

ZALMAN SCHNURMAN & MINER P.C.

1430 Broadway, Suite 1802, New York, NY 10018

Toll Free: 1-800-LAWLINE
Phone: (212) 668-0059

Email: info@1800lawline.com
Website: www.1800lawline.com

Experienced. Aggressive. Compassionate.

FALL
2023

Zalman Schnurman & Miner Secure Sanctions Against the City of New York

In a recent victory for justice, Zalman Schnurman & Miner succeeded in obtaining sanctions against the City of New York. This case is an example of the hard work of our legal team, and underscores the importance of adhering to court-ordered deadlines.

Introduction: After the initiation of a lawsuit and prior to trial, the process of discovery takes center stage. Discovery involves the acquisition of pertinent documents and depositions from the defendant. This critical phase entails demands from both parties and the establishment of a discovery schedule by the court.

The Significance of Court-Ordered Deadlines: The judicial system places considerable emphasis on the adherence to court-ordered deadlines. When a party's conduct displays a "willful and contumacious" refusal to abide by these orders, sanctions may come into play.

Defining Willful and Contumacious Behavior: A party's willful and contumacious conduct can manifest through two avenues:

- 1. Repeated Failure to Respond:** If a party persistently neglects to respond to discovery demands or comply with court-ordered discovery without a justifiable reason, their behavior may be deemed "willful and contumacious."
- 2. Long-Term Non-Compliance:** Similarly, an extended history of failing to adhere to court-ordered discovery can also indicate such behavior.

Case Highlight: Meyer v. City of New York: An illustrative example is the case of *Meyer v. City of New York, et al.* In this instance, the plaintiff suffered a fall due to an elevated section of sidewalk. During the discovery process, our legal team repeatedly sought records from the City of New York regarding the condition of the sidewalk, prior complaints, inspections, and repairs. Despite our concerted efforts, the City failed to turn over the necessary discovery.

The Motion and Subsequent Sanction: In response, we initiated a motion to sanction the City of New York. Our efforts bore fruit as the Honorable Rachel Freier ruled in favor of our motion, imposing sanctions on the City. The Court's decision, striking the City's Answer to our Complaint, was rooted in its finding that the City's behavior met the criteria of being "willful and contumacious." This assessment stemmed from the City's defiance of not one, but three court orders.

Implications and Outcome: The ramifications of this ruling were profound. With the City of New York unable to dispute the allegations laid out in our Complaint, the focus shifted exclusively to determining the appropriate compensation for the plaintiff. This pivotal shift expedited the negotiation process, leading to a swift and advantageous settlement with the City.

Conclusion: The Zalman Schnurman & Miner legal team's win is an example of how we aggressively pursue the rights of our clients in every case.

Areas of Practice:

Lawyers you can rely on and a law firm you can trust.

Personal Injury | Car Accidents | Premises Liability | Construction Site Accidents | Medical Malpractice
Trips, Slips, and Falls | Wrongful Death | Dog Bites | Traumatic Brain Injuries | Other Types of Accidents

Are Waivers to Sue Enforceable?

In New York, a clearly written waiver to sue in a contract or agreement may be enforceable, but many waivers will be deemed against public policy and not enforceable. Below are some examples of waivers which are not binding, as against public policy.

Property leases. Agreements exempting lessors from liability for negligence are void and unenforceable. See General Obligations Law §5-301. A tenant may sue their landlord for the landlord's negligence, even if the lease says otherwise.

Catering agreements. Agreements exempting caterers and catering establishments from liability for negligence are void and unenforceable. See General Obligations Law § 5-322

Construction contracts. Agreements exempting owners and contractors from liability for negligence are void and unenforceable. See General Obligations Law § 5-322.1.

Agreements exempting **building service or maintenance contractors** from liability for negligence are void and unenforceable. See General Obligations Law § 5-323.

Garages and parking places. See General Obligations Law § 5-325. No person who conducts or maintains for hire or other consideration a garage, parking lot or other similar place which has the capacity for the housing, storage, parking, repair or servicing of four or more motor vehicles, may exempt himself from liability for damages for injury to person or property resulting from the negligence of such person.

Recreational facilities. Agreements exempting pools, gymnasiums, places of public amusement or recreation and similar establishments from liability for negligence are void and unenforceable. See General Obligation Law §

5-326. If you paid to participate in a recreational activity and are injured due to the negligence of the facility, you may sue even if a waiver was signed.

Children. Under existing New York law, minors cannot sign their rights away by signing any contract. As a result, a liability waiver signed by a person below the age of 18 is automatically voided. Even if a parent or other adult signed the waiver on behalf of a child, New York law will not enforce the waiver for situations involving a minor's injury or death.

FALL WORD SEARCH

E U S C A R E C R O W D
L Y D G M A C B T Y O T
P E S F L I O D Y I M H
P H A J O N R J H O P A
A L W V F Y N K U K M N
G K C I E D S N S W F K
H A R V E S T L C L N S
A E I N P A A D H R M G
Y A S A I L L L O M U I
R B P N H J K C O D T V
I F O O T B A L L S U I
D C O R N U C O P I A N
E X Z B C O R T D E C G
C E P U M P K I N S P E

ACORN
APPLE
AUTUMN
BONFIRE
CORNSTALK
CORNUCOPIA
CRISP
FOOTBALL
HARVEST
HAYRIDE
LEAVES
MOUNTAIN
PUMPKINS
RAINY
SCARECROW
SCHOOL
THANKSGIVING

What to Do if You Suspect Elder Abuse and Neglect

When older adults can no longer care for themselves their loved ones are tasked with finding a trusted care provider. This could be an in-home caregiver, assisted living facility or nursing home. Regardless of your decision, you never expect elder abuse to happen.

Unfortunately, up to five million older Americans are abused annually. If you suspect your loved one is being abused or neglected, you must take immediate action. This will protect your loved one's well-being and give them the compensation they need and deserve.

Follow these three steps if you suspect elder abuse.

1. Understand the Signs

Identifying common signs of elder abuse can help determine if your loved one's health is jeopardized. Signs of elder abuse can include:

- ▶ Bruises, broken bones or cuts
- ▶ Weight loss, poor hygiene and unattended medical problems

- ▶ Behavioral changes, including timidity, withdrawal or depression

If you notice any of these signs, have a conversation with your senior loved one as soon as possible. While they may feel ashamed or embarrassed they must know they have your full support.

2. Document Evidence

Start documenting valuable evidence to support your claim. Take photos of any injuries and document when and where they occurred. Keep track of other types of abuse, including neglect and emotional or financial abuse.

3. Contact an Experienced Elder Abuse Attorney

Contact an elder abuse lawyer as soon as possible. They can walk you through filing a claim, investigating the abuse and protecting your loved one.

If you suspect your senior loved one is suffering abuse or neglect at the hands of their caregiver, call our office today.

What Is the “Danger Invites Rescue” Doctrine?



The "danger invites rescue" doctrine is a legal principle that holds a person responsible for damages if their negligence creates a hazardous situation that prompts someone else to attempt a rescue. This doctrine establishes a chain of liability, where the person responsible for the initial danger becomes liable for injuries sustained during the rescue process. The "danger invites rescue" theory is as follows:

- 1. Initial Danger:** A person's negligence leads to a hazardous situation endangering others.
- 2. Rescue Effort:** A rescuer intervenes to aid or save the imperiled individual.
- 3. Injury Incurred:** The rescuer sustains injuries during the rescue attempt.
- 4. Liability for Rescue:** The rescuer can pursue legal action against the negligent person whose actions necessitated the rescue.

The roots of the "danger invites rescue" doctrine can be traced back to at least 1871, notably in the case of *Eckert v. Long Is. R.R. Co.*. In this pivotal case, a man lost his life while attempting to save a child from being struck by an oncoming train. Despite potential negligence on the part of the rescuer, the court ruled in favor of the rescuer's estate, emphasizing that actions taken to preserve human life, even if seemingly negligent under normal circumstances, are often considered justifiable.

The "danger invites rescue" doctrine remains highly pertinent in modern legal contexts. A recent example that underscores its significance is the case of *Leonard v. City of New York (2023)*. Leonard, a construction worker, leaped into a collapsed trench to rescue a co-worker who was in the trench and Leonard believed to be injured. Leonard's act of rescue led to his own injuries. The court in Leonard's case reaffirmed the doctrine's applicability, asserting that a "duty of care" extends to potential rescuers when a culpable party places another individual in immediate peril. Consequently, Leonard's lawsuit against the City of New York, alleging negligence in the trench collapse, was permitted to proceed.

The "danger invites rescue" doctrine encapsulates society's recognition of the sanctity of human life and the moral duty to aid those in danger. This doctrine acknowledges that in the pursuit of saving lives, actions that might otherwise be deemed negligent can be justified. This doctrine establishes a chain of liability, where the person responsible for the initial danger becomes liable for injuries sustained during the rescue process.

Remote Depositions: What You Need to Know



After the start of the global pandemic countless industries adopted remote working models that enabled people to do their jobs without meeting in person. The legal field was no exception and remote depositions became the new normal.

A remote deposition involves all participants meeting via a video or telephone conference from different locations. These individuals are the same people who would attend an in-person deposition, including witnesses, counsel, court reporters and interpreters.

Remote depositions offer numerous advantages. Participants can avoid hefty travel costs and last-minute schedule changes. Having

participants attend from home makes remote depositions much more comfortable, efficient and convenient.

However, remote depositions also have their drawbacks. Participants can struggle with unstable internet connections, navigating videoconference platforms and hearing what others are saying.

As more of our lives happen online, remote depositions are here to stay. If you are asked to attend a remote deposition, ask your legal team to help familiarize you with the platforms used and provide tips to ensure the deposition runs as smoothly as possible.

**Our website
has been updated:**

Check it out at
1800LAWLINE.com

**Zalman Schnurman
& Miner P.C.**

1430 Broadway, Suite 1802
New York, NY 10018

PRESORTED
STANDARD
U.S. POSTAGE PAID
LANCASTER, PA
PERMIT NO. 242

What **our clients** are saying:

In each newsletter we feature a five-star review one of our clients posted on social media. If you are a satisfied client and have not yet left us a review on Google, or another site, it's never too late. We would love to hear from you.

"Zalman Schnurman and Miner P.C. are the best lawyers. They listen and are very attentive along the way. Mr. Miner is the utmost professional lawyer to have on your side. Don't hesitate. Give them a call right away."

-Yasine

Understanding Supplemental Spousal Coverage In Automobile Insurance



Automobile insurance policies offer various types of coverage to protect motorists in different scenarios. One such coverage is Supplemental Spousal Insurance Coverage, which proves invaluable in cases where one insured spouse is injured or killed in an auto accident caused by the other insured spouse.

The Importance of Supplemental Spousal Coverage: Supplemental Spousal Coverage, as the name suggests, extends insurance protection to married couples in situations where one spouse's actions lead to an accident resulting in injury or death of the other spouse. As of August 1, 2023, all New York State motor vehicle insurance policies will automatically include Supplemental Spousal Liability coverage, unless the insured chooses to opt out of this coverage. It is advised that married individuals refrain from opting out, as this coverage offers vital protection for a spouse when their partner is behind the wheel.

The Rationale Behind Embracing This Coverage: It's imperative to understand that by opting out of Supplemental Spousal Coverage, you are essentially forgoing compensation in scenarios where one spouse is harmed due to the negligent driving of the other spouse. In such cases, the insurance policy will not provide financial support to the injured party. By maintaining this coverage, married couples ensure that they are adequately protected even in unfortunate situations involving accidents caused by their spouse's actions.

In conclusion, Supplemental Spousal Coverage is a crucial component of automobile insurance, particularly for married couples. The inclusion of this coverage in New York State motor vehicle insurance policies signifies its significance in safeguarding spouses from potential financial hardships stemming from accidents caused by a partner's negligence. As such, it is strongly recommended for married individuals to retain this coverage and prioritize the security it provides on the road.