



# FLANZIG & FLANZIG, LLP

A t t o r n e y s   A t   L a w

## LEGAL UPDATE

SUMMER 2010

A newsletter from  
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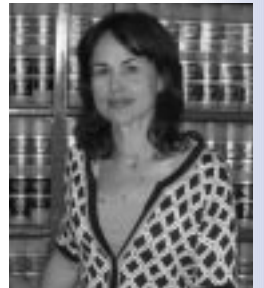


### *What we believe sets us apart*

For the third time in the past four years, **Daniel Flanzig** has been named a **New York Metropolitan Super Lawyer** by *Law & Politics Magazine*, which conducted a research balloting and selective process to identify lawyers who have a high degree of professional achievement. Only 5 percent of the attorneys in each state are named as Super Lawyers.



In 2010, **Cathy Flanzig** was granted membership into the **Million Dollar Advocates Forum**, one of the most prestigious groups of trial lawyers in the United States. Membership is limited to attorneys who have won **million-** and **multimillion-**dollar verdicts and settlements. Fewer than 1 percent of U.S. lawyers are members of the Forum on behalf of their clients.



### Super Lawyers



**WE REPRESENT CLIENTS WHO HAVE SUFFERED SIGNIFICANT INJURIES AS A RESULT OF:**

- Automobile Accidents
- Motorcycle Accidents
- Construction Accidents
- Medical Malpractice
- Defective Products
- Premise Liability
- Police Job-Related Injuries
- Firefighter Job-Related Injuries
- Nursing Home Abuse and Neglect

### **Critical change in health insurers' right of reimbursement in personal injury actions**



The New York legislature has passed a long overdue law repealing the right of private health insurers to seek reimbursement from a plaintiff as a result of payments made for treatment arising from an accident. This repeal eliminates the "double dipping" by insurance companies to whom you paid premiums but now seek to be reimbursed.

Prior to the amendment, the insurer would attempt to seek reimbursement of the money it paid for the plaintiff's medical treatment related to an accident from the proceeds of its insured's personal injury settlement. The amendment has eliminated these rights of reimbursement in most cases. The right still may exist on some ERISA plans, as well as Medicare and Medicaid's statutory right of reimbursement. A competent attorney familiar with the statute and personal injury litigation

will be able to determine the right of reimbursement under a health insurance policy or plan.

# CONSTRUCTION ACCIDENTS



The New York City Buildings Commissioner announced an increase in the number of construction-related accidents and injuries from 178 in 2008 to 246 in 2009. Last year, the Department inspectors issued nearly 10,000 full and partial stop-work orders when unsafe construction conditions were found. Owners and contractors continue to put cost ahead of the safety of its workers.

Falls are the largest contributing factor for construction injuries. Additional injuries can be caused by trench collapses, exposure to toxic chemicals, defective equipment, dropping debris, and scaffold or ladder collapse.

New York has specific safety laws in place to protect injured construction workers and the public. Injuries at construction sites often happen because the rules were not followed or unsafe conditions are allowed to persist.

Because many construction-related deaths are due to the lack of proper use of safety restraints or contractor negligence, many of these preventable injuries or deaths have caused those affected to seek legal counsel from an experienced construction accident lawyer familiar with the industry, practice, and construction codes.

Construction injuries involve complex legal issues, multiple parties, state and federal regulations, and large corporations with lawyers working to defend them from liability resulting from construction accidents. It usually involves serious medical injuries to workers, including burns, serious trauma, broken bones, spinal cord injuries, crushed limbs, amputation injuries, traumatic brain injuries, or even death.

If you or someone you love has been injured at or near a construction site, it is important to deal with attorneys who are familiar with the complex issues involved.

**Flanzig & Flanzig** has a long history of handling the complex legal and medical issues in construction accidents, resulting in multimillion-dollar results for our clients. Our clients are members of local New York unions such as IBEW Local 3, Steamfitters, Sheet Metal Workers, Laborers, and other construction unions.



## Uninsured motorist danger

Given these trying economic times, more people are driving their cars without automobile insurance. The Insurance Research Council reports that more Americans than ever, now one in six drivers, have no vehicle insurance whatsoever.

As a result of the recession, which has led to increased unemployment, the number of uninsured motorists is higher than normal. People are also reducing their liability coverage to bare minimums in order to reduce their rates.

It is now even more important to purchase uninsured/supplemental underinsured motorist (UM/SUM) coverage to fully protect all drivers in your family and their passengers. SUM coverage is the least expensive coverage you can buy; as little as \$1 per week can buy \$100,000 worth of SUM coverage. This is the only coverage you purchase that protects you instead of other drivers.

UM protection kicks in when another driver at fault in an automobile collision has no insurance coverage at all. It can cover lost wages, medical costs, and other expenses associated with serious accident injuries. Supplemental underinsured motorist coverage (SUM) will provide you with coverage when the other driver's coverage is insufficient to compensate you for your injuries and lost wages.

Now is the time to talk to your insurance agent about UM/SUM coverage, also known as uninsured/underinsured motorist coverage, which will safeguard you and the members of your household if injured by a negligent driver who either has no insurance or only the minimal amount of insurance required by New York State law.



## Cops' admission of error may not help civil suit

By Ann Givens—[ann.givens@newsday.com](mailto:ann.givens@newsday.com)  
9:03 PM EDT, May 4, 2009

**Newsday**

Just because Nassau police have admitted that they made mistakes in their handling of the Jo'Anna Bird case does not mean that a lawsuit against them will be successful, experts said Monday. Proving that police actions contributed to the 24-year-old New Cassel mother's death will be complicated, lawyers said. The fact that officers now face disciplinary action might or might not help, depending on what exactly an investigation shows they did wrong, they said. Police Commissioner Lawrence Mulvey said Friday that seven officers, including a patrol supervisor, did not properly investigate at least four domestic violence incidents at Bird's mother's home just days before Bird's death. Bird's mother, Sharon Dorsett, who filed a notice last week that she will sue the police over her daughter's death, will have to prove several things to get damages from the county, said civil attorney **Daniel Flanzig** of Mineola. She will have to prove that the police knew her daughter was in imminent harm, that they assured her explicitly that they would act to protect her and that Bird relied upon those assurances, **Flanzig** said.

If police concede any of those things when they discipline the officers involved, that could help Dorsett's case, **Flanzig** said. If not, the reprimand could prove irrelevant in court, he said. "The police are not the absolute guarantors of safety," **Flanzig** said. "Only once they assure the victim that they're going to respond do they create that level of responsibility." Jeffrey Lisabeth, a civil lawyer in Mineola, said judges don't often allow "corrective action" taken by a municipality after an incident to be used against them in court. That's so that agencies won't be discouraged from fixing a problem for fear that they will later be sued over it, Lisabeth said. Nassau County Attorney Lorna Goodman said any disciplinary action against the officers could affect whether the county will defend them in the lawsuit. She said if a panel finds the officers acted maliciously, the county could decline to defend them. Dorsett's lawyer, Fred Brewington of Hempstead, said he is still waiting for details about what police found the officers did wrong and how they will be disciplined. Until he learns those things, he said it is impossible to tell whether those facts will bolster her civil claim. "At this point it's so broad and so vague that I'd be guessing," he said.

[nyelderabuse.com](http://nyelderabuse.com)

## Nursing home neglect and abuse

Family members often place their trust and confidence in a nursing home to care for an elderly relative. All too often, nursing homes place their drive for profits above the needs and rights of residents. State and federal law provide strict guidelines that must be followed to ensure that residents do not suffer physical injury.

We are proud of our commitment to fight for the rights of residents living in nursing homes or resident-care facilities who cannot adequately care for themselves. We recently settled an action (in an amount we are required to keep confidential) for a woman who was not given adequate assistance in ambulating while at a nursing home, resulting in a fall from her wheelchair that fractured her hip.

We also recently resolved an action where an elderly woman who was being cared for by an elder-care companion fell and fractured her hip due to the inattentiveness of her home health-care worker. Other cases we are presently working on involve issues of dehydration, bedsores, and the aspiration of a patient while being fed by a nursing home employee. We are also handling matters involving the negligent transportation of patients onboard ambulances and ambulettes.

We are proud to continue to represent numerous elderly patients and nursing home residents who have sustained injuries as a result of nursing home neglect. The lack of care can result in injuries such as pressure sores or bedsores, which can lead to infection, the need for surgery, and even death. Many times the facilities fail to take appropriate measures to prevent residents' falls, leading to serious injuries.

The Medicaid Fraud Control Unit, a task force run by the Attorney General, Andrew Cuomo, arrested 22 current and former nursing home employees in two separate cases after footage from hidden surveillance cameras revealed neglect and other conduct that endangered dependent residents. The investigation revealed that staff routinely failed to properly transfer residents in and out of bed, putting the residents at risk of injury.

For more information, as well as helpful links on nursing home abuse and neglect, visit our Web site: [nyelderabuse.com](http://nyelderabuse.com).



## The future of the automotive black box in accident litigation

New automobiles now have an onboard "automotive black box" similar to those found in commercial aircraft. The data captured includes speed, status of seat belts, and other vital information. Although sometimes available, it still has not taken automobile litigation by storm. Some reasons include the expense and difficulty obtaining the data, the intent of manufacturers to safeguard the information, and the great expense associated with interpreting the data once and if it is obtained.

Experts believe as the technology becomes more mainstream, the ability to obtain and interpret the data by lay people will bring this new issue to the forefront of automobile accident litigation, changing the discovery practices of active personal injury attorneys.



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*Representing clients in  
Long Island as well as  
all 5 Boroughs*

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The information included in this newsletter is not intended as a substitute for professional legal advice. For your specific situation, please consult the appropriate legal professional.

## RECENT MILLION-DOLLAR VERDICTS AND SETTLEMENTS

**\$1,214,844**

**Daniel Flanzig** obtained a settlement in the amount of **\$1,214,844** brought on behalf of a 33-year-old construction laborer who was injured by falling construction debris while performing concrete work at a Brooklyn Law School dormitory. Our client sustained a lumbar herniated disk, ultimately requiring him to undergo an anterior lumbar laminectomy and lumbar fusion. The case was settled at mediation while the case was awaiting trial in Brooklyn Supreme Court.

**\$1,100,000**

**Cathy Flanzig** obtained a **\$1,100,000** settlement for a 57-year-old self-employed graphic designer who was struck by a vehicle being operated by his children's religious school teacher while attempting to park in the family's driveway. As a result of the accident, our client sustained a severely fractured leg that required bone grafting and caused him to undergo limb-salvage surgery. Due to our aggressive investigation and preparation of the case, a settlement was reached with the defendant's insurance carrier for the full amount of the defendant's insurance policy prior to depositions being conducted.

Visit our Web site for other noted results.

*Under New York's Code of Professional Responsibility, portions of this newsletter contain attorney advertising. Prior results do not guarantee a similar outcome. Results depend upon a variety of factors unique to each representation.*



## REFERRALS

**Flanzig & Flanzig's** reputation in the New York legal community continues to be recognized by others in the industry. As a result, a large part of our client base comes from referrals from other law firms in New York as well as around the country. Due to our success in handling significant personal injury matters referred from other attorneys, we are known as counsel for the profession and honor all referral-fee arrangements permitted pursuant to the rules of the New York State Bar Association. We also appreciate all of our former clients who continue to show their confidence in our office by referring their friends, family, and neighbors.