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Personal Injury - LODI Accidents • NYCERS Disability Pensions

Fall 2022/Spring 2023



Sanitation Worker trips over cement curb stop in Queens Satellite Parking Lot - Gets 3/4

While assigned to QW1, our client was transported to a satellite parking lot to retrieve his truck. While walking in the lot, he tripped over a cement parking curb covered in leaves. The lot was not maintained, nor cleaned. As a result, he injured his knee and hip but was originally denied a 3/4 by NYCERS. They claimed he was disabled but tripping over a cement parking curb covered in leaves was *not* an accident. We challenged the denial, claiming a sanman shouldn't expect to trip over leaves, he was granted his 3/4 Accident Disability Pension.

Sanitation Supervisor Trips in Pothole during Winter Operations - Achilles Injury - Gets 3/4

Our client was supervising plow operations in an intersection covered in snow. He sustained an achilles injury with surgery and never returned to work. We demonstrated that the injury was permanent and the LODI was in fact an accident. He did not expect to step into a pothole covered in snow. As a result, he was awarded a 3/4 Accident Disability Pension.

Sanman on Relay, hit in rear by tractor trailer - cervical spinal surgery - Gets 3/4

Sanman was on Van Wyck returning from a relay when a tractor trailer failed to pay attention and struck the collection truck in the hopper. The force of the impact caused our client to have spinal surgery, never returned to work. Despite having a prior spinal surgery, NYCERS agreed that he was disabled and granted a 3/4 Accident Disability Pension.

Sanman injured while working on a Low Boy - knee injury with surgery - Gets 3/4

As our client was loading a 40' sea container onto a lowboy, he tripped over an old metal cable guide that was negligently left on the deck by a welder, causing him to trip and fall and seriously injure his knee. He never returned to work. The Medical Board at NYCERS agreed it was an accident and he was permanently disabled, granting him 3/4 for life.

Sanman Slips on Glass during Recycling Stop

Sanman was a regular recycling stop, he slipped on a piece of glass that was left under recycling bags which he did not see. He was injured and never returned to work. The NYCERS Medical Board originally denied the pension application claiming that slipping on glass could be anticipated, yet they found him disabled. We challenged the Medical Board and after an Appeal, it was decided that slipping on glass that was covered by a garbage bag was in fact an Accident and he was granted his 3/4 Accident Disability Pension.

Sanman Struck in Eye by Furniture Staple while Cycling Hopper - Gets 3/4

Our client was loading a couch with his partner into the hopper. As his partner cycled the hopper they were standing a "safe" distance away when suddenly a furniture staple shot out into his eye. He lost most of his vision unfortunately and the Medical Board agreed it was in fact an Accident and disabling - he was granted his 3/4 Accident Disability Pension.

Supervisor Directed to Block Roadway, No Training/Equip, Struck by Private Car - Gets 3/4

Our client and another supervisor were directed to the LIE to block a tire left in the roadway, without any training or equipment. Both supervisors did their best to block the lane but a private car, without any warning, struck the supervisors car which was propelled into our client who had just decided to walk to his partner's vehicle. He never made it. He had right knee, lower back and hip injuries. He could not return to work and our office helped him obtain his 3/4 Accident Disability pension. There is a pending lawsuit against the private car and the City of NY as a result of their negligence.

Supplemental Uninsured Motorist Coverage:

****** Please be sure your personal car policies have sufficient insurance to protect you and your families! A cheap premium doesn't help anyone when its you!

Its Important to Understand the Difference between an Accident & Incident!

RECENT CASE SETTLEMENTS

- Sanman exits truck in BK15 parking lot to get DEF fluid when he tripped and fell in a hole covered in water. The testimony from Supervisors established the hole was present for months and despite requesting repairs from BBM it was ignored. As a result, our client had knee and back injuries requiring surgery. He was only 43 years old. The lawsuit against the City for the failure to repair the hole was settled successfully for **\$2,400,000.00**.

- Sanman struck in head when driver knocks down a tree with his truck. Driver failed to be aware of his surroundings. Our client sustained a brain injury, never returned to work. He was awarded a 3/4 pension and we settled with the defendants for **\$1,600,000.00**.

- *Always file a LODI report and seek immediate medical treatment:* Sanman exited shower of Bx8, slipped and fell due to poor drainage. Instead of going LODI on a Sunday night, he went home and called in sick next day. He had a serious back injury which resulted in surgery, he never returned to work. We settled with the City for **\$1,000,000.00** but because he went sick and not LODI, he was not eligible for 3/4, only a 1/3 Ordinary Disability Pension!!

- Supervisor tripped over a defective and dangerous zipper drain at BK11. Sustained injuries to his wrist and shoulders (which had prior injuries). He never returned to work and with our help, was granted a 3/4 Accident Disability Pension. We also filed suit against the City for the dangerous zipper drain and settled for **\$500,000.00**.

- *When you are on the street and injured, sometimes you don't have a lot of choices:* Sanman was doing collection. He was cycling the hopper on a one-way street when an impatient driver passed by, driving over his right ankle/foot. He had surgery and was unable to return to work. The car was insured by Geico and only had a \$50,000 policy which was offered after we filed a claim letter. ** Our client did not have sufficient SUM coverage so he was limited to the \$50k. He did however file a NoFault claim with the carrier and received lost wage payments for 12 months.

Always Document your LODI: Take Photos, Get Witnesses - Protect Yourself!

Help Yourself - Help Your Co-Worker

- There is a big responsibility as a Supervisor when investigating an accident. The report YOU create can be helpful but also have long term consequences if not prepared correctly.

- Very important to visit the scene of accident
- Identify the cause of the accident
- USE the Correct Code for TYPE OF UNSAFE CONDITION - Don't use C11 - This will only hurt the member If they present to NYCERS.

- If you are a Garage Supervisor and see a dangerous condition, report it. It will only help someone else. BBM might not get to the repair in time but if its noted, you are protecting your garage!

PHYSICAL THERAPY CORNER: For those of you who may struggle getting in and out of cars, here are some tips: Like any long-term sitting position, driving requires good posture to prevent soreness, stiffness, and long-term injuries. Here are some tips for proper posture when you get back on the road:

Make sure your feet are touching the brake comfortably. Adjust the seat so that you are leaning back a little. You want the angle between your belly and thigh to be about 90 degrees or slightly greater. But wait! Don't bring it too far back since this will make you push your head and neck forward and can cause headaches, neck strains or even numbness and tingling in your fingers. You can check to see if you are in the correct angle by reaching for the steering wheel. You want your elbow to be bent about 20 degrees.

Physical Therapy can always help you improve your posture and strengthen your muscles so that your daily routine is more comfortable. Any questions, feel free to contact me: **Amy An, PT**
AmyAnPT@gmail.com Cell: 347-570-8936

**** IF YOU HAVE A CASE AGAINST THE CITY OF NY, YOU MUST FILE A NOTICE OF CLAIM WITH THE COMPTROLLER WITHIN 90 DAYS.**

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The information presented is designed for general information only, it should not be construed to form legal advice nor the formation of a lawyer/client relationship. Any questions about NYCERS - call their medical division.