employers to provide personal protective equipment (PPE), including respirators, to employees who come in contact with certain fire or explosion hazards. Employers are also required to train employees in the safe handling and use of flammable liquids, gases or toxic materials. They must ensure employees are made aware of the potential hazards, personal hygiene and personal protective measures required for their safety.

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In a fire, most victims die from smoke or toxic gas inhalation, not from burns, according to the Centers for Disease Control and Prevention (CDC). Thermal burns caused by contact with flames can result in serious tissue damage that, if deep enough, can be fatal. Inhaling smoke and toxic gas can cause immediate asphyxiation and death or scarring of the lungs that can cause difficulty breathing.

Explosions can cause damage to the ears (ruptured eardrum or “tympanic membrane perforation,” TMP); blunt or penetration trauma injuries from flying debris or from being thrown by the blast; fractures and amputations of limbs; and other harms, such as crush injuries, burns, asphyxia and toxic exposure.

Fires and explosions at construction sites are usually the result of violations of safety rules. These incidents are made worse when a construction site lacks easy escape routes or access to firefighting equipment. The Bureau of Labor Statistics (BLS) reports that of the 187 worksite fatalities in 2010 involving fires and explosions, 82 occurred in multiple-fatality incidents.

When fire safety plans and firefighting equipment are not in place or do not function properly, or when flammable materials are not stored or handled properly because workers have not been trained, injury and death can follow. In incidents of deadly construction site fires and explosions, those who neglected safety regulations should be held liable for workers’ losses, pain and suffering.

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People who suffer serious burns or other fire-related injuries often need years of expensive treatment. Medical and rehabilitation bills and other losses combining to exceed seven figures are not uncommon. Although workers' compensation benefits often help, they usually will not be enough. Many times burn injuries prevent a construction worker from ever earning a living again.

### NJ / NY Construction Workers Face Fire Hazards

Fires and explosions are a risk at just about any construction site in New York or New Jersey. But some workers deal directly with flammable substances, fire sources or electricity. These high-risk trades include:

- Welders and cutters
- Electricians
- Heavy equipment operators
- Carpenters
- Mechanics
- Plumbers
- Painters
- General laborers and helpers
- Demolition workers
- Pipefitters
- Steamfitters

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### *Lead Poisoning*

Many products sold in the United States contain dangerous – sometimes deadly — levels of lead. The list includes jewelry, furniture, toys, clothing and even food items. In addition, millions of older homes and buildings have lead-based paint on the walls and ceilings.

Anyone who comes into contact with a product containing lead is potentially at risk, but children are by far the most vulnerable. At least 4 million households have children who are being exposed to lead, according to the Centers for Disease Control and Prevention (CDC). Up to half a million children ages 1-5 have dangerously high blood lead levels.

Exposure to lead can result in the following:

- Brain damage
- Learning disabilities
- Delayed physical development
- ADHD
- Nerve damage
- Decreased muscle and bone growth

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- Anemia
- Hearing loss
- Antisocial behavior
- Kidney damage
- Poor muscle coordination
- Speech and language problems
- Death.

Does your child suffer from any of these symptoms? Do you think exposure to lead might be the cause? If so, you are entitled to a free and confidential case review by a New York and New Jersey lead poisoning attorney.

### Why is Lead Dangerous?

No amount of lead is safe in the body. Even brief and minimal exposure can have disastrous results, especially for young children.

Approximately 500,000 children under 5 years old have blood lead levels above 5 micrograms per deciliter, which is the CDC warning level. Because lead exposure often occurs with no obvious symptoms, it frequently goes unrecognized.

# Practice Area

## Personal Injury

Prior to the late 1970s, lead was commonly used in paint, gasoline, pipes, plumbing, ceramic ware, cooking utensils, batteries, roofing materials and cosmetics. It is still used today in other countries and in the U.S. at “acceptable levels.”

Most children get lead poisoning from deteriorating lead-based paint found in buildings constructed before 1978. Lead can also be found in household dust, soil, toys, furniture and even clothing. Children can be poisoned if they put something that contains lead in their mouth. Even a small flake of wall paint might be sufficient to cause injury.

The risk is greatest in cities and urban areas such as New York City that have older houses and apartments, some of which might not have been upgraded or remodeled in decades. One warning sign: peeling paint on the walls, stairwells or ceilings of an older building.

Property owners and managers have a legal duty to keep their premises reasonably safe for the people who live in them. Landlords who neglect their duty — by ignoring a tenant’s request for repainting, for example, or by not doing anything about peeling, flaking or chipping paint — could be held accountable for any harm that results.

# Practice Area

## Personal Injury

Other examples of negligent conduct might be refusing to obey federal, state or local housing and safety codes regarding lead-based paint or failing to test suspicious paint to make sure it is safe.

### Symptoms of Lead Poisoning

Young children under the age of 6 are especially vulnerable to the harmful health effects of lead because their brains and central nervous systems are still forming. For them, even very low levels of exposure to lead can result in severe and permanent injuries.

Symptoms of lead poisoning in a child can include:

- Vomiting
- Loss of appetite
- Listlessness
- Learning disorders
- Irritability
- Loss of weight
- Fatigue
- Pain in the stomach or abdomen
- Delayed physical growth
- Mental impairment
- Anemia
- Coma (in severe cases)
- Pale skin tone.

# Practice Area

## Personal Injury

### Federal Recalls of Dangerous Products That Contain Lead

Every year the Consumer Product Safety Commission (CPSC) recalls products that pose a risk of lead poisoning. Following is a partial list of some of the items that have been pulled off store shelves since 2010 because of lead dangers:

- Toy Story 3 Bowling Game. Recalled May 5, 2011 (sold at Wal-Mart)
- American Girl Crafts Pearly Beads and Ribbon Bracelets Kit. Recalled June 7, 2011 (sold at Michaels and other retailers)
- Love, Hugs, Peace lapel pins. Recalled August 4, 2011 (sold at Build-A-Bear Workshops)
- Toy cars. Recalled September 28, 2011 (sold at Mega Wholesale Stores)
- Circo 17" children travel cases. Recalled December 22, 2011 (sold at Target stores)
- Ceramic piggy and lion banks. Recalled December 22, 2010 (sold at Oriental Trading Company and Fun Express)
- Love Tester mood rings and necklaces. Recalled September 21, 2010 (sold at small retail stores nationwide)



# Practice Area

## Personal Injury

- Brine VIP Lacrosse gloves. Recalled July 26, 2010 (sold at sporting goods stores)
- Toy tiara. Recalled June 24, 2010 (sold at Party City and other stores)
- Boys and girls belts. Recalled June 27, 2010 (sold at Target stores)
- Moroccan tea glasses. Recalled May 27, 2010 (sold at Cost Plus/World Market Stores)
- Bicycle bells. Recalled March 18, 2010 (sold at Dollar Stores and Do It Best Stores)
- Children's bangles. Recalled March 3, 2010 (sold at Chandigarh Fashion Stores and other outlets)
- Tiny Tink and Friends children's toy jewelry sets. Recalled February 2, 2010 (sold at small retailers nationwide)
- Papyrus brand greeting cards. Recalled February 2, 2010 (sold at card stores and other retailers).

Manufacturers and sellers might be liable to injured consumers if they fail to take reasonable steps to make sure their products are safe or if they do not promptly repair or recall products found to be unsafe.

# Practice Area

## Personal Injury

### *Nursing Home Abuse*

Elderly persons confined to a nursing home are especially vulnerable to abuse when they are too sick or too fragile to defend themselves or their basic everyday care. General signs and symptoms of nursing home abuse may include any of the following:

- Poor hygiene
- Soiled clothes or dirty sheets
- Malnutrition
- Dehydration
- Unexplained bruises and burns
- Bruises in the inner arm or thighs
- Injuries to the head, scalp or face
- Serious injuries
- Disorientation
- Untreated physical injuries
- Overly-defensive caretakers
- Fear of the caretaker by the elderly person

# Practice Area

## Personal Injury

### *Paraplegia and Quadriplegia*

Approximately 11,000 people suffer a spinal cord injury each year. Some of these injuries result in quadriplegia — or paralysis of the arms, legs and part of the trunk. Others will result in paraplegia — paralysis to the legs only.

People with quadriplegia and paraplegia face extraordinary hurdles. They must learn to cope with physical challenges and emotional trauma. Some require daily assistance and regular trips to the hospital for corrective procedures. Many will have chronic pain the rest of their lives.

The cost of lifetime care for a quadriplegia or paraplegia patient can range from \$500,000 to \$3 million or more, depending on the severity of injury.

The spinal column is made up of 31 bones called vertebrae — 7 cervical vertebrae (neck), 12 thoracic vertebrae (upper and middle back), 5 lumbar vertebrae (lower back), 5 sacral vertebrae (sacrum) and 2 fused coccygeal vertebrae (coccyx). The vertebrae are stacked on top of each other to form the spinal column.

# Practice Area

## Personal Injury

The spinal cord — which is located within the spinal column — is the central bundle of nerves that extends from the brain. It transmits signals between the brain and the rest of the body. Damage to the spinal cord can result in permanent paralysis, temporary paralysis and other neurologic and sensory impairments.

There are at least 200,000 people living with spinal cord injuries in the United States. Around half of those cases involve quadriplegia. This is the most serious type of spinal cord trauma because it can impair the muscles controlling vital functions like breathing and blood pressure. Quadriplegia can be life-threatening.

About 100,000 people in the U.S. suffer from paraplegia, which is paralysis at the thoracic, lumbar or sacral regions of the mid and lower back. Paraplegia results in loss of feeling and function to the legs.

Symptoms of quadriplegia and paraplegia can depend on the exact site and severity of the spinal cord injury. Generally, the higher the injury site is on the spinal cord, the more extensive the paralysis.

# Practice Area

## Personal Injury

Paralysis can be temporary or permanent, partial or complete. Patients with quadriplegia or paraplegia can experience loss of ability to move the feet, legs, shoulders, arms, wrists or hands; loss of bowel and bladder control; reduced blood pressure; and difficulty breathing without assistance

### *Causes of Quadriplegia and Paraplegia*

Most cases of paralysis result from trauma such as a sudden blow or impact to the spine. This causes a fracture or dislocation of vertebrae and thereby injures the spinal cord.

The majority of traumatic spinal cord injuries occur in motor vehicle accidents.

The following are the leading causes of quadriplegia and paraplegia:

- Accidents involving motor vehicles (cars, trucks, motorcycles) – 39 percent
- Falls – 28 percent
- Acts of violence (often gunshots) – 13 percent
- Sports injuries – 8 percent
- Disease, infections and other causes – 12 percent.

# Practice Area

## Personal Injury

Young people are particularly susceptible to spinal cord injuries. Fifty-six percent of all cases of quadriplegia and paraplegia occur between the ages of 16 and 30.

The course of long-term treatment is different for every patient. Wheelchairs and assistive devices might be required for mobility. Respiratory aids might be needed for breathing. Physical and occupational therapy can help preserve and improve muscle function. Catheters and bowel programs can enhance quality of life. Medications can control pain and reduce swelling.

Some quadriplegia and paraplegia patients need assistance performing everyday tasks like eating, grooming and dressing themselves. Daily help might also be required to prevent complications such as bedsores, urinary tract infections and pneumonia. Mental health treatment might be needed for depression and loss of self-esteem.

The cost for all of these things can be astronomical:

- Average initial hospitalization costs following a spinal cord injury – \$140,000
- Average first-year expenses (all types of paralysis) – \$198,000
- Average first-year expenses (quadriplegics) – \$417,000
- Average first-year expenses (paraplegics) – \$152,000

# Practice Area

## Personal Injury

- Length of average initial hospitalization in acute care – 15 days
- Average stay in rehabilitation unit – 44 days
- Average annual medical cost – \$15,000–\$30,000 per year
- Average lifetime costs for paraplegics (age of injury 25) – \$428,000
- Average lifetime costs for quadriplegics (age of injury 25) – \$1.35 million
- Percentage of spinal cord injury victims covered by private health insurance at time of injury – 52 percent
- Percentage who are unemployed eight years after injury – 63 percent.

### *Pedestrian Accidents*

A pedestrian is killed every two hours and injured every eight minutes in a car crash somewhere in the United States. Many times the victim was doing nothing wrong at the time. They were simply walking, jogging, hiking, playing, crossing a street, standing on a sidewalk, carrying groceries or pushing a baby stroller when disaster struck.

In a collision between a motor vehicle and a pedestrian, the pedestrian almost always loses.

# Practice Area

## Personal Injury

A total of 4,432 pedestrians were killed by cars in 2011 alone, according to the National Highway Traffic Safety Administration. This accounted for 14 percent of all traffic fatalities.

Another 70,000 pedestrians suffered injuries such as:

- Broken bones
- Injuries to the tibia or femur
- Torn cartilage and tendons
- Traumatic brain injury
- Back and spinal cord injuries
- Herniated discs
- Internal injuries to the kidney, spleen, liver or other organs
- Paralysis
- Mental distress
- Disfigurement and scarring
- Wrongful death.

If you or a family member has been injured in a pedestrian accident, you should consult a lawyer without delay. But be sure to choose the right one. Pedestrian accidents can involve complex issues of fact and liability. It takes a trained and experienced New York | New Jersey pedestrian accident lawyer to investigate what happened, identify all responsible parties and take proper legal action so that you receive maximum financial compensation.



# Practice Area

## Personal Injury

### *Pedestrian Accidents in New York and New Jersey*

Anyone can be involved in a pedestrian accident, but statistics show that young people and the elderly are most vulnerable. Children are struck by cars while walking to and from school. A senior citizen can be run over while trying to cross a busy street.

Almost three out of every four pedestrian fatalities occur in urban areas (72 percent). New York is one of the top four states for pedestrian deaths.

Often the cause of a pedestrian accident is driver negligence or inattention.

Here are some common examples:

- Failure to yield the right of way at an intersection
- Ignoring a stop sign or traffic signal
- Speeding
- Reckless driving
- Failure to stop when a school bus arm is extended
- Driving under the influence of drugs or alcohol

# Practice Area

## Personal Injury

- Attempting a dangerous passing maneuver
- Running a red light
- Failure to look both ways before turning right at a crosswalk
- Texting, talking on the phone or driving while otherwise distracted
- Backing into a person in a parking lot
- Sideswiping someone on the shoulder of the road.
- Even a relatively slow-moving vehicle can cause severe injuries or death to a pedestrian.

### *Products Liability*

We live in a world of products. Food, medicine, cars, toys, furniture and tools — every day we use and depend on these and countless other products. Thankfully, the vast majority of them are safe and reliable.

But some products don't work like they are supposed to. And some are so inherently dangerous they should never have been offered to the public in the first place.

### Dangerous Products Cause Deaths and Injuries

Each year, more than 29 million injuries and 22,000 deaths in the United States are caused by defective products, according to the Consumer Products Safety Commission



# Practice Area

## Personal Injury

Babies and young children are particularly at risk. The child safety organization, Safe Kids USA, found that an average of 168,000 children are treated in hospital emergency rooms each year for injuries from toys alone.

Defective products fall into three main categories:

**Design Defects.** These occur in the early stages of creation, when a product is first conceived and drawn up and before manufacturing begins. In general terms, a product has a design defect if the risk of harm was foreseeable and could have been reduced or eliminated through a safer design. If a product has a design defect, every single item that is manufactured is likely to be defective.

**Manufacturing Defects.** These arise because of some flaw in the production phase. Some models that come off the assembly line may be safe, while others might be defective. The problem could be equipment failure or poor quality control. The manufacturer may be liable for not fixing the machinery or detecting the error before the defective product reaches the consumer.

**Failure to Warn.** This happens when a product may be safe if used in one way but hazardous if used in another, foreseeable manner. In such situations, the product should include a clear and visible warning that gives the consumer notice of the danger and its consequences. If there is no safety warning, the product could be considered defective.



# Practice Area

## Personal Injury

Sometimes an injured consumer might be able to recover compensation without having to prove that the manufacturer was negligent. This is known as strict liability.

To establish a claim of strict liability, a consumer must show:

- The product had an “unreasonably dangerous” defect.
- The defect caused injury during routine and proper use of the product.
- The product had not been altered from the condition in which it was originally sold.
- Compensation for Injuries from Dangerous Products

The New York and New Jersey products liability team at the Ginarte law firm has more than 150 years of combined experience fighting for people who have been hurt or killed by unsafe products, such as:

- Toys and playthings that are harmful to children
- Food and grocery items that cause illness or health problems
- Products containing lead or other toxic substances
- Dangerous products purchased from stores or online
- People who are injured by a dangerous product can file a claim of product liability even if they were not the original purchaser.

# Practice Area

## Personal Injury

### *Severed Limbs*

There are approximately 1.7 million Americans — or one out of every 200 men, women and children — who are living with an amputated or severed limb. For most of these people, the amputation was linked to a vascular disease like diabetes. The arm or leg was intentionally removed for the greater health of the patient.

But for many amputees in New York and New Jersey, their limb loss was the result of a traumatic accident — most typically a car crash.

Have you lost an arm, leg, hand, foot, finger or toe because of someone else's negligent or careless conduct? Were you in an accident at work? You might be entitled to compensation.

### Severed Limb Side Effects

Losing a limb in a traumatic accident can have devastating effects. Victims will likely need physical, emotional and financial support. They will be permanently disabled. The pain associated with nerve damage can prevent them from ever resuming their jobs or former lifestyles.

# Practice Area

## Personal Injury

Poor circulation in the residual limb can cause intense pain. This problem is often aggravated in cold weather, which reduces blood flow to the affected area. Victims might require massage therapy or pain-management therapy.

Upper-limb amputations account for the vast majority of all trauma-related amputations. Males are at a significantly higher risk than females.

Many amputees have to make extraordinary life adjustments to cope with their missing limb. They may need extensive rehabilitation to manage fundamental skills like standing, walking, bathing and dressing themselves. Everyday tasks that other people take for granted might be difficult or impossible for an amputee to perform.

Other adverse consequences of a severed limb:

- Increased risk of infection at the wound site
- A need for analgesics or pain-killing medications
- Sores and cysts at the injury site
- Psychological counseling for depression and diminished self-esteem
- Family counseling to educate relatives on how to assist the amputee
- Phantom pain in the missing limb.

# Practice Area

## Personal Injury

Prosthetic limbs and attachments might be needed for mobility. These devices can be quite expensive. Sometimes they cause additional complications such as infections and abrasions.

### Sidewalk Accidents

You might not think of a sidewalk as a dangerous place. But each year more than 1 million Americans suffer a slip, trip or fall injury — and many of these occur on sidewalks. They happen in large cities and small towns, in quiet neighborhoods and busy metro centers, in city parks and shopping malls.

Victims of sidewalk accidents suffer broken legs, injured backs, sprained ankles, cuts and lacerations, concussions, traumatic brain injuries and other injuries. These injuries can lead to permanent disabilities or even death.

Have you or a member of your family slipped, tripped or fallen on a sidewalk or walkway? Did it happen because the surface was cracked, uneven, slippery or poorly maintained? If so, you might be entitled to financial compensation.

# Practice Area

## Personal Injury

### *About Sidewalk Accidents in New York City*

In general terms, property owners have a legal responsibility to keep the walkways that are located on their premises reasonably safe and free of hazards. But laws regarding sidewalk maintenance and liability differ from state to state. They can even differ from city to city within a state.

For this reason, if you are injured by tripping or falling on a sidewalk, it is important that you speak with a lawyer without delay. A qualified sidewalk accident and injury attorney will be able to explain what laws apply and what can be done if the laws were broken.

In New York City alone, there are miles and miles of sidewalks within the five boroughs of Manhattan, Brooklyn, Queens, Bronx and Staten Island. Every day these walkways are used by the people who live and work there, as well as by countless tourists, visitors and vacationers.

Following are some dangerous sidewalk conditions that can cause a slip, trip or fall:

- Faulty construction
- Uneven or unlevel slabs
- Defective patches or repairs
- Protruding pipes, cables or bolts
- Lifting caused by tree roots





# Practice Area

## Personal Injury

- No warning signs
- Cracks and damage from tree roots
- Snow accumulation
- Ice accumulation
- Water accumulation and puddles
- Faulty materials or shoddy paving methods
- Excessive build-up of dirt or debris
- Violations of building or safety codes
- Holes and pitting in cement and concrete
- Improperly placed sidewalk vaults and cellar doors
- Other defects that can cause a person to slip, trip and fall.

### *Injuries from Sidewalk Slips and Falls*

Sometimes when a person slips and falls on a sidewalk they get up, dust themselves off and continue on their way. Other times, they may not be able to get up at all.

Typical sidewalk injuries include fractures of the wrist, arm, ankle, hip or other bones. Hip fractures can be particularly devastating for older people.

# Practice Area

## Personal Injury

Other common injuries:

- Connective tissue damage
- Traumatic brain injury (TBI)
- Concussions
- Herniated discs
- Knee damage
- Rotator cuff injuries
- Cuts and bruises.

These accidents occur on:

- Commercial property — Businesses must take reasonable care of the premises to ensure the safety of customers and clients.
- Residential property — Private landowners can be held liable if they did not fulfill their duty to keep their walkways safe.
- Government property — Special rules often apply when an accident occurs on a sidewalk owned by a state, local or federal governmental entity.

# Practice Area

## Personal Injury

### *Slip and Fall*

A slip and fall is a serious type of personal injury accident. In legal terms, slip-and-fall accidents encompass a wide variety of situations where people are injured because they slip, trip, stumble or fall while on the property of another person.

Some common causes of slip-and-falls include:

**Liquid spills** — When water or other liquids are spilled on a floor, the owner of the property has a duty to clean up the spill in a timely manner to prevent visitors from being injured as a result of slipping on the liquid-covered floor. Hundreds of slip-and-fall accidents occur every year due to wet floors and walkways in New York City.

**Cluttered aisles** — Shop owners frequently need to stock aisles as merchandise is delivered. When this is done during business hours, customers could end up tripping on boxes or loose merchandise and equipment left unattended in the aisles. Some stores in New York and New Jersey also try to cram too much merchandise into small spaces, making walkways difficult to navigate safely.

**Falling merchandise** — When merchandise is improperly stacked on shelves, there is a risk that it will fall or that a customer will get hurt trying to get something down.

# Practice Area

## Personal Injury

Uneven surfaces — Improperly marked steps and uneven levels in walkways or sidewalks can cause pedestrians to trip, stumble and fall.

Ice-covered sidewalks — During the winter months in New York and New Jersey, ice and snow-covered sidewalks and walkways can become a serious hazard. A victim can easily slip and fall when proper steps are not taken to clear these areas within a reasonable time after a winter storm.

Dark stairways/walkways — A business and other property owners should keep all public areas well lit. When a visitor or customer trips or slips because of insufficient lighting conditions, the property owner could be held responsible for any ensuing injuries.

Construction defects/repairs — This covers a wide range of possible conditions; however, broken or loose steps or railings on stairways are common examples of a construction defect that often causes serious injuries to visitors to the property.

Elevator/escalator injuries — Improperly maintained elevators or escalators can malfunction and cause a passenger to trip or fall. In addition, spills that are not cleaned up can make an escalator slippery, adding to the chance of an accident.

*Who Is Responsible for Injuries in a NY/NJ Slip-and-Fall Accident?*



# Practice Area

## Personal Injury

Slip-and-fall accidents are covered under an area of law called “premises liability.” Slip-and-fall accidents are among the most common types of premises liability lawsuits. Premises liability law addresses injuries that occur to someone when they are on someone else’s property.

Property owners and occupiers of property, such as a business that leases retail space, could be held liable under certain circumstances for injuries sustained by someone while on their property. The law looks at a variety of factors when determining liability in a premises liability case.

One key factor is the duty the party in control of the premises had to repair or prevent the hazard that caused the accident.

In general, a property owner or occupier could be liable for injuries suffered in slip-and-fall accidents if any one of the following is true:

- The defendant directly caused the hazardous condition. For example, if a store owner spilled liquid on the store floor and failed to clean it up.
- The owner knew about the hazardous condition but failed to do anything about it. For example, if merchandise spilled into an aisle and the store owner was notified of the clutter but failed to clean it up, he or she could be held liable for any ensuing injuries.

# Practice Area

## Personal Injury

- The owner should have known about the hazard because a reasonable person taking care of the property would have inspected, discovered and corrected the dangerous condition. An ice-covered sidewalk, for example, that remained ice covered three days after a storm could be an example of this scenario.

### *Subway or Platform Accidents*

The subway and commuter train systems of New York and New Jersey are the primary means of daily transportation for millions of people traveling to work or school and going about their daily lives. These major systems of transportation require substantial and frequent repairs and maintenance to eliminate hazards and dangers to passengers. Such hazards include electrocution on the tracks, turnstile injuries, train door injuries, trips and falls, platform obstructions and overcrowding that could lead to falls.

When needed repairs or maintenance are not handled in a timely manner, accidents can occur. Subway and Train Platform Dangers

Anyone who lives or works in the New York and New Jersey metro area knows that the subway and commuter train system is an integral part of the city's transportation network. People who live in outlying areas often choose to ride the subway to work instead of fighting the traffic that plagues the city streets.

# Practice Area

## Personal Injury

Getting from Point A to Point B in New York City is often accomplished much more rapidly by jumping on the subway rather than by driving or hailing a cab. In 2011 alone, the New York subway system provided over 1.6 billion rides to passengers.

The commuter rail systems in New York and New Jersey are owned and operated by government agencies. The New York City subway, for example, is operated by the City of New York. This means that the city is responsible for maintaining the system and is potentially responsible for injuries caused by a failure to maintain the system properly.

A passenger could be injured in a number of ways in a subway platform accident.

The following are common scenarios that lead to injuries:

- Malfunctioning turnstiles
- Electrocutation as a result of contact with the tracks
- Slips, trips or falls on the platform or on stairs or escalators
- Defective or improperly maintained train doors
- Fall injuries that result from overcrowding in the station
- Obstructions on the platform that cause a passenger to trip or fall.

# Practice Area

## Personal Injury

Many of these hazards are the result of negligence on the part of the governmental authority charged with maintaining the rail system. Although negligence is determined on a case-by-case basis, the general concept of negligence holds a person or entity potentially responsible for injuries caused by hazards on a property that were known or should have been discovered by a reasonable property owner.

### *Government Defendants in a Subway Platform Accident*

Although subway and commuter train platform accidents are similar to other personal injury lawsuits or premises liability cases, one important difference is that the responsible party, or defendant, is a government agency or entity.

Whenever a government agency or entity is a defendant in a lawsuit, the rules of procedure change. All personal injury accident lawsuits must be filed within the applicable statute of limitations timeframe. However, when the government is a defendant, the injured victim is also typically required to provide a notice of claim very soon after the accident. In the case of a New York subway platform accident, for example, a victim must file a notice of claim with the New York City Transit Authority within 90 days of the accident.



# Practice Area

## Personal Injury

Failure to timely file notice could bar a victim from recovering compensation for his or her injuries after an accident. The notice of claim is simply a legal requirement that puts the government agency or entity “on notice” of a potential lawsuit.

### *Toxic Torts*

Mass tort litigation arises from exposure to pesticides and herbicides, contaminated groundwater, asbestos, silica, substances containing lead such as paint, arsenic-treated wood (CCA), polychlorinated biphenyls (PCBs), Benzene, medications, mold, welding fumes and other substances. These cases involve a variety of medical conditions and sometimes death for which compensation may be available. Our attorneys have been successful in representing victims of injuries that resulted from exposure to such substances.

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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.