

## NEGLIGENCE CASES

### **SUPREME COURT ALLOWS SANITATION WORKERS TO FILE LATE NOTICE OF CLAIM TO SUE CITY FOR NEGLIGENCE:**

(1) A Sanitation Worker fell off a salt spreader due to a defective ladder, injuring his wrist and having surgery. Unfortunately, he didn't file a Notice of Claim with the NYC Comptroller within 90 days and lost his right to sue the City. Our office filed a lawsuit to force the City to accept the Notice of Claim which was granted on 1/24/07, nearly 13 months later.

(2) A Sanitation Worker tripped and fell in a hole in Staten Island 1 garage injuring his knee. He had surgery and never returned to work. He didn't file a Notice of Claim and lost his chance to sue the City. Our office filed a lawsuit to force the City to accept the Notice of Claim which was granted, nearly 14 months after his accident.

☛ **IMPORTANT: If you are injured on the job due to a defective or broken vehicle, a cracked sidewalk, a hole in your garage floor, a broken staircase, don't wait: FILE A NOTICE OF CLAIM WITHIN 90 DAYS OF YOUR ACCIDENT.**

### **SANITATION WORKER GETS \$150,000 FOR FALLING OFF SIDEWALK**

Sanitationman, Dennis Cottiers, who was recently promoted to Supervisor was doing normal collection when he tripped and fell over a curb which was misaligned. As a result, he had a small ankle fracture, had surgery, made a great recovery, returned to work full duty and received a promotion. He only lost 4 months before returning to back to work and received \$150,000.00.

### **CONSTRUCTION WORKER FALLS IN EXCAVATION TRENCH - WINS \$2,500,000**

A 32-year-old construction worker using a jackhammer during an excavation was caused to fall due to lack of proper scaffolding and sustained lower back herniations. The case was settled before trial for \$2,500,000.

### **CONSTRUCTION WORKER, FALLS THROUGH HOLE - WINS \$2,625,000**

42-year-old repairing the floor of an elevated garage ramp fell through improperly braced section of the floor injuring his back and requiring surgery. He never returned to work. The case was settled before trial for \$2,625,000.00.

### **82 YEAR-OLD GETS \$48,000 FOR TRIPPING AND FALLING ON SIDEWALK**

An Upper West Side resident was walking on Broadway when she tripped and fell over a raised sidewalk flag. She bruised her face and needed dental work. We successfully settled her case, out of court, for \$48,000.00.

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## DISABILITY PENSION INFO:

### **WORLD TRADE CENTER DISABILITY BILL:**

This creates a presumption that eligible members or retirees who develop pre-defined qualifying conditions or health impairments as a result of participating in rescue, recovery or cleanup operations at one of four covered sites that such condition or health impairment was contracted in the performance and discharge of duty thereby conferring an accidental disability benefit. **A Notice of Intention MUST be filed no later than June 13, 2007.** (Form No. 622)

**HEART BILL:** This creates a presumption that eligible members who develop heart disease after passing a pre-employment physical examination at the time of original appointment incurred that disease in the performance of duty. Eligible members are entitled to a disability benefit equal to three-quarters of Final Average Salary.

### **SANITATION WORKER, JACK SHANDS, WINS 3/4 PENSION FOR SLIPPING AND FALLING IN LUNCHROOM**

While walking in QE13, he slipped and fell on water leaking from a refrigerator. The refrigerator was poorly maintained. As a result, he had shoulder surgery and never returned to work. Our office successfully won his 3/4 Accident Disability Pension. Mr. Shands also filed a notice of claim within 90 days and has a lawsuit pending against the City.

### **SUPERVISOR GETS 3/4 DISABILITY PENSION AFTER FALLING ON ICE**

A sanitation supervisor slipped and fell on ice, prior to his promotion, while doing collection. He suffered severe back injuries which required surgery. Even though he was promoted to supervisor, we applied for the disability pension and won, despite the fact his job responsibilities are less physically demanding now. He is now retired and receives a 3/4 tax free pension.

### **SANITATION WORKER GETS 3/4 PENSION AFTER BEING KNOCKED DOWN BY FLYING METAL**

Sanitation Worker, Figueroa, was unloading her vehicle in New Jersey when a piece of metal shot out from under a vehicle and caused to fall. She had surgery and never returned to work. Our office was successful in obtaining her 3/4 accident disability pension.

### **SANITATION WORKER FALLS ON BROKEN SIDEWALK, WINS 3/4 DISABILITY PENSION**

Sanitation worker, Jaime Nelson, was performing routine collection in Brooklyn when he tripped and fell on a cracked sidewalk, causing a knee injury. Following surgery, he was unable to resume full duty and hired our office. We successfully obtained his 3/4 tax free disability pension at NYCERS.

### **SANITATION WORKER HITS POTHOLE WHILE RUNNING A RELAY - GETS 3/4 PENSION!**

A sanitation worker was performing a relay when he hit severe ruts and potholes in the roadway. It was later determined that the truck he was driving had a broken chassis and bad tires. This accident caused him to sustain permanent injuries to his spine which prevented him from returning to full duty. We successfully obtained his 3/4 tax free disability pension based upon the facts and the injuries he sustained. *The key to winning this type of pension is to prove that something other than the roadway itself caused the accident!*

⇒HOW TO WIN A PENSION:

**FIRST**, YOU MUST HAVE HAD AN "ACCIDENT". THE DISTINCTION BETWEEN AN "ACCIDENT" AND "INCIDENT" IS IMPORTANT. AN "ACCIDENT" IS AN UNFORESEEABLE EVENT WHICH CAUSED AN INJURY WHICH PREVENTS YOU FROM DOING YOUR JOB FULL DUTY.

**FOR EXAMPLE:** SIMPLY LIFTING A CAN AND INJURING YOUR BACK WOULD MOST LIKELY BE DEEMED AN INCIDENT, HOWEVER, TRIPPING AND

FALLING OVER A DEFECT OR BEING INVOLVED IN A MOTOR VEHICLE ACCIDENT WOULD MOST LIKELY BE DEEMED AN ACCIDENT.

### **IMPORTANT THINGS TO REMEMBER:**

☞ **IF YOU WERE INJURED AND THE CITY OF NEW YORK IS RESPONSIBLE IN ANY MANNER, YOU MUST FILE A NOTICE OF CLAIM WITHIN 90 DAYS.**

☞ **YOU HAVE 2 YEARS FROM THE DATE OF YOUR L.O.D.I. TO FILE FOR AN ACCIDENT DISABILITY PENSION WITH NYCERS.**

☞ **THE FILING OF A PENSION WITH NYCERS DOES NOT REQUIRE AN ATTORNEY.**

**DID YOU KNOW YOU CAN GET EXTRA MONEY FROM COMPTROLLER IF YOU WERE INVOLVED IN A LODI WHILE OPERATING A DEPARTMENT VEHICLE?**

»» If you are involved in a motor vehicle accident at work, you should apply for New York State no-fault benefits within 30 days of your accident.



»» All it takes is filing an application with the NYC Comptrollers office. Once submitted, you may be eligible to get back lost overtime, chart, sick and holiday pay.

For more information on these or any other matters, feel free to contact:

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