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NEW YORK

Accident in New York State Requires Filing of MV-104 Form



Gary N. Stewart

The State of New York has a **MANDATORY** requirement that a state-issued form be prepared and signed by the driver and submitted to the state within ten (10) days of just about any accident that occurs in the State of New York. The failure to do so may result in the suspension of your license and/or registration AND IS A MISDEMEANOR.

Specifically, the only type of accident where this form is not required to be submitted is where there is property damage of \$1,000 or less. If there is more than \$1,000 damage, any personal injury or death, the form must be filed.

All too often, we have seen a case assigned where the driver or insured did not complete and file the form. If the form has not been filed in a timely manner, refer to the police report for additional information and file it as soon as possible.

Thereafter, in most cases, the plaintiff's attorney will request a copy of the document in discovery. Obviously, the defense should be requesting that the plaintiff's form be produced as well.

Since the form is signed by the driver—whether the plaintiff or the defendant—it will be admissible, and the information contained therein can be very persuasive to a fact finder. If the form was prepared and filed within the mandatory ten days after the accident, then the argument could be made that the facts and circumstances sworn to as true could be more accurate than any information originating months or years later, since they were made closer in time to the accident.

For these reasons, we recommend that counsel assist with the process and that the diagrams, descriptions, and codes that are part of the form be utilized accurately. This can be done as part of the initial driver interview.

Refer to: <http://dmv.ny.gov/org/more-info/accident-reports> for additional information.

Gary N. Stewart is a partner in the CMV Section in our Harrisburg office. Gary is admitted to practice in Pennsylvania, New Jersey, Massachusetts, Connecticut, Vermont and Rhode Island as well as before the U.S. District Courts for the Eastern, Middle and Western Districts of Pennsylvania, the District of New Jersey, the District of Massachusetts, the District of Rhode Island, the District of Connecticut and the U.S. Court of Appeals for the First and Third Circuits.

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PENNSYLVANIA MOTOR TRUCK ASSOCIATION



David R. Chludzinski

David R. Chludzinski has joined the Pennsylvania Motor Truck Association (PMTA) Southwest Chapter. David is an associate in our **Pittsburgh office**. He concentrates his practice on the defense of commercial motor vehicles and their insurers. David earned his law degree from the Dickinson School of Law at Penn State University. He earned his B.A., *cum laude*, from Boston College. David is admitted to practice in Pennsylvania and in the U.S. District Courts for the Eastern, Middle, and Western Districts of Pennsylvania. David was selected as a “Pennsylvania Rising Star” by Super Lawyers and *Law & Politics* Magazine in 2012 and 2013. Rising Stars are the top 2.5 percent of attorneys in Pennsylvania who are 40 years old and younger or have been in practice for 10 years or less.

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NEW ASSOCIATES



Brian G. Welsh

Brian G. Welsh has joined the firm’s **Philadelphia office** as an associate. Brian concentrates his practice on the defense of commercial motor vehicle companies and their insurers. In addition, he has experience litigating product and premises liability, medical malpractice, and construction liability cases. Brian served as an associate with another major Philadelphia defense firm from 2006 to 2011 and also served as an arbitrator for the Philadelphia County Court of Common Pleas. Brian earned his J.D. from the Villanova University School of Law in 2003 and his B.A. in Communications from Temple University in 1997. He is admitted to practice in Pennsylvania, New Jersey, and North Carolina, as well as the U.S. District Court for the Eastern District of Pennsylvania, the U.S. District Court for the District of New Jersey, and the U.S. District Court for the Eastern District of North Carolina.

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Candace N. Edgar

Candace N. Edgar has joined the firm as an associate in the **Harrisburg office**. She concentrates her practice on the defense of commercial motor vehicle companies and their insurers. She also handles premises liability and product liability matters. Candace earned her J.D. from the Pennsylvania State University Dickinson School of Law in 2008 and her B.S., *cum laude*, in Speech Communications from Millersville University in 2004. She graduated in the top 25 percent of her class at the Penn State Dickinson School of Law. While in law school, she received the George F. Douglas, Jr. Memorial Award for Advocacy, as well as the ABA-ALI Scholastic and Leadership Award. Candace is admitted to practice in Pennsylvania, as well as the U.S. District Court for the Middle District of Pennsylvania. She is a member of the Pennsylvania

Bar Association, the Dauphin County Bar Association (Pro Bono Program, Young Lawyers Division), and the Pennsylvania Defense Institute.

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