



Safety first - the Golden Rule of the construction site

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Construction work is a high risk, and accidents are a way of life. But much can be done to prevent the severity and frequency of on-the-job accidents by strictly following safety precautions and diligent monitoring of the worksite.

Under New York's Scaffold Law, which provides critical protection for construction workers, the owner and the general contractor are liable and responsible for providing a safe place to work. This includes an obligation to keep sites free of debris, stray tools or supplies that might trip a worker. The owner and general contractor are also required to outfit workers with appropriate safety equipment including ladders, scaffolds, railings, harnesses, netting, gloves, lifelines, tielines and braces or any other device necessary to create a safer job site.

A significant problem is the lack of or improper use of safety equipment. It's not so much that the safety products are not on site, but are not being used simply because the workers are not aware of its presence, feel rushed to complete a task, or the equipment has not been made available. Greater oversight at the worksite, either by an outside safety monitor(s) or workers whose only job is to ensure safe practices, is the best way to prevent accidents.

In the overwhelming majority of cases, the owner or general contractor is trying to be compliant - it's in their best interest as well as everyone else's. They know their obligations and honestly try to respect them. However, they often don't have the strict supervision necessary on-site to insure that regulations and proper safety practices are being followed. OSHA inspections are not enough, nor having a single designated safety person on a larger jobsite. It is virtually impossible for one person to handle the task. It takes a well-trained and vigilant team.

A costly mistake for general contractors and developers hoping to sidestep liability is executing contracts that make subcontractors responsible for worker safety. From a legal perspective, the general contractor and the developer or owner are always responsible to the injured worker if they fail to provide the proper protections, despite written contracts.

Certain types of accidents, particularly ladder falls, occur most often. Ladders may be faster and easier to use than a scaffold, but are often too short or of the wrong type. The industry standard holds that while using a ladder, the worker must have "three points of contact" with the ladder while working (a hand and two feet or a foot and two hands). These three points of contact significantly protect workers who are subject to height related risks. In addition, a straight ladder leaning against a building with a lone worker at the top courts disaster - it must be secured every time - with no exceptions. With a scaffold, workers don't have to travel up and down, and scaffolding is required to have railings in place to prevent falls.

New York's Scaffold Law holds both the owner and general contractor liable for any injury caused by the forces of gravity regardless of what kind of safety measures are available, unless the worker refuses to use a device he is specifically instructed to use. Properly trained safety personnel acting

on behalf of the owner or general contractor have the authority and expertise to insure necessary safety precautions are being followed; to halt work until proper precautions are taken or to provide an alternate means to complete the job safely. Property owners can protect themselves contractually with the general contractor, a subcontractor or with an insurance policy, but for any jury award in excess of that insurance policy, the owner is ultimately held responsible.

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