

## ARTICLE

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# Construction Accidents & New Jersey's Workers' Compensation System



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Last year alone there were over 800 work-related fatalities in the American construction industry according to the United States Department of Labor – Bureau of Labor Statistics. According to New Jersey’s Department of Labor and Workforce Development, there were 4,500 nonfatal occupational injuries and illnesses reported last year in the construction industry alone, the United States’ largest industry. Approximately 2,800 of these incidents were severe enough to cause the injured victim to either miss work time, work with certain job restrictions, or transfer jobs entirely.

Workplace injuries that occur in the [construction industry](#) often involve massive and potentially dangerous equipment. Some examples of common construction accidents include falling from ladders or other apparatuses, slip-and-falls, forklift accidents, electrocutions, or burns. Illnesses brought about by work, and often covered under an employer’s workers’ compensation insurance, include work-induced heart attacks, psychiatric disabilities, and carpal tunnel syndrome. These injuries and illnesses can have devastating consequences both physically and financially. It is therefore important for victims to understand how to receive financial compensation for their injuries.

In New Jersey, all employers are required to have workers’ compensation coverage to protect injured victims from the economic harms of suffering such injuries while on the job. The workers’ compensation system provides injured or ill victims with financial support that covers expenses such as required medical treatments, lost wages, and disability benefits. The system is designed as a “no fault” insurance program. This means that an employee who becomes ill on the job or suffers an injury will receive the benefits of the program regardless of what party was at fault for inflicting such injuries. Under the law, however, an employee who receives these benefits is precluded from bringing a civil lawsuit against his or her employer, unless that injured employee can establish the injury was the result of the employer’s intentional acts.

## **Third-Party Liability For Construction Injuries**

Even though an injured worker should be able to recover through the workers’ compensation system, that victim may also be able to recover in a separate action/lawsuit against a negligent third party. Imposing liability on third parties ensures that those responsible for the injuries are held accountable because they were in the best position to prevent the accident in the first place.

Often, third parties in construction accidents include architects, general contractors, subcontractors, building owners, or property managers. Equipment manufacturers and suppliers can also be held responsible for workplace injuries. All of these parties may be held liable for a construction accident

depending on the circumstances of the incident and who employed the injured victim. However, these parties often enter into complicated contracts that can shift responsibility for accidents, thus immunizing some parties from liability while reducing the rights of compensation for the injured victim. If an employee is successful in recovering against a negligent third party, then the workers' compensation carrier would be reimbursed for any payments it may have previously made to the injured victim.

Workplace accidents, especially those that take place in an industry as dangerous as construction, and safety violations lead to federal investigations by the Occupational Safety and Health Administration, or OSHA. OSHA has strict reporting guidelines that employers must adhere to or suffer significant penalties. For example, a workplace accident that causes a fatality or one that causes injuries that require at least three workers to receive treatment at a hospital, must be reported to OSHA within 8 hours. An injured victim or other worker is free to report safety violations, accidents, or other dangerous incidents to OSHA without retaliation from an employer. Violations of OSHA regulations can include inadequate employee training for use of machinery, creating an unsafe or unsanitary workplace, failing to provide necessary guard rails or similar safety equipment, and failing to post signs or warnings regarding hazardous conditions. Evidence of an OSHA violation may usually be used as evidence of negligence, but if an OSHA violation is not determinative of fault or liability. If an OSHA investigation determines that no safety violations occurred, an injured victim may still bring suit against a party he or she feels is responsible for the accident.

Given the complexity of construction sites and the multiple parties that are often involved, the legal claims that follow an accident can be incredibly difficult to maneuver. Correctly identifying the party or parties responsible for the injuries can prove challenging and it usually takes an intensive investigation that can be both expensive and time-consuming. Determining who is at fault also requires a degree of legal expertise because often contractors, engineers, and building owners or managers use detailed contracts of indemnification to shed responsibility and immune themselves from liability. If you have been injured while performing the duties of your job, you should contact a worker's compensation or personal injury attorney as soon as possible.