

# Fraudulent Claims and Construction Risk



## Impact:

- Higher housing costs, including rental properties, for New Yorkers
- Caused inflated construction costs as well as universally higher premiums in New York
- Allegedly fraudulent claims, claimed to be worth over \$140m to one carrier alone
- Unnecessary and/or phantom surgeries and treatment to plaintiffs so that attorneys and funders can collect more money
- Increased litigation which clogs court dockets and causes increased claims cost
- May affect reputation of contractors and sub-contractors
- Believed to be present in other states as well

## Quick Facts:

- An insurer and its reinsurer filed a lawsuit alleging violations of 18 U.S.C. §1962 (Racketeer Influenced and Corrupt Organizations Act "RICO"), as allegedly fraudulent bills and documentation were submitted in an "overarching enterprise scheme."
- Attorneys allegedly brought exaggerated Labor Law claims and referred claimants to those previously identified doctors.
- Doctors allegedly prescribed unnecessary medical treatment and performed unnecessary surgeries on claimants.
- Foreign funding allegedly financed providers, facilities.
- Allegedly credentialed safety trainers provided fraudulent certificates to workers that they had met their OSHA training requirements and then instructed them on how to initiate claims.

On March 1, 2024, Roosevelt Road Re and Tradesman Program Managers, LLC filed suit in the Eastern District of New York, alleging that certain doctors, lawyers and other individuals, had fraudulently submitted and maintained claims to exploit the Workers' Compensation system and civil justice system. Their concerted actions, the suit contended, subjected them to the Racketeering Influenced and Corrupt Organizations (RICO) statute as well as other criminal and civil liabilities. According to the complaint, attorneys allegedly brought exaggerated Labor Law claims and referred claimants to specific doctors. Those doctors purportedly prescribed unnecessary medical treatment and performed unnecessary surgeries on claimants, most of whom were underprivileged or immigrant.

Plaintiffs alleged that to add to the scheme, bogusly credentialed safety trainers provided fraudulent certificates to workers saying that they had met their OSHA training requirements. These same trainers allegedly groomed workers on how to devise a Labor Law claim, including how to take photographs of a worksite to bolster claims. Instead of instruction on safe workplace practices, these individuals were instructed on harmful, incorrect safety procedures.

In addition, plaintiffs contend that foreign funder defendants allegedly financed the providers' facilities so that this enterprise could carry on. No allegations were made against the individual claimants themselves and plaintiffs alleged that claims expenses attributable to this scheme were as much as \$142,127,559 in 2022.

On July 19, 2024 and September 6, these same plaintiffs filed a second and third RICO action, this time against more attorneys and providers as well as their alleged "runner," a person who solicits presumed injured people for an attorney.

Insurance costs for construction and housing have surged in New York, which many claim is based upon this allegedly fraudulent activity, the brunt of which is borne by consumers in the form of higher housing expenses.

## State of the States

NY follows its own Scaffold Law and Industrial Code which, without regard to fault, creates liability against any owner or general contractor for an injury caused by falling or a falling object on the work site. The Associated Builders and Contractors, Real Estate Board of NY, and Consumers for Fair Funding are groups that are trying to combat these issues at a grass roots level.



## The consequences

Since the filing of the initial RICO action, the dockets demonstrate that scores of cases have been dropped by several counsel who retained these medical providers as experts. These same providers have refused to testify in many instances as well. In many cases, plaintiffs' have sought to be relieved as counsel so that others might represent the allegedly injured workers. Several of the RICO defendants have settled out the cases for undisclosed sums or reasons. This list changes continuously. Other carriers have filed suit alleging fraud and misrepresentation.

News outlets have investigated this activity and reported concerns of widespread fraud.

Valor Security & Investigations, named in the first RICO action, was indicted for allegedly falsifying OSHA certificates for thousands of workers.

Shortly before that lawsuit was filed, the Staged Accidents Bill (S8413) had been introduced into the New York legislature, aimed at cracking down on insurance fraud believed to occur as the result of staged construction accidents. This bill recently failed to pass.

Prominent New York attorneys have predicted that more of these lawsuits will follow.

## Solutions

- New York should regulate lawsuit lending to prevent exorbitant interest rates and protect the public from fraud and frivolous lawsuits.
- New York Labor Law should be modified or reconsidered to alleviate the fraudulent and frivolous lawsuits that result.
- Passage of legislation, such as the failed Staged Accident Bill, which makes these fraudulent actions subject to criminal penalty, should be supported.
- Suspected fraudulent activity should be reported immediately
- Preserve evidence

### Zurich North America Initiatives

- Assembled a task force of Zurich's Investigative Services, Underwriting, Claims, Government & Regulatory Relations (GRR), Medical Billing and Resilience Solutions personnel to monitor, analyze and address the current trends.
- Undertook a process aimed to track providers, their bills, and their involvement in cases
- Coordinated with its Staff Legal attorneys to compile lists of "players", both lawyers and doctors, who are repeatedly involved in New York Labor Law (NYLL) cases.
- Leads the development and collaboration of industry partners on all lawsuit abuse reform efforts.
- Advocates for all lawsuit abuse reform issues impacting Zurich and its customers through its Government & Regulatory Relations (GRR) team.
- Created the first Claims Judicial & Legislative Affairs (CJLA) unit within the insurance industry as a social inflation task force comprised of a dedicated team of experts to provide education and advocacy support.

- Launched and participates in the annual Lawsuit Abuse Reform Symposium with industry coalition members.
- Hosts Zurich Defense Attorney Summit twice a year through CJLA.
- Publishes *Quarterly Digest* and *Regional Recap* to keep industry colleagues informed through CJLA.

### What can you do?

- Report suspected fraud.
- Support local civil justice organizations.
- Gather examples and data to show abusive practices by plaintiffs' attorneys to use as examples to lobby for reform.

To learn how you can get involved, contact Zurich North America's Claims Judicial & Legislative Affairs team at [usz.cjla@zurichna.com](mailto:usz.cjla@zurichna.com).



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