



NYSBA

Committee on Mass Disaster Response

*How to Protect
Your Rights
When Mass
Disaster Strikes*





If you are reading this guide because you or a loved one has just been the victim of a catastrophic event, please accept our deepest sympathies. We understand that this is a time filled with grief and emotional distress. Our only motive in providing this information is to assist in protecting your legal rights and in avoiding unnecessary anguish.

Despite the deep sadness that you are now feeling, this is also a time in which you may have to make some informed decisions having serious implications for the future. One of those decisions is whether to hire a lawyer to pursue a lawsuit against those who may be responsible for the disaster. If you do decide to hire a lawyer then you should select a qualified lawyer who will best suit your needs before taking any actions that might jeopardize your rights. This brochure is offered to assist in the decision making process.

It is impossible to provide comprehensive advice that will apply to all situations. This guide is intended to assist in preserving your legal rights until you decide how you will pursue them in this situation. It is provided by the New York State Bar Association Disaster Response Team, a committee of lawyers who have volunteered to provide guidance and assistance to victims of mass disasters and their families without charge.

Who to talk to

Lawyers can provide meaningful assistance to you for problems arising out of mass disasters. However, the decision whether to hire a lawyer and who that lawyer should be, is yours and yours alone. The New York State Bar Association (NYSBA) offers the following information to you in this time of grief and emotional distress.

You are not required to speak with anyone.

Police, fire and other emergency personnel are there to help. You should feel free to speak with them. Other people may not be there to help you. They may be there to assist insurance companies of those responsible for the disaster. If you do not know who someone is and why they want to speak with you, do not say anything. Get help from someone you know and trust, or from emergency personnel.

Volunteer lawyers are available to help you.

Members of the NYSBA Disaster Response Team are available to answer your legal questions and help you find a lawyer, if you decide to hire one. There is no fee and no obligation is created by your talking with them. Each volunteer attorney carries official identification.

Lawyers and insurance company representatives may contact you.

Lawyers seeking to represent you may try to contact you. They are not permitted to do so unless you want them to. In other words, you call them, they can't call you. Unless you call or write to them first, lawyers and their helpers, sometimes called "runners" are not allowed to approach you in person or by telephone.

However, except in the case of air disasters, where the law prohibits lawyers from contacting you by mail for 45 days, they are permitted to write to you. If you think that a lawyer or

runner has approached you improperly, you may report the contact to a member of the NYSBA Disaster Response Team or call the New York State Bar Association at (518) 463-3200.

Lawyers or representatives of an insurance company or a potentially responsible party may also contact you. It may not be wise to be open with a lawyer or insurance company representative you have never met, whose advice you have not sought and whose interests or client's interests may be different from yours.

When to consult or hire a Lawyer

You do not need to hire an attorney immediately.

If you know you want to make a legal claim based on what has occurred, you may want to hire a lawyer soon. But that is an important decision, and as with any other important decision, you should make it when your mind is clear and you have the information you need to make a sound decision. We recommend you speak with a lawyer within 60 days of the disaster if you are considering making a legal claim. That is because some deadlines for filing can come up in as short as 90 days.

It may also be beneficial to hire a lawyer soon, so that he or she can promptly investigate the circumstances surrounding the disaster, preserve evidence before it disappears and locate witnesses before their memory of the event fades.

In some circumstances, such as commercial air crashes, government agencies conduct the investigation.

Do not sign anything that affects your legal rights without consulting a lawyer first.

You may be offered a financial settlement and asked to sign documents that give up your

right to make a legal claim or other valuable rights. You should not sign a document or accept an offer without consulting with a lawyer first.

Choosing a Lawyer

If you hire a lawyer, you will want one you trust. It is important that you have the utmost confidence in your lawyer. You will want one you feel comfortable with, since you may work closely over a long period of time. You may want to interview several lawyers before hiring one. Many lawyers will consult with you without charge.

To find the right lawyer, you may wish to speak with your family lawyer if you have one. You can also ask friends, relatives, or members of the clergy for a recommendation or you can call the NYSBA Lawyer Referral Service at (800) 342-4661 for the names of lawyers who can assist you.

Paying for a Lawyer

Most lawyers in cases involving personal injury or death charge a "contingent fee." That means that they will be paid a percentage of any settlement or recovery you receive. In New York, lawyers may receive up to one third of the recovery.

Final thoughts

You have just faced a tragic situation and you may need representation. The decision whether to hire a lawyer and who to hire should be made calmly and intelligently. We urge you to use the same care you would with any other important decision in your life. Please do not let outside sources pressure or confuse you into making hasty choices at this difficult time.



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New York State Bar Association
One Elk Street, Albany, NY 12207

Phone: 518-487-5532

Fax: 518-463-4276

E-mail: fciervo@nysba.org
www.nysba.org

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