

Workers' compensation provides [medical](#) and [lost income coverage](#) on a no-fault basis. In other words, injured workers can receive benefits almost immediately without even proving that their employer or someone else was negligent. The trade-off is that injured workers cannot sue their employer or their co-workers, even if they were injured as a result of their negligence. However, you may be able to pursue a [personal injury](#) claim if your injuries were caused by a third party. If you have been injured on the job and have questions about who should be held accountable, a [workers' compensation lawyer](#) can provide you with the guidance you need.

## Who Is a Third Party?

It may be worthwhile to give some consideration to who a third party may be in the context of a workers' compensation claim for the sake of clarity. Generally speaking, a third party would be anyone who is not your employer, an employee of your employer, or a co-worker. Anyone else involved in the accident could potentially be a third party to your workers' compensation claim. For example:

- If a factory worker is injured by defective and malfunctioning machinery, they may have a third-party claim against the company that designed and built the machine.
- If a delivery worker trips and falls while delivering packages at an office building, they may have a third-party claim against the owner of the property.
- If a worker is driving from one job site to another and is injured in a car accident, they may have a third-party claim against the negligent driver.

Third-party claims often arise on construction sites and other environments where there are various subcontractors working in the same location. If you are injured in an accident caused by another contractor, you may be able to pursue a third-party claim against the other party.

Keep in mind that you will need to prove fault in a third-party claim, which can be challenging. A workers' compensation lawyer can assess whether you should pursue a third-party claim and what evidence you will need to prove your case.

## Why You Might Consider Pursuing a Third-Party Claim

To understand the importance of a third-party claim, we should first review what workers' compensation benefits cover and what they do not cover:

- Workers' comp will cover all of your medical expenses, provided that you receive treatment from the providers approved by your workers' comp insurance carrier.
- Workers' comp will pay lost income benefits covering up to two-thirds of your average weekly wages.

Conversely, workers' compensation will not cover:

- Your pain and suffering
- Any lost income above and beyond two-thirds of your average weekly wages
- Future medical expenses that may come due after your workers' comp claim has been closed or settled

The losses that are not covered by workers' compensation can be significant, especially when you consider that your workers' comp carrier may decide that you are no longer entitled to benefits once you have reached your maximum medical improvement. A third-party personal injury claim may be your only opportunity to truly be made whole after your accident. A workers' compensation lawyer can evaluate whether you should pursue a third-party claim.

## Third-Party Wrongful Death Claims

Families who have lost a loved one as a result of a work-related accident or illness are entitled to death benefits through the loved one's workers' compensation coverage. Workers' comp pays the following death benefits to the surviving family:

- Burial expenses of up to \$10,000
- Two-thirds of the worker's average weekly wages for a minimum of 500 weeks

These benefits can provide critical relief for families reeling from the loss of a spouse, parent, and provider. However, you will notice that these benefits do not cover one-third of their lost income. A third-party wrongful death claim will allow you to pursue compensation for that lost income as well as the following:

- Future lost income including retirement benefits
- Loss of companionship, loss of parental guidance

- Pain and suffering
- Funeral and other burial expenses in excess of \$10,000

If your family has lost a loved one due to a work-related injury or illness, a workers' compensation lawyer can explain your options and help you find a way forward.

## You Are Not Entitled to Double Damages

You can pursue a third-party claim while receiving workers' compensation benefits. However, it is important to note that pursuing a third-party claim does not mean that you can recover the same losses twice. Any compensation that you recover through your personal injury lawsuit will be offset by benefits you received through workers' compensation. The important thing to remember is that the compensation you recover from your personal injury claim can cover any losses not covered by workers' compensation.

## Proving Your Case

You will only be able to pursue a third-party claim if you can prove that the other party was negligent in some way. This means that you will have to introduce evidence that the other party failed to take reasonable care to prevent a foreseeable accident that would result in injuries to others.

Once you have established the other party's negligence, you will then have to prove that you were injured and how it resulted in your other losses. For example, you will have to introduce the following as evidence:

- Copies of all medical reports and bills arising from the accident
- Documentation of your lost wages
- Evidence supporting your claim for pain and suffering

Gathering the evidence to support your claim can be overwhelming, especially when you are injured or sick. A workers' compensation lawyer will not only know what evidence you need, but they can help you gather and organize it.

## Talk to a Workers' Compensation Lawyer at Martin & Jones Today

Workers' comp claims are more difficult than people anticipate, especially when there may be an at-fault third party. Whatever the circumstances of your case, a workers' comp lawyer from Martin & Jones can guide you through the process so that you can get the compensation you are entitled to as quickly as possible. To schedule a free

consultation, [contact us](#) today at 800-662-1234.

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