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STARR AUSTEN & MILLER, LLP

Do You Have a Case?

**Construction
Accident**
eBooklet

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8 Questions You Need Answered If You Are Hurt At Work

Indiana construction workers are getting killed and severely injured almost daily. You may be one of them looking for answers or you may be a family member of one no longer with us.

Fatal Occupational Injuries by Event or Exposure

Area	Total Fatalities	Event or Exposure					
		Violence and other injuries by persons or animals	Transportation Incidents	Falls	Exposure to Harmful Substances & Environments	Contact with objects and equipment	All other
United States	4,609	780	1,898	666	401	708	156
Indiana	122	17	61	16	7	18	3

United State Department of Labor, 2011

Incidence Rates (per 100 full-time workers) of Nonfatal Injuries and Illnesses in Private Industry

Area	Total recordable cases	Cases with days away from work, job transfer, or restriction			Other recordable cases
		Total	Cases with days away from work	Cases with job transfer or restriction	
United States	3.5	1.8	1.1	0.7	1.7
Indiana	4.2	2	0.9	1.1	2

United State Department of Labor, 2011

In these cases, severe physical pain and injury is compounded by the loss of the breadwinner's paycheck. Families are left wondering how the mortgage and hospital bills will be paid. You may be seeking advice on what to do next. The attorneys at Starr, Austen & Miller, LLP want to help you and your family recover against those parties responsible. We hope the answers below can help you through this difficult situation.

1. What should I do first if I'm injured at work?

- First, you need to document the injury. Even if you believe your injury is not serious at the time, you should immediately report your injury to your supervisor or manager and ask them to complete a formal accident report. You should keep a copy of the report.
- Make note of all witnesses (whether fellow co-workers or employees of other firms) to your accident and if possible, ask them to provide you with their contact information.
- If possible, record the condition of your work area with a small camera or cell phone paying special attention to any workmanship, equipment or materials that may have contributed to your injury.
- If your injury requires medical attention, you should follow each and every instruction of the doctor and your employer, including, but not limited to, attending all appointments and examinations scheduled, following all restrictions, off-work requirements and instructions.
- Contact an experienced construction accident attorney. Most attorney consultations for these cases are free and even if you don't have a case to pursue, you'll leave the meeting more prepared if and when you face the same problems again.

2. What should I NOT do?

- Never delay reporting your injury to your employer thinking "I'll get better with rest" or "I'll give it some time to work itself out." Construction work is hard and bumps and bruises happen, but ignoring real injury could put you and your family at risk.
- Don't ignore the orders or instructions of your medical provider, including working or activity restrictions. If your injury worsens because you failed to follow your doctor's work restrictions, you may be blamed.
- Use your employer's chosen clinic first, but if you need additional medical care or an emergency occurs requiring immediate treatment, go to a hospital. If you have to go there, use your own medical insurance for payment and you can seek payment later from the party responsible for your injury.
- Don't speak with representatives of your employer's workers' compensation insurance carrier about the facts of the accident until you have consulted with an experienced construction injury attorney. Again, the consultation with the attorney is free and the first interview you give about the accident could be used against you later on.

3. I was hurt because a co-employee didn't do his job right, can I sue him?

- In most cases, you can't sue your fellow worker for your injuries caused by the negligence or fault of that co-employee done as part of his job. However, in some cases, when your co-employee's actions are clearly outside of his job duties, you may be able to sue him. Examples of those actions could be: crimes or incidents that take place away from the workplace or after work hours.
- Even if you can't sue the co-worker directly, you will likely have rights to recover under Indiana's workers' compensation laws.

4. I was hurt because my employer didn't train me right or ignored IOSHA safety laws, can I sue anyone?

- In most cases, you can't sue your own employer for your injuries caused by the negligence or fault of that employer. But, Indiana's workers' compensation laws would allow you some limited recovery. However, sometimes the question of whether you are an "employee," independent contractor or have some other relationship with a business can be a complicated legal issue that must be analyzed. If you are not technically an "employee," you may still be able to sue that negligent company even if they directed your work and paid your wages.
- Further, it is very common that the general contractor or construction manager at larger projects has promised by contract to be responsible for all employees' safety at the site. Even if your employer caused your injury by not training you properly or ignoring IOSHA safety law, that general contractor or construction manager could be legally responsible to keep you safe while at their site and they are in control.

5. I'm not sure why I got hurt, who could I sue?

- Many times injured workers are blamed by their employer and others for "not paying attention" or "ignoring safety warnings." This situation most often occurs when you can't defend yourself because the injury is severe or fatal. Until an investigation is conducted, many times requiring expert review, it could be impossible to know what or who really caused your injury. In those cases, it is vital to get lawyers that specialize in construction injury cases involved immediately so that your rights are protected. Every day you wait, evidence is getting destroyed and witnesses are forgetting important details.
- You may have third party cases against other trades on site, general contractors, construction managers, architects, equipment or material manufacturers and site owners that you are not

aware of at the time of your injury. Without a proper investigation, you may be letting the guilty party off the hook.

6. How would I be paid for my injury in a workers' compensation case?

- Typical workers' compensation benefits may include the following:
- Weekly temporary total disability (TTD) payments while you are off of work;
- Medical care and treatment at the expense of the employer or their insurance company. Typically, this treatment is controlled by the employer; and
- A lump sum settlement or permanent partial impairment (PPI) award if the incident results in a permanent injury. An example of permanent injuries that may result in permanent injury or a PPI lump sum award may be: back injuries; amputation of toes, fingers, or limbs; brain injuries causing mental or physical impairment; loss of vision or a reduction in eye sight; crush injuries to finger, toes, hands or feet; neck or cervical injuries; hearing impairment or hearing loss; fire or chemical burns; and any injury that causes sustained impairment or loss of function to any part of the body.

7. What damages are not paid in a workers' compensation case?

- Workers' compensation does not fully compensate a hurt worker or his family. It ignores your pain and suffering and limits your recovery for permanent injury. Lost wages are also greatly reduced. It is likely your spouse would have a loss of your love, affection and contribution to the household that is also disregarded by worker's compensation law. Only by filing a lawsuit against that other liable trade company, general contractor, construction manager, architect, equipment or material manufacturers or site owner will you ever be truly compensated for your injury. In cases where a worker is hurt on the job at the hands of a third party or an individual employed in another trade, it is possible to file both a workers' compensation claim and a non-workers' compensation personal injury claim at the same time. These situations are very fact sensitive and again, require the analysis of a competent and experienced attorney. All too often, our firm has found that clients can lose their rights to pursue a third party claim where it is assumed the workers' compensation carrier would take care of their injuries. Unfortunately, in most cases, the workers' compensation insurer will not advise the employee of their right to pursue additional damages.

8. How will I pay for a lawyer if I can't work because of my injury?

- Our firm works for you on a contingency basis meaning you only pay us if you recover for your injuries. We take the risk and invest our time and money. You worry about getting better, we'll worry about proving your case. You should know that any recovery you have against a third party could be reduced to pay back related medical bills or workers' compensation benefits you accepted from your injury. But, seeking advice or filing a claim using our firm will not cost you attorney fees.

If you have any questions or would like to discuss your case, please contact me.

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