

**RECENT PENSION (Accident & Heart) CASES:**

»» Sanitationman trips and falls over metal roadway plates in Manhattan 5, sustains knee injury with surgery. Our office successfully obtained his 3/4 accident disability pension.

»» Sanitationman involved in a motor vehicle accident with private car, sustains knee injury with surgery. Our office successfully obtained his 3/4 accident disability pension.

»» Supervisor, conducting garage inspection, trips and falls over defective metal door saddle, causing shoulder injury requiring surgery. Our office successfully obtained his 3/4 accident disability pension.

♥ EMT Lieutenant suffered from unstable angina and history of coronary artery disease. EMT underwent several procedures including angioplasty, catheterizations and the insertion of a stent and a defibrillator. He underwent numerous diagnostic tests including stress electrocardiogram and myocardial perfusion scans. Our office successfully obtained his 3/4 disability pension under the EMT heart bill.

♥ EMT Lieutenant suffered from coronary heart disease, hypertension and unstable angina. He underwent multiple cardiac procedures including placement of coronary stent. He had a history of cardiac arrest. Our office successfully obtained his 3/4 disability pension under the EMT heart bill.

**RECENT NEGLIGENCE CASES:**

»» Sanitationman struck in the head by a roll-off container resulting in scar over eye. Lost only 4 months from work, received his full base salary and received \$30,000.00.

»» Sanitationman riding rear step hits pothole and is thrown from truck sustaining serious head injuries including fractured skull and amnesia. Notice of Claim not filed within first 90 days. My office filed a lawsuit to force the City to accept the claim. The judge granted our application and he is permitted to pursue his legal rights.

»» Passenger in truck involved in motor vehicle accident, ejected through windshield and died at the scene after approximately 2-3 minutes. Case settled before trial for \$600,000.00

»» Motorcyclist, NYC probation officer, strikes defectively installed roadway plates, falls and fractures ankle requiring 3 surgeries. Case settled before trial for \$785,000.00

»» Female office worker trips and falls over construction material left unguarded on the sidewalk causing her to fracture her femur requiring surgery. Never returns back to work. Case settled before trial for \$500,000.00

**VERY 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.**

☞ **IF YOU ARE INVOLVED IN A MOTOR VEHICLE ACCIDENT, ON OR OFF THE JOB, YOU MUST FILE A NO-FAULT APPLICATION WITH THE CITY COMPTROLLER OR YOUR PRIVATE CARRIER WITHIN 30 DAYS.**

General Municipal Law § 207-r

Disabilities of members of the uniformed force of sanitation departments

“Notwithstanding the provisions of any general, special or local law or administrative code to the contrary, but except for the purposes of the workers' compensation law and the labor law, any condition of impairment of health caused by diseases of the heart, resulting in total or partial disability or death to a paid member of the uniformed force of a paid sanitation department, where such paid member is drawn from competitive civil service lists, who successfully passed a physical examination on entry into the service of such department, which examination failed to reveal any evidence of such condition, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary be proved by competent evidence.”

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**THINGS TO REMEMBER WHEN APPLYING FOR A 3/4 PENSION:**

- 1) When applying for a 3/4 Accident Disability Pension (§605-b), you must apply within 2 years of the Line of Duty Injury and receive immediate medical treatment.
- 2) The LODI report must be complete and describe what happened to you in detail. Lawyers don't see the report until after its completion.
- 3) To win, you must prove to NYCERS that you had an "Accident" and you are disabled from your job title. (The occurrence causing injury must be unexpected and not part of ordinary day to day duties).
- 4) Your injuries must be permanent and your doctors must support the fact that you can never return to your job title, despite any treatment or surgery rendered.
- 5) NYCERS requires all hospital records and your doctors daily progress notes, so be careful what you tell your own doctor.
- 6) If you are in the 20 year plan and you are disabled before your 20<sup>th</sup> year, there is no automatic right to a pension. You must apply for an ordinary or accidental, but there is no guarantee you will win.
- 7) All disability pension are conditional. NYCERS has the right to recall for future examinations. If you cannot prove you are still disabled, you risk losing your pension. However, that does not meant Sanitation will take you back.
- 8) NYCERS and Sanitation run different agendas. If the DOS clinic determines you are unfit for duty, all they can do is medically separate you. As a courtesy, they may file your papers with NYCERS. NYCERS, however, does not have to awarded you a pension or even accept your application until they determine they are ready. It is possible that DOS may medically separate you for a physical disability and NYCERS may not even see you. You must be financially prepared! You may be left with no salary or health benefits!
- 9) If you are denied a 3/4 accident pension and you wish to have an outside panel of doctors review your findings, you have 15 days from the date of the Board of Trustee's letter to do so. This will result in your waiver of all legal rights including filing an Article 78 which must be commenced within 4 months from officially being notified.

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♥ HEART BILL applicants must be very careful when applying. The standards are somewhat different. Your cardiac condition does not have to be caused by job, however, you must still prove you can't physically perform your full job duties. NYCERS will require up to date object testing that demonstrates your cardiac disability. Simply having chest pain is not enough. Medical procedures such as insertion of a stent or a pacemaker do help but you must still have updated testing showing that the heart is still not stable.

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