

Welcome to TimesPeople

TimesPeople Lets You Share and Discover the Best of NY...

12:38 PM

Get Started No, thanks

What's this?

HOME PAGE TODAY'S PAPER VIDEO MOST POPULAR TIMES TOPICS

My Account Welcome, emptybee26 Log Out Help

The New York Times

N.Y. / Region

Search All NYTimes.com

Go

WORLD U.S. N.Y. / REGION BUSINESS TECHNOLOGY SCIENCE HEALTH SPORTS OPINION ARTS STYLE TRAVEL JOBS REAL ESTATE AUTOS

THE CITY CONNECTICUT LONG ISLAND NEW JERSEY WESTCHESTER

Searching for a webpage?
The visual search engine for a visual world



searchme:
Type Search Here

Advertise on NYTimes.com

A WORLD OF HURT

Exams of Injured Workers Fuel Mutual Mistrust



Nicole Bengiveno/The New York Times

Carol Houlder, a substance abuse counselor, waited a year for surgery on her injured ankle to be approved. "I was in so much pain and felt so hopeless for so long," she said.

By N. R. KLEINFELD
Published: March 31, 2009

Dr. Hershel Samuels, an orthopedic surgeon, put his hand on the worker's back. "Mild spasm bilaterally," he said softly. He pressed his fingers gingerly against the side of the man's neck. "The left cervical is tender," he said, "even to light palpation."

COMMENTS (165)

E-MAIL

SEND TO PHONE

PRINT

SINGLE PAGE

REPRINTS

SHARE

ARTICLE TOOLS SPONSORED BY



More Articles in New York Region »

Today's Headlines Daily E-Mail



Sign up for a roundup of the day's top stories, sent every morning. See Sample

junkmail90@verizon.net Sign Up

[Change E-mail Address](#) | [Privacy Policy](#)

Advertise on NYTimes.com

MOST POPULAR

E-MAILED BLOGGED SEARCHED

1. The iPhone Gold Rush
2. Brain Power: Brain Researchers Open Door to Editing Memory
3. Obama's Rabbi
4. Maureen Dowd: The First Shrink
5. Op-Ed Contributor: Larger Than Life in London
6. The Medium: I Hate My iPhone
7. Gossip Girls and Boys Get Lessons in Empathy
8. A Rich Education for Summers (After Harvard)
9. In the Dordogne, Canoeing Into Prehistory
10. Chinese Hunger for Sons Fuels Boys' Abductions

[Go to Complete List »](#)

The New York Times

REAL ESTATE
nytimes.com/realestate

A World of Hurt

'That's the Game, Baby'

A New York Times examination of New York State's workers' compensation system uncovered a universe of delays, suspicion and questionable rulings.

Further Reading



Workers' Compensation

A page of resources on the topic of workers' compensation compiled by the reporters of this series.

[Go to the Times Topics Page »](#)

Multimedia



Graphic
One Exam, Two Verdicts on Pain

Related

[A World of Hurt: For Injured Workers, a Costly Legal Swamp](#)
(March 31, 2009)

[Enlarge This Image](#)



Nicole Bengiveno/The New York Times
Dr. Edward Toriello feels that workers' doctors are often biased. "I think it's human nature to help your patient. I think a lot of doctors say, 'I don't need the aggravation. It doesn't hurt to keep him out of work.'"



Why are these renters smiling?

Also in Real Estate:

[Life unfolds a murphy bed](#)
[Who bought a \\$29mm apartment?](#)
[What you get for... \\$485,000](#)

ADVERTISEMENTS

Get Times Reader Free. A Digital Newspaper That Reads Like The Real Thing.

[Get Home Delivery](#)



nytimes.com/business
Where the conversation begins ▶

How will their business affect your business?

Advertisement

Teeth Whitening Exposed!
The Secrets Dentists don't want you to know about Teeth Whitening! [Learn more](#)

'Do Wrinkle Creams Work?'
We reviewed the top wrinkle creams. You'll be "shocked" at what we found! [Learn more](#)

[Advertise on NYTimes.com](#)

Ads by Google

what's this?

The Most Top Docs in SJ

Cooper has more Top Docs than all other So Jersey hospitals combine
www.cooperhealth.org

VIDEO »[More Video | Multimedia »](#)

The worker, a driver for a plumbing company, told the doctor he had fallen, banging up his back, shoulder and ribs. He was seeking expanded workers' compensation benefits because he no longer felt he could do his job.

Dr. Samuels, an independent medical examiner in the state workers' compensation system, seemed to agree. As he moved about a scuffed Brooklyn office last April, he called out test results indicative of an injured man. His words were captured on videotape.

N.Y./REGION

A World of Hurt: The Examination

For William Cassone, the road to workers' compensation led through the office of Dr. Hershel Samuels, an Independent Medical Examiner with the state's worker's compensation system.

Yet the report Dr. Samuels later submitted to the New York State Workers' Compensation Board cleared the driver for work and told a far different story: no back spasms, no tender neck. In fact, no recent injury at all.

Readers' Comments

Readers shared their thoughts on this article.

[Read All Comments \(165\) »](#)

"If you did a truly pure report," he said later in an interview, "you'd be out on your ears and the insurers wouldn't pay for it. You have to give them what they want, or you're in Florida. That's the game, baby."

Independent medical exams are among the most disputed components of New York's troubled workers' compensation system. Under that system, workers with bona fide injuries are entitled to medical care and replacement wages, usually paid for by their employer's insurer.

The independent exams are designed to flush out workers who exaggerate injuries or get unnecessary care, and there is no question that some of that goes on. As a check on what a worker's doctor determines, insurers are allowed to order an ostensibly neutral exam by a doctor they select and pay for. They do so regularly, with more than 100,000 exams conducted each year.

But a New York Times review of case files and medical records and interviews with participants indicate that the exam reports are routinely tilted to benefit insurers by minimizing or dismissing injuries.

"You go in and sit there for a few minutes — and out comes a six-page detailed exam that he never did," said Dr. Stephen M. Levin, co-director of the occupational and environmental medicine unit at [Mount Sinai Medical Center](#), who has been picked as the interim medical director at the compensation board. "There are some noble things you can do in medicine without treating. This ain't one of them."

New York uses independent medical examiners far more extensively than many states do, and critics say the practice adds to the mistrust in the system. The examiners' opinions can empower an insurer to slash benefits, withhold medical treatment or stall a case. Workers say that psychologically, there is something particularly damaging about being dishonestly evaluated by a medical professional.

"I was in so much pain and felt so hopeless for so long," said Carol Houlder, a [substance abuse](#) counselor who waited a year for surgery on her injured ankle to be approved. "Doctors see you're in pain and say you're not. How do they call themselves doctors?"

Many independent examiners are older, semiretired physicians who no longer treat patients, and claimants and lawyers have asserted that the memories and judgments of some of the doctors have at times been impaired by their age and frailties. The examiners do not need special training, only to have a state license and to be authorized in a specialty.

"Basically if you haven't murdered anyone and you have a medical license, you get certified," said

Dr. Alan Zimmerman, 75, a Queens orthopedic surgeon who does the exams. "It's clearly a nice way to semiretire."

Some examiners see dozens of injured workers a day. Often the appointments are booked by brokers who help insurance companies find doctors. Some brokers are not registered with the state, as required, but there has been little enforcement of the rules.

Insurers, examiners and brokers, however, defend the exams as necessary and largely untarnished by bias. Dr. Brian L. Grant, chairman of Medical Consultants Network, a company based in Seattle that arranges independent exams across the country, said, "We never get pressure from an insurer."

1 | [2](#) | [3](#) | [4](#) | [5](#) | [NEXT PAGE »](#)

A version of this article appeared in print on April 1, 2009, on page A1 of the New York edition.

[More Articles in New York Region »](#)



[Click here to enjoy the convenience of home delivery of The Times for less than \\$1 a day.](#)

Ads by Google

[what's this?](#)

[Prevent Identity Theft](#)

Always a step ahead of ID Thieves. Get Daily Surveillance & Protection
[Stop.IdentityTheft.com](#)

[Credit Card Fraud](#)

Get aggressive help from America's Criminal Defense Group. Call now.
[AmericasCriminalDefense.com](#)

[Free 2009 Credit Report](#)

View your Latest Credit Reports & Scores from all 3 bureaus for \$0.
[FreeCreditReportsInstantly.com](#)

Past Coverage

- [A WORLD OF HURT; For Injured Workers, a Costly Legal Swamp \(March 31, 2009\)](#)
- [Bronx Nursing Home Owner Is Arrested Over Workers' Compensation \(August 8, 2008\)](#)
- [State Bill Expands Pool of Possible 9/11 Benefit Recipients \(June 26, 2008\)](#)
- [State Seeks Way to Help Workers Hurt On the Job \(June 16, 2008\)](#)

Related Searches

- [Workers' Compensation Insurance](#)
- [Get E-Mail Alerts](#)
- [New York State](#)
- [Get E-Mail Alerts](#)
- [Labor](#)
- [Get E-Mail Alerts](#)
- [Medicine and Health](#)
- [Get E-Mail Alerts](#)

INSIDE NYTIMES.COM

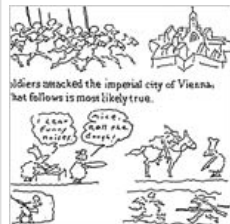


WEEK IN REVIEW »



[In Praise of the American Short Story](#)

OPINION »



[Op-Art: The Birth of the Croissant and the Bagel](#)

THEATER »



[Lost in Space With Dido and Aeneas](#)

OPINION »

Op-Ed: How to Clean a Dirty Bank
 There is a simpler and fairer way to recapitalize an insolvent bank.

BUSINESS »



[Micro-Billing Suits the Phone Companies Fine](#)

U.S. »



[In the Ruins of a Shop Full of Treats, a Blessing](#)

[Home](#) | [World](#) | [U.S.](#) | [N.Y. / Region](#) | [Business](#) | [Technology](#) | [Science](#) | [Health](#) | [Sports](#) | [Opinion](#) | [Arts](#) | [Style](#) | [Travel](#) | [Jobs](#) | [Real Estate](#) | [Automobiles](#) | [Back to Top](#)

Copyright 2009 The New York Times Company | [Privacy Policy](#) | [Search](#) | [Corrections](#) | [RSS](#) | [First Look](#) | [Help](#) | [Contact Us](#) | [Work for Us](#) | [Site Map](#)