

What Indiana Workers Can Do When a Third Party Caused Their Workplace Injury

Our Fort Wayne Work Injury Lawyers Can Fight for Full Compensation

Most Indiana workers know that workers' compensation covers medical bills and a portion of lost wages for [workplace injuries](#). What many people might not realize is that workers' comp has real limits – and that when a party other than the employer caused or contributed to the injury, a separate personal injury lawsuit may be available. That second claim can recover compensation for losses that workers' comp was never designed to address, including pain and suffering, full wage loss, and the long-term financial impact of a serious injury.

The [Bureau of Labor Statistics \(BLS\)](#) tracks workplace injury and illness data for private industry employers across the country. Millions of work-related injuries occur every year. Many of these involve not just the injured worker's employer but other companies, contractors, equipment manufacturers, and property owners – parties whose conduct workers' compensation does not reach.

At [Boughter Sinak, LLC](#), our Indiana work injury attorneys represent injured workers in both workers' compensation claims and third-party personal injury lawsuits throughout the state. Our offices in Fort Wayne and Warsaw serve clients statewide. This article explains what a third-party work injury claim is, when it applies and how pursuing both claims together can produce a far more complete recovery than workers' comp alone.

What Is the Difference Between Workers' Compensation and a Third-Party Claim?

Workers' compensation is a no-fault system governed by Indiana law. Injured employees receive defined benefits – medical treatment and a portion of their wages – regardless of who caused the accident. The tradeoff is that workers generally cannot sue their employer directly for a work injury. The workers' comp system is the exclusive remedy against the employer in most circumstances.

A third-party claim is a personal injury lawsuit (a legal action seeking financial compensation) filed against someone other than the employer. Indiana law does not extend the employer's immunity to third parties. When a contractor, an equipment manufacturer, a property owner or any other outside party caused or contributed to a worker's injury, that party can be sued directly under Indiana personal injury law.

The legal distinction between these two systems is not just technical. It has real financial consequences. Workers' comp pays for medical expenses and approximately two-thirds of average weekly wages during the disability period. A successful third-party claim can recover far more – pain and suffering, full wage loss, loss of future earning capacity and other categories of damage that workers' comp never covers.

Who Can Be Held Responsible in a Third-Party Workplace Injury Case in Indiana?

Third-party liability (legal term for who's responsible for paying for the accident) in Indiana work injury cases arises from a wider range of situations than most injured workers expect. The central question is whether someone other than the employer had a legal duty to act with reasonable care and failed to do so. These are some of the most common sources of third-party responsibility in Indiana workplace injury cases.

- **Contractors and subcontractors on a shared worksite** – Construction sites and large industrial projects regularly involve multiple companies working in the same space at the same time. If a worker employed by one company is injured because of what someone from another company did wrong, that other company may be a responsible third party. This is one of the most frequent third-party scenarios in Indiana.
- **Equipment and product manufacturers** – When a tool, machine, vehicle or piece of safety equipment fails because of a design or manufacturing defect, the manufacturer or distributor may be liable under Indiana product liability law. This applies whether the defect directly caused the injury or contributed to it by failing to perform as intended.
- **Property owners and premises operators** – Workers who travel to client sites, construction sites or other properties as part of their job duties are owed a duty of care by the owner or operator of those premises. Unsafe conditions on someone else's property that injure a worker can support a third-party premises liability claim.
- **Other drivers on Indiana roads** – Workers who drive as part of their job are sometimes injured in traffic crashes caused by other drivers. When another driver is at fault, that driver is a third party who can be sued for personal injury damages (legal term for compensation) regardless of any workers' comp claim the worker also has.
- **Maintenance and repair contractors** – A third-party company that serviced or repaired equipment that later failed may bear responsibility. Their obligation to perform competent work extends to the workers who use the equipment after it has been serviced.

Not every workplace injury involves a third party, and identifying whether a viable claim exists requires a careful investigation of the specific facts. The only way to know for certain is to have an attorney review the circumstances of the injury and evaluate all potential sources of liability.

Can Indiana Workers File Both a Workers' Comp Claim and a Third-Party Lawsuit at the Same Time?

Yes. Indiana law expressly permits injured workers to pursue workers' compensation benefits and a third-party personal injury lawsuit at the same time. The [Indiana Workers' Compensation Act \(IC 22-3\)](#) governs the workers' comp process, while Indiana personal injury law governs the third-party claim. Pursuing one does not bar the other.

The practical benefit of pursuing both simultaneously is significant. Workers' comp provides immediate coverage for medical bills and partial wage replacement while the injury is acute and the third-party case is being built. The third-party lawsuit then pursues the full compensation that workers' comp does not provide – pain and suffering, full wage loss, future earning capacity and the broader human cost of the injury.

Running both claims at the same time is more complex than handling either one alone. The two processes have different procedures, different timelines and different evidence requirements. When a workers' comp settlement or third-party recovery is eventually obtained, Indiana law governs how benefits from one source affect the other. An attorney who handles both claims from the start is best positioned to coordinate them in a way that maximizes the worker's total recovery.

What Can a Third-Party Claim Recover That Workers' Comp Cannot?

Workers' compensation in Indiana operates on defined benefit limits. It pays for reasonable and necessary medical treatment and approximately two-thirds of average weekly wages during the disability period. It does not compensate for pain and suffering, emotional distress, loss of enjoyment of life or the full financial harm that a serious injury causes beyond the wage replacement formula.

A third-party personal injury claim can recover damages (financial compensation) for all of those additional losses. For a worker with a permanent injury – a spinal cord injury, a traumatic brain injury, the loss of a limb – the pain and suffering component of a third-party claim can be the largest element of the recovery. Full wage loss beyond the two-thirds formula and loss of future earning capacity, when an injury ends or significantly limits a career, can also be substantial.

In cases involving especially reckless conduct by a third party, Indiana law may permit punitive damages – additional financial penalties beyond compensation that are intended to deter the most egregious misconduct. The availability of punitive damages depends on the specific facts and circumstances of each case. Whether they apply is something an experienced work injury attorney can evaluate once the investigation into the third party's conduct is complete.

How Does the Workers' Comp Carrier's Reimbursement Right Affect a Third-Party Recovery?

One of the most important practical issues in pursuing both claims is the workers' comp carrier's right of subrogation (the legal right to be repaid from a third-party recovery). When a workers' comp carrier pays benefits to an injured worker and that worker later recovers money from a third-party lawsuit, Indiana law gives the carrier the right to recoup a portion of what it paid from the third-party proceeds.

Indiana law also requires that the carrier contribute its proportionate share of the costs of pursuing the third-party claim. The effect is that the worker does not keep the entire third-party recovery. Some portion flows back to the carrier. An attorney who understands how this works can negotiate the terms of that reimbursement and structure the resolution of both claims to maximize what the injured worker actually keeps.

This subrogation issue is one of the strongest practical arguments for having one legal team manage both claims from the start. When both files are handled together, the timing of settlements, the coordination of benefit offsets and the management of reimbursement obligations can all be aligned to serve the injured worker's overall interest. Handling one without the other – or splitting them between different attorneys – often produces a less favorable outcome.

What Evidence Matters Most in an Indiana Third-Party Work Injury Case?

Third-party work injury cases are won or lost on the strength of the evidence. Unlike workers' comp, which is a no-fault system, a third-party claim requires proving that the other party was negligent – that they failed to act with the care a reasonable person would have used and that their failure caused the injury. Gathering that evidence early is critical because some of it disappears quickly.

- **Documentation of the accident scene** – Photographs of the equipment that failed, the area where the accident happened, hazardous conditions and any physical evidence of what went wrong. This documentation should happen as soon as possible, before the scene is altered, repaired or cleaned up.
- **Witness statements from other workers and bystanders** – People who saw the accident or who were familiar with the conditions that contributed to it can provide critical testimony. Contact information for witnesses should be gathered while memories are fresh and before witnesses leave the worksite.
- **Equipment records and maintenance logs** – In product liability and equipment failure cases, records of prior service, reported defects and manufacturer communications can establish that the third party knew about a problem and failed to fix it.
- **Employment and contracting records** – On multi-company worksites, identifying which company employed each worker and understanding the contractual relationships between companies helps establish which third party bears responsibility.
- **Expert analysis** – In complex cases, accident reconstruction experts, engineering experts and medical experts may be needed to explain how the injury happened, why the third party's conduct was negligent and what the long-term impact of the injury will be.

An attorney who begins investigating a third-party claim promptly can send formal preservation notices requiring responsible parties to retain records and evidence. Once that notice is sent,

destroying relevant evidence becomes a serious legal problem for the third party. Acting before the evidence is gone can make the difference between a strong case and a weak one.

Are There Deadlines for Filing a Third-Party Work Injury Claim in Indiana?

Indiana's statute of limitations (the legal deadline for filing a lawsuit) for personal injury claims is generally two years from the date of the injury. Miss that deadline and the claim is barred permanently, regardless of how strong the underlying facts are. The [Indiana Code governing workers' compensation](#) also has its own procedural requirements and timelines that affect how both claims must be managed.

Two years sounds like enough time, but building a strong third-party claim takes many months. Investigating the accident, identifying all responsible parties, gathering expert opinions, and preparing for litigation all require sustained effort. Beginning that process early – before physical evidence disappears, before witnesses' memories fade and before company records are routinely destroyed – significantly strengthens the eventual case.

There is also a practical dimension to acting quickly that goes beyond the formal deadline. Third-party defendants and their insurers typically begin their own investigations immediately after a serious workplace accident. The sooner an attorney is retained on the injured worker's side, the better the chance of locking in the evidence and building the factual record before the other side has shaped the narrative in its favor.

How Can a Fort Wayne Work Injury Lawyer Help With a Third-Party Claim?

At [Boughter Sinak, LLC](#), we handle both workers' compensation claims and [third-party personal injury lawsuits](#) arising from workplace accidents throughout Indiana. We investigate serious work injury cases from the start, looking beyond the workers' comp claim to identify whether a third party's negligence contributed to what happened. We represent workers in construction accidents, equipment failures, product liability claims, premises liability cases involving other companies' properties and traffic crashes that happen while workers are on the job.

Our [case results](#) reflect our commitment to pursuing every available avenue of recovery for injured Indiana workers. We obtained a \$1,250,000 settlement for a worker who suffered a below-the-knee leg amputation in a forklift accident – a case built on product liability claims against the forklift manufacturer and maintenance company. We also secured a combined recovery of \$726,000 through the workers' compensation case and third-party claim for a worker injured by a third-party contractor's negligence – a case two other prominent Indiana firms had turned down.

Indiana's two-year deadline for filing a third-party personal injury lawsuit does not leave unlimited time. Evidence often disappears quickly. Witnesses can be harder to locate. The sooner our team begins investigating, the stronger the case. [Contact us](#) today for a free consultation. We represent injured workers throughout Indiana from our Fort Wayne and

Warsaw offices, and we handle all cases on a contingency fee basis – meaning you pay nothing unless we recover compensation for you. Call us. We can help.