

**"We only get paid if we obtain money for you...There is no retainer and no up-front fees or costs. You never pay out-of-pocket."**

## JACK ON THE BACK



**Jack G. Stiefel, Esq.**

This is the first of what I hope will be an ongoing effort to respond to some of the most frequently asked questions about Workers' Compensation claims. My goal is to keep you better informed so that you will obtain the best results possible.

### Q: Why do I need an attorney?

**A:** Your employer and its insurance carrier have a team of claims representatives, investigators, doctors and lawyers all working to limit your benefits. In order to compete and win your case, you need to insure that the lawyers at Lewis & Lewis, P.C. are on your side from the very beginning.

### Q: How much do I have to pay my attorney?

**A:** We only get paid if we obtain money for you. Our fees, which are typically about 10% of the amount awarded by the Workers' Compensation judge, are deducted from your award and sent to us by the insurance company. There is no retainer and no up-front fees or costs. You never pay out-of-pocket.

### Q: Can I sue my employer or someone else for my injuries?

**A:** This is a difficult question to answer because the facts of each case determine the answer. I can tell you that Workers' Compensation was designed as an exclusive remedy between an injured employee and his employer, which means that an injured employee may not sue his employer directly, even though his injuries are severe or may even cause death. However, when it can be shown that someone else (not a fellow employee) or something else caused or contributed to the injury, you may be able to sue that person or company. At Lewis & Lewis, P.C., we have a large personal injury department that is devoted to representing accident victims. We have over 58 years experience and are uniquely qualified to determine whether a third-party is at fault for your accident and whether a lawsuit should be pursued on your behalf.

This newsletter is designed to keep you up-to-date with changes in the law and is intended solely for your information. It does not constitute legal advice and it should not be relied on without a discussion of your specific situation with a qualified attorney. For help with these or other legal issues, please call our firm today at 716.854.2100.

## LEWIS & LEWIS, P.C.

37 Franklin Street, Suite 800  
Buffalo, NY 14202  
716.854.2100

### PUT OUR EXPERIENCE TO WORK FOR YOU

Representing Accident Victims & Injured Workers Since 1944

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# The Accident Report

Summer 2002

An Informative Newsletter for Accident Victims and Injured Workers



**LEWIS & LEWIS, P.C.**

(from left to right) Peter J. Eisenhauer, George Panebianco, D. Jeffrey Buckley, Michael J. Skoney, Lawrence S. Lewis, Dianna L. Ramos, Allan M. Lewis, Arnold H. Soeder, Richard P. Amico, Jack G. Stiefel, Philip Scaffidi, Emily Leach Downing, Brian M. Chella

### SEVEN DECADES OF EXPERIENCE IN REPRESENTING ACCIDENT VICTIMS AND INJURED WORKERS



**Norman B. Lewis, Esq.**

My father, Norman B. Lewis started practicing law over 60 years ago. When he started his own firm in 1944, Norman B. Lewis dedicated his practice to representing accident victims and injured workers. In his 45-year career, Norman B. Lewis tried hundreds of cases and collected millions for his clients. Norman Lewis was one of the greatest Trial Lawyers in the history of Western New York.

In 1966, I became a lawyer and joined my father's practice. After his passing in 1986, I continued the legacy and the great tradition that my father started.

While the father-and-son firm has grown to twelve lawyers and expanded to five offices servicing all of Western New York, one thing has never changed: At Lewis & Lewis, P.C., we remain totally dedicated to providing the best representation to accident victims and injured workers.

Allan M. Lewis



**Allan M. Lewis, Esq.**

### PUT OUR EXPERIENCE TO WORK FOR YOU

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"We need you to help us fight against the insurance companies and the big corporations who threaten your rights and reduce their responsibility for causing harm to you and your family."

## PERSONAL INJURY

### Verdicts, Settlements And Accomplishments

We are pleased to announce the success that our lawyers have had both in and out of the courtroom. In 2001, Richard P. Amico was elected President of the New York State Trial Lawyers Association for Western New York, an organization dedicated to preserving your rights. Dianna L. Ramos and Emily Leach Downing have both served as Secretary to the New York State Trial Lawyers Association for Western New York. Dianna also served as the Treasurer of the Women's Bar Association of Western New York, and is a current statewide director of the Women's Bar Association and a member of the Erie County Bar Association Committee that ranks judges and judicial candidates.

Richard P. Amico was recently made a member of the Million Dollar Advocates Forum, an organization that is limited to trial lawyers who have demonstrated exceptional skill, experience and excellence in advocacy by achieving trial verdicts, awards or settlements in the amount of one million dollars or more.

Some recent verdicts and settlements for our clients:

Allan M. Lewis obtained a settlement of \$2.3 million for a worker who was burned in a construction accident in 1999.

Allan M. Lewis obtained a settlement of \$2.1 million for a worker who injured his back in a construction accident in 2001.

Allan M. Lewis obtained a settlement of \$1 million for a worker who injured his neck in a construction accident in 2001.

Richard P. Amico served as trial co-counsel to Johnnie L. Cochran, Jr. in a case that resulted in a \$2.55 million settlement for the wrongful death of Cynthia Wiggins in 2000.

Richard P. Amico obtained a verdict that resulted in an award of \$1.25 million to a woman who suffered neck injuries in a motor vehicle accident in 1999.

Richard P. Amico obtained a settlement of \$1 million for a worker who injured his knee in a construction accident in 2001.

Richard P. Amico and Emily Leach-Downing obtained a

verdict that resulted in a \$600,000 award for a worker who injured his back in 2001.

Richard P. Amico and Dianna L. Ramos obtained a \$350,000 verdict for a client who suffered shoulder injuries in a motor vehicle accident in 2001.

Richard P. Amico and Dianna L. Ramos obtained a \$325,000 settlement for a woman injured in a motor vehicle accident in 2001.

### Insurance Companies and Big Corporations Are Trying To Eliminate Your Rights

By Richard P. Amico, Esq.

At Lewis & Lewis, P.C., we fight for our clients in the courtroom and at the Workers' Compensation Board every day. We need you to help us fight against the insurance companies and the big corporations who threaten your rights and reduce their responsibility for causing harm to you and your family.

The insurance companies and corporations are trying to sell proposals that severely limit the damages an accident victim can collect from a drunk driver; make a construction worker, not the general contractor or owner, responsible for making a construction site safe; and reduce the accountability of a grossly negligent doctor for causing brain damage to a child during birth. This legislation, if passed, will put corporate profits ahead of ordinary people.

Use the power of your vote. Contact your local representative in the State Assembly and the State Senate today. Tell your representative that you do not favor laws that allow wrongdoers to escape punishment. Tell your elected leader to vote in favor of workers and their families instead of wealthy insurance companies and big corporations. The names, addresses and phone numbers of your elected officials are available on

the Internet at [www.state.ny.us](http://www.state.ny.us)

## WORKERS' COMPENSATION

### "If My Employer Opposes My Claim, How Can I Support My Family While I'm Waiting for Benefits?"

This is a question that our office is asked all the time. There is no easy answer for most of our clients, but the long-term solution is to reform the Workers' Compensation system to provide a reasonable benefit to injured workers. (See the accompanying article on this page.)

However, the long-term solution doesn't feed hungry children or pay the bills this month or next, so what can you do immediately? There are really two things you can do that can directly affect your situation. First, you should cooperate with your doctors and medical treatment professionals to make sure that you are properly diagnosed and treated. You can also help your attorneys pursue your case by keeping your medical treatments current, providing accurate and timely information, and allowing them the time and space to pursue your claim without daily phone calls. Second, you can help us determine if you might be eligible for other insurance or government benefits.

Other benefits might include New York State disability benefits if your employer is claiming that your injury did not occur at work, no-fault insurance benefits if the injury involved a motor vehicle, unemployment benefits if you have been fired or laid off, and Social Security benefits if your injuries are permanent or can be expected to last more than 12 months. We can help you determine which, if any, of these benefits you may be eligible for and guide you through the application process to provide the earliest available relief. Don't sit by without asking if you might be eligible!

More information on these supplemental benefits is available by contacting our office. It will also be available soon in future newsletters and for all of our new clients at their initial orientation.

### New York State Workers' Compensation Benefits: Why Are They So Limited?

For injuries that occur after July 1, 1992, New York State cash benefits to the smaller of \$400.00 per week or two-third of an employee's average weekly wage for the year before the accident. Other benefits are paid, including required medical care, but cash benefits are limited to \$400.00 per week. This means that New York employers are paying among the highest insurance premiums in the country for what amounts to not much more than a medical insurance policy. That is not what the Workers' Compensation Law was designed to do and not alone what it should do.

Although insurance carriers and politically motivated individuals have made a great deal of the New York Workers' Compensation "crisis," the truth really is that New York ranks among the lowest of the states in the amount of cash benefits actually paid. This is particularly difficult for injured workers when the relatively high cost of living in New York is factored in. Many other states provide cash benefits fifty to one hundred percent greater than those of New York.

What can we do about this? The New York Legislature and the Governor established the law as it presently exists and they are the ones responsible for changing it. Call or write your Assemblyman, State Senator and Governor. Let them know that the people, and not the large insurance carriers, are running this state. The names, addresses and phone numbers of your representatives are available on the Internet at [www.state.ny.us](http://www.state.ny.us). Feel free to contact our office for a form letter.

"We can help you determine which, if any, of these benefits you may be eligible for and guide you through the application process to provide the earliest available relief."

### If You Are Involved in a Motor Vehicle Accident...

- DO:** Obtain the name, license plate and insurance information from the other driver. Call the police and have them fill out a report.
- DO:** Contact your insurance company and report that you were involved in an accident as soon as possible. If a claim is made against you later and you did not report it, your insurance company will not cover you.
- DO:** Contact a lawyer to find out what your rights are under the law. The insurance company is only interested in paying you less than you deserve.
- DO:** File a no-fault claim if you are injured in a motor vehicle accident. No-fault benefits will give you better access to medical care and provide you up to \$50,000.00 in coverage for doctors and lost wages.
- DO:** Get at least two repair estimates before discussing a settlement with your insurance company. You are not required to go to a collision shop on their list.

- DO NOT:** Allow another driver who hit your car to drive off without providing you with insurance information. You do not know what damage has been done to your car or you.
- DO NOT:** Allow the other driver to choose whether they should report to their insurance company. The other driver usually refuses to pay for property damage if it is extensive. The failure to report the accident may later jeopardize the insurance coverage for your claim.
- DO NOT:** Speak with an insurance company adjuster without contacting a lawyer. They are not permitted to give legal advice and often discourage you from finding out what your rights are.
- DO NOT:** Sign any statements or accept any settlements from an insurance company. A consultation with one of our lawyers is free. An uninformed decision to settle may prove very costly for you and your family.
- DO NOT:** Drink and drive.

### What Should I Do and Not Do While I Have a Claim?

- DO:** See your doctors as often as necessary. Keep a complete and accurate record of your appointments and complaints about your condition. Be certain to provide your doctors with your Workers' Compensation case number and ask that they provide regular reports of treatment to both the Board AND our office.
- DO:** Keep a complete and accurate record of your medical bills and prescription bills. Be sure you provide our office with copies of any unpaid bills from any of your medical providers. Keep track of your mileage and send your mileage statements for reimbursement to our office.
- DO:** Keep our office informed of any change in your address or telephone number.
- DO:** Attend Independent Medical Examinations (IME) when and if scheduled. Remember, the doctor performing the IME is not interested in helping you. His or her job is to see to it that the insurance company pays the absolute minimum benefits to you. Cooperate with the doctor; tell him of your complaints; don't do anything you can't and don't volunteer information to him.
- DO:** Feel confident in speaking with our staff of very experienced legal assistants in our Workers' Compensation Department. Our attorneys are extremely busy conducting numerous hearings at the Workers' Compensation Board and are not usually in the office to take routine phone calls. Our legal assistants are very knowledgeable about Workers' Compensation cases

- and can answer most typical questions or obtain an answer for you more quickly from an attorney. If you feel that you must speak with an attorney, please ask the legal assistant to schedule a time for either a telephone conference or an in-office visit.
- DO:** Please call our office for an appointment. While we are always pleased to see our clients and help them in any way possible, unscheduled visits to our office can actually impede the work and progress on your case. If you need an appointment, please call one of our experienced legal assistants in our Workers' Compensation Department to schedule an appointment with your attorney.
- DO:** Be assured that there is no reason for concern if you do not hear from us for a while. In Workers' Compensation cases, it is often the case that some time may pass before we have reason to contact you. When a matter regarding your case comes to our attention, please know that we will contact you immediately. We have many cases, all of which represent the lives and livelihoods of individuals and families just like you, and we'll make sure that you are always provided with the highest quality representation possible on your case.
- DO NOT:** Discuss your case with anyone other than one of the lawyers or members of the staff of our firm. If your employer or its insurance carrier does contact you, give them your lawyer's name, address and phone number. Do not discuss your case with them, as anything they hear from you will be used against you.

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