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Personal Injury Medical Malpractice

40 attorneys with offices in New York, Long Island and New Jersey

Immigration Rights and the Courts, cont ...

[By Marie Ng, Esq.](#)

Because the Constitution and prior Supreme Court decisions make clear that undocumented immigrants have the same right to recover for their pain and suffering as any other person in the U.S., the only issue that had to be decided was whether an undocumented worker could also recover for his lost earnings. The Court of Appeals unequivocally affirmed that right. Even where the injured worker submitted false documentation The Court of Appeals unequivocally affirmed that right. Even where the injured worker submitted false documentation to obtain employment, he or she can still recover damages for lost wages resulting from his or her injuries.² If the employer knew, or should have known, that the worker was undocumented, or failed to verify that the worker was eligible, the worker can still recover his or her lost earnings. The right of undocumented immigrants to recover lost earnings is not limited to injuries sustained in construction accidents. Similarly, in order to avoid undue intimidation, the scope of questioning and disclosure as to immigration status in other types of civil actions is restricted by the circumstances.

As economic and political climates evolve, the need to balance concerns for national security and economic stability will always be present. However, balancing these concerns in keeping with the spirit of our Constitution is a goal we vigorously seek to achieve for our clients.

² Coque v. Wildflower Estates Developers, Inc., 58 A.D.3d 44, 867 N.Y.S.2d 158 (2nd Dept. 2008) (submission of a tax I.D. number in lieu of a Social Security number was not considered false documentation); Wilson v. City of New York, 65 A.D.3d 906, 885 N.Y.S.2d 279, 282-283 (1st Dept. 2009).

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