

# NEW YORK PEDESTRIAN ACCIDENT GUIDE

*Legal Help for Injuries  
in the Empire State*

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If you were involved in a pedestrian accident, you're likely scared, in shock, and unsure of who you can trust. A New York pedestrian accident lawyer can help you manage the legal process and fight for the compensation you rightfully deserve.

Motorists have a responsibility to share the road safely with other motorists, cyclists, and pedestrians. Sadly, in New York, accidents involving vehicles and pedestrians are all too common, and these accidents can cause serious injuries for those involved.

Were you injured in a pedestrian accident? Our New York pedestrian accident lawyers want to help.

Our legal team can help you build a strong case and fight for the compensation you rightfully deserve. If someone else's negligence caused your accident, you shouldn't be stuck with medical bills, rehabilitation costs, and the stress of long-term pain. Our New York pedestrian accident lawyers will help you fight for any and all compensation, so that you can focus on your recovery.

## COMMON CAUSES OF PEDESTRIAN ACCIDENTS

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Being struck by a vehicle while out for a jog or walking the dog can change your life in an instant. Unfortunately, the majority of these accidents aren't caused by the pedestrian, but by unsafe or distracted motorists.

If your accident was caused by the negligence of a motorist, you may be entitled to compensation. A few examples include:

- » Distracted driving
- » Texting while driving
- » Reckless driving
- » Excessive speed

- » Impaired vision
- » Improper lighting
- » DUI or driver intoxication

When you hire a New York pedestrian accident lawyer, your attorney will be responsible for investigating your accident and helping to determine its cause. Our investigations include witness interviews, consultations with experts, collecting police reports, and more.

## WHAT TYPES OF COMPENSATION ARE AVAILABLE

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A pedestrian accident can turn your world upside down. Victims often face new financial and physical struggles. Medical bills and lost wages can put financial pressure on you, and long-term pain can be debilitating.

Victims can pursue compensation for any and all costs related to their accidents. There are two main types you can pursue, including compensatory and punitive damages. Compensatory damages provide coverage for costs directly related to the accident. This can help you pay for:

- » Medical bills, long-term care
- » Property damage
- » Disability
- » Pain and suffering
- » Lost wages
- » Loss of earning capacity

In addition to compensatory damages, you can seek punitive damages. Punitive damages are a form of financial punishment in cases of gross negligence or malice. These damages are awarded by a jury if your case goes to trial, and they're awarded on top of any compensatory damages.

# WHAT TO DO AFTER AN ACCIDENT

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Most accident victims don't know what to do after an accident. They're often in shock, in physical pain, and unsure of what to do next. We recommend you follow these steps to protect your rights and safety:



- » **Seek Medical Care** – Call 911 and seek medical attention for your injuries. Your safety should be your top concern. If you are in the way of oncoming traffic, move to an area that's within visible distance of the accident scene.
- » **File a Police Report** – When first responders arrive, you may be interviewed by investigators. Provide as much detail as you can about the accident, but do not admit fault. Even if you were uninjured, it's important to contact the police and file a report.
- » **Document Injuries** – Take note of any injuries you have with photos, including cuts and bruises, any areas of ripped clothing, or areas of pain.
- » **Avoid Admitting Fault** – When you talk with investigators, it's important that you do not discuss fault. Admissions of fault can harm your case, even if you incorrectly implicate yourself.
- » **Seek Legal Advice** – It's important to contact a New York pedestrian accident lawyer as soon as possible. The statute of limitations for pedestrian accidents is two years in New York. The sooner you contact an attorney, the stronger the case you can build.



# FREQUENTLY ASKED QUESTIONS | NEW YORK PEDESTRIAN ACCIDENT GUIDE

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## *How Do I Pick the Right Attorney?*

First, you want an attorney who has experience in handling what we call pedestrian knock-down type cases. You want an attorney who knows how to litigate these cases in court. You don't want your friend of a friend of a friend who refers you to an attorney who does divorce work or estate planning. You want an attorney that handles this type of case.

Number one, you want to meet with that attorney. You want to ask questions of that attorney. You want to find out how many types of pedestrian knock-down cases that attorney has had over the years. You want to find out whether or not you feel comfortable with that attorney; that's very important. I believe that the relationship between the attorney and client is like a marriage, because you're going to be working together as partners through a process that could take quite a long time. Litigation requires depositions and potentially a trial, and you want to make sure you feel comfortable with that lawyer.

Finally, you want to look at the firm itself. Is it a very large firm? Is it a smaller firm? You want to make sure that you'll have access to the attorney and not just the paralegals or a legal assistant that may be assigned to your case. You want to know that you have access to that attorney as well.

## *What Mistakes Should I Avoid After My Accident?*

One mistake that's made is the client walks away from the scene of the accident. They're struck by a motor vehicle, they feel bruised, but they don't wait for the police to arrive and they leave the scene. That's a big problem.

Second, they don't properly advise the police officers who do show up on how the accident happened or what happened. Third, they don't seek proper medical attention early on. Maybe they're a little bruised at the scene of the accident and they refuse medical attention, and then the next day they can't get out of bed. The advisable thing to do is, if you're in pain and you were struck by a motor vehicle, go to the hospital and advise the hospital staff where your pain is and that you were in a motor vehicle accident.

Other mistakes that are made down the road is that clients don't always follow the advice of their doctors and they don't follow up with the proper medical treatment that they need, which can affect your case. Another problem that often happens is that the client will retain competent counsel, an attorney who is a personal injury lawyer that understands how to navigate through the process to get the client a proper recovery, but the client isn't truthful to the attorney. One of the questions that I always ask a client is, "Were you ever injured before in a car accident? Did you ever suffer an injury in any type of accident where you're claiming the same type of injuries that you're claiming in this accident?" You want to be truthful with that attorney because the attorney will be able to better represent you through the process.

## *Do I Have a Claim if I was Injured in a Hit-and-Run?*

First, you may want to retain competent counsel as early as possible to do an investigation to see if there may be cameras that were set up in or near the area, to see if we can identify the plate of the vehicle that struck you.

I had a client call me just the other day who was in an accident and a witness was able to take a photograph of the rear of the vehicle. She came to my office and we were able to do a license plate search and identify the vehicle. You don't want to leave the scene. You want to make sure the police arrive. You want someone to call 911 so it can be documented on paper in a police report that it was a hit-and-run. If there were witnesses there that were able to provide a plate number, you want that documented on the police report as well. Very often, the police officers will run a search of the plate at the scene of the accident. These are things that you need to do.

What if you're unable to identify this car? You might still have a claim if you're someone who owns a vehicle, or you're in a household where someone owns a vehicle, like a mother or father. There's a chance that you can pursue your claim under their policy, for what's called uninsured motorist protection, to cover you for the loss.

If that's not an option, there's another avenue you could potentially go, and that's through what's called MVAIC, the Motor Vehicle Accident Indemnity Corporation. They're an entity that was set up through the government. They step into the shoes of the one that caused the accident, and act as the insurance carrier, but you need to show that it's an unidentified vehicle that left the scene and that there's no other coverage available to cover your loss.

## *What If I'm Partially at Fault?*

I had a client call me the other day and say to me, "I was walking across the street and I was struck by a motor vehicle." I asked her, "Where were you walking?" "I was walking in the middle of the road." I asked her, "Were there any traffic signal devices?" "Yes, there were, and the traffic signal device said that the vehicle that struck me had a green light, and I didn't see the vehicle."

The question that she had was, "Do I have a case?" The answer is potentially. It depends on where the accident occurred. It depends on the type of roadway that it was. Was it a residential roadway? Was it a roadway where you're not supposed to be driving more than 25 miles an hour? Are we able to show that that vehicle was traveling at 45 or 50 miles an hour? Will there be culpable conduct on your part? Potentially, there will. Will that affect the value? Yes, it could. If you're partially at fault, that will come into play in resolving the case.

## *How Much Is My Case Worth?*

There's no easy answer to that question. It depends on the extent of your injury. It depends on whether or not your injuries are permanent in nature; that adds value to the case. It also depends on how the accident happened. Was it all the fault of the driver, or is there some culpable conduct on your part? Were you crossing in the middle of the street? Were you crossing within a pedestrian crosswalk with a green light?

These are all factors that need to be considered. It doesn't mean you don't have a case if you're walking across the middle of the street, but these are factors that come into play in making a determination as to what your case is worth. I will tell you that our firm will make sure that you get the compensation that you're entitled to.

## *How Long Do I File a Claim for My Accident in New York?*

You have three years from the date of the accident to file a lawsuit, otherwise you're banned and you've waived your right and can't file a lawsuit after that time period. There are exceptions to that.



If the accident involves a municipality, it may be a shorter time period; it may be a year and 90 days. There are also deadlines relevant to ensuring that you get your medical bills paid. You have to file what's called a no fault application with the insurance company, and that has to be done within a 30-day period. There are deadlines that need to be followed. You need to sit down with a competent attorney, one that has personal injury litigation experience, to guide you through the process and to make sure that all of these deadlines are met.

## *How Long Will This Case Take?*

There's no easy answer to that question. Many factors come into play. One important factor involves the extent of the injury. The injury may take time to heal. It could be a broken leg; a broken leg can take several months to heal, and then the individual may need to go through a rehabilitation process, or a physical therapy process, that can take longer. It may take up to a year, if not longer, to see if the injuries are lasting and permanent in nature. We want to know if those injuries are lasting and permanent in nature because they must be factored in to determining value and making sure that the individual gets the most compensation that they can possibly get for their injuries.



There are other factors that come into play as well – how the accident happened, whose fault it was, etc. If there are issues regarding whose fault it was, it may be a case that requires litigation, which means it's a case that we need to file a lawsuit for. If we file a lawsuit and we have to go through the litigation process, that could take time. That could take two to five or more years. I will tell you that this firm will make sure that you get the most that you can possibly get for your injuries in the shortest amount of time possible.

## CONTACT US FOR A FREE CASE REVIEW

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If you were struck by a vehicle, don't hesitate to call our New York pedestrian accident lawyers. We have extensive knowledge of New York's pedestrian safety laws, and we've helped hundreds of victims recover compensation.

Call now for a free, no-obligation case review. We're happy to answer any questions you have about your case. Call now.



## ABOUT THE AUTHOR

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Brian J. Elbaum was only a few years out of law school when he decided to go out on his own in 1996.

Twenty years later, he still holds fast to the same two winning principles:

- » Making sure clients are comfortable throughout the litigation process.
- » Achieving great results by being aggressive and making the responsible party constantly uncomfortable.

## 1996

Brian graduated from Rutgers University in 1991 and earned his law degree from Brooklyn Law School in 1994. While he had a great job at a good firm after graduating he quickly realized that he could serve clients better on his own, unburdened by the constraints of the law firm model and approach.

Brian felt so strongly in what he was doing that for his first year he was willing to work out of his apartment – a sixth floor walkup on East 37th Street & 3rd Avenue. Getting dressed every day in a full suit and tie to work from the desk in the corner of a modest one-bedroom, Brian took the cases no other attorney wanted. He quickly developed a reputation for making “lemons into lemonade,” helping those personal injury clients who other attorneys couldn’t.

## 2016

The Law Offices of Brian J. Elbaum have come a long way in 20 years. We’ve represented over 800 personal injury clients in Queens, Brooklyn, the Bronx, New York, Staten Island, Long Island, Upstate New York and New Jersey in cases involving construction accidents, auto accidents, slip & falls, medical/dental malpractice, bar and nightclub assaults, product liability, and much, much more.

We’ve stayed small by design, continuing to believe as we did 20 years ago that, more lawyers means more internal politics and reduced focus on the client. At our office, you know that every case will be handled personally by Brian. And we’ve stayed true to our philosophy, demonstrating in case after case that being tough with the adversary and compassionate with our clients is a winning combination.

Brian is licensed to practice law in New York and New Jersey as well as the federal courts. He is active in New York’s legal community as a Certified Member of the New York Trial Lawyers Association, Brooklyn Bar Association, and New York County Bar Association.

## *Our Office*

The story of our office mirrors the story of New York's past twenty years. We were located in 150 Broadway on 9/11, and moved to 708 3rd Avenue until downtown was ready for business again. As soon as it was, we moved to 111 John Street – until Superstorm Sandy hit and relocated us to our current location.

Today, our office is inside the historic 11 Broadway building, just outside Bowling Green. Built 120 years ago in 1896, the Western Union branch office inside our building became a focus in the investigation into the Titanic disaster in 1912 as Senator Alden Smith sought to determine whether a message from the doomed ship had been transmitted to New York's White Star Line office next door.

Mr. Elbaum has broad experience in the areas of law practiced by the Firm and manages a team dedicated to meeting client needs. Prior to establishing the Firm, Mr. Elbaum worked for several New York law firms representing clients in cases ranging from workers' compensation to commercial litigation. He also served as a judicial intern to a New York Supreme Court Justice, investigated exchange violations as an intern at the New York Stock Exchange, and worked at an entertainment firm representing musicians. His extensive legal and business background has instilled in Mr. Elbaum a solid understanding of how to get things done in a variety of environments.

Mr. Elbaum once held the position of Vice President at an insurance company, for which he provided advisory services. This position has enabled him to gain an insider's view of the insurance industry. He translates that insight into solid advice for his clients on insurance-related matters.

In establishing the Firm, Mr. Elbaum received guidance and inspiration from his father, the late David Elbaum, Esq. David Elbaum served as Of Counsel to the Firm in its early years and provided key insights into several cases.

