

# CONTINGENCY FEE REFORM



## Protecting victims' awards

### Attorneys fees should follow a sliding scale

Virtually all personal injury lawyers charge a flat 33% contingency fee, paid out of the plaintiff's final award or settlement. This exorbitant rate is problematic because it leaves victims with only a fraction of the compensation they were intended to receive.

To fix this problem, New York should expand the fee schedule currently used in medical malpractice lawsuits to all personal injury cases. The scale is as follows: 30% of the first \$250,000 of the sum recovered; 25% of the next \$250,000 of the sum recovered; 20% of the next \$500,000 of the sum recovered; 15% of the next \$250,000 of the sum recovered; and 10% of any amount over \$1,250,000.

### A sliding scale would have significant benefits

#### Fairer compensation for plaintiffs

The proposed fee schedule returns an increasingly larger proportion of the total award to the injured plaintiff, rather than to their attorney.

#### More timely settlements

Under the current flat rate fee system, the plaintiff and their attorney have diverging interests with respect to settlement value. The plaintiff may be willing to settle for a lower offer in exchange for a more timely settlement—however, their attorney has a financial incentive to hold out for the largest settlement possible. The fee schedule encourages the timely settlement of claims by reducing this incentive. Importantly, the plaintiff always retains the option of holding out for a larger settlement.

#### Parity with many other states

Limitations on contingency fees have been used in many states to ensure that plaintiffs are fairly compensated. Currently, 25 states have statutes regulating contingency fees. Eleven of these states impose a sliding scale for fees.

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