

## POLICE OFFICER'S RIGHT TO SUE 2014 NEWSLETTER

### LIEUTENANT RECEIVES \$1.5 MILLION DOLLAR SETTLEMENT FROM CITY OF NEW YORK AFTER SUSTAINING SPINAL INJURIES WHEN HIS RMP HIT AN UNMARKED SPEED BUMP

A Lieutenant who was operating an RMP was en route to a 10-52 "man with a knife" when his RMP struck an unmarked speed bump causing a compression injury to his neck. The violent contact with the bump also caused an injury to the Lieutenant's lower back. Both injuries necessitated surgery and resulted in the Lieutenant receiving a ¼ line-of-duty accident disability pension. DCD, on behalf of the Lieutenant, sued the City of New York pursuant to GML §205-e, §2903(a)(2) of the New York City Charter and §27-a(3) of the Labor Law claiming the presence of an unmarked speed bump created a dangerous condition causing the Lieutenant's injury and subsequent disability. The matter settled for \$1.5 million at a pre-trial conference.

### APPELLATE COURT REAFFIRMS THE POWERS OF POLICE OFFICER'S RIGHT TO SUE LAW

In *Mulham v. City of New York*, the Appellate Division, Second Department reversed a lower Court decision reinstating a lawsuit filed by a New York City Police Department Sergeant who was injured while pursuing a suspect in a vacant wooded lot owned by the City of New York. During the pursuit the Sergeant encountered a five feet by five feet structure which consisted of wood, sticks, fabrics and soda crates. Believing the suspect was hiding in the structure, the Sergeant approached and walked on a piece of plywood which was a part of the structure's foundation. The Sergeant's right foot went through the plywood and seriously injured his right knee. The Sergeant required two surgeries and was eventually awarded a ¾ line-of-duty disability pension.

DCD, on behalf of the Sergeant, was initially successful in persuading a Richmond County Justice to permit the filing of a late notice of claim. DCD then sued the City of New York pursuant to the police officer's right to sue statute GML §205-e alleging the City of New York violated the New York City Health Code (24 RCNY) §153.19.

*New York City Health Code §153.19 provides that, "[t]he owner, agent, lessee, tenant, occupant or other person who manages or controls a building or lot shall be jointly and severally responsible for keeping... the premises free from obstructions and nuisances and for keeping... the ... lot clean and free from garbage, refuse, rubbish, litter, other offensive matter or accumulation of water.*

In reversing the lower Court, the Appellate Division held that N.Y.C. Health Code §153.19 was a sufficient predicate for GML §205-e in that the code was part of a well developed body of law and imposed a clear duty on the City of New York to keep their property clear of hazards. The Appellate Division also concluded that, "Section 205-e must be applied expansively so as to favor recovery by police officers whenever possible." The Court reaffirmed the notion that the notice requirements in 205-e claims are less stringent in police line-of-duty accidents than they are in common law negligence claims. The injured police officer must only demonstrate that the circumstances of the statutory law which was violated "was the result of neglect, omission or willful or culpable negligence on the defendant's part."

The importance of this decision cannot be overlooked. The Court's reaffirmation of the power of the police officer's right to sue statute and the Court's insistence that the intent of the New York State Legislature making 205-e an expansive statute which provides an "umbrella of protection" for all police officers who are injured in the line-of-duty is a major victory for the law enforcement community.

### POLICE OFFICER RECEIVES A \$900,000 SETTLEMENT FROM THE CITY OF NEW YORK AFTER LOCKER FALLS ON HER

An Officer from a Bronx command received a settlement of \$900,000 from the City of New York after she was seriously injured when a broken locker in the women's locker room fell and struck her elbow. The Officer did not know she could sue the City of New York until she saw our latest newsletter. Unfortunately, approximately one year elapsed from the date of accident making it extremely difficult for a Court to approve an application for permission to file a late notice of claim. However, DCD filed the application for permission, and the application was granted by a Bronx County Supreme Court Justice. DCD sued the City of New York pursuant to GML §205-e alleging the City of New York violated the Labor Law and Administrative Code in not providing the Officer with a safe place to work. The locker in question was previously discarded by the command because one of the four legs was missing. The discarded locker "mysteriously" reappeared in the women's locker room and was given to our client. On the day of the incident, the locker tipped because of the missing leg and struck our client's elbow. The Officer required surgery to correct a damaged nerve and was subsequently awarded a ¾ line-of-duty disability pension. DCD settled the case for \$900,000 prior to trial.

## CONSTRUCTION/STATION HOUSE

### ***Sergeant recovers \$200,000 settlement from construction company after falling on pipes in station house***

A Sergeant assigned to the Harbor Unit received \$200,000 from a private construction company when he injured his left knee after falling on loose piping left on the floor in the command's male locker room. The City had hired a private construction company to renovate and remodel the command. Members of the construction team negligently left loose EMT conduit pipes lying on the floor of the locker room. The Sergeant exacerbated a previous injury to his left knee and also tore his anterior cruciate ligament. The Sergeant underwent surgery and was awarded a ¾ line-of-duty disability pension on his prior line-of-duty incident involving his left knee. DCD, on behalf of the Sergeant, sued the City of New York pursuant to GML §205-e and Labor Law Section §27-a(3) and also sued the private construction company pursuant to common law negligence. The case settled at a pre-trial conference for \$200,000.

## STATION HOUSE

### ***Officer receives \$275,000 settlement from City of New York after falling down recently painted command staircase***

A Manhattan North Police Officer received a \$275,000 settlement from the City of New York when she injured her right shoulder after falling in a staircase located inside her command. The Officer was taking the staircase to the basement level of the command. The staircase and the steps had been painted and were roped off several days earlier. When the Officer attempted to descend to the female locker room to retrieve her summons book, her boot became stuck on a freshly painted step causing her to fall and hyperextend her right shoulder. Apparently, the steps had not adequately dried and were still sticky. After the fall, the Officer realized she had paint residue on the soles of her boots. As a result of the fall, the Officer suffered a torn rotator cuff and labrum in her right shoulder. She underwent arthroscopic surgery. DCD, on behalf of the Officer, sued the City of New York pursuant to GML §205-e alleging that the City violated Labor Law §27-a(3) in failing to provide the Officer with a safe place to work. The case settled for \$275,000 at a pre-trial conference.

### ***Officer receives \$75,000 settlement from City of New York after falling over a ladder in darkened command hallway***

An Officer assigned to a Queens North command received a \$75,000 settlement from the City of New York when she injured her shoulder after falling over a ladder in a darkened hallway inside her command. The injury required arthroscopic surgery. The basement hallway of the command was dark due to the lights being out as a result of electrical work inside the command. A ladder was left folded and leaning against the wall in the hallway. The Officer tripped on the ladder causing her to fall and injure her shoulder. DCD sued the City of New York pursuant to GML §205-e alleging the City violated Labor Law Section 27-a(3) in not providing the Officer with a safe place to work. The matter settled for \$75,000 at a pre-trial conference.

### ***Officer receives \$70,000 settlement from City of New York after falling down in a staircase inside command***

An Officer from a Queens North command received a \$70,000 settlement from the City of New York when he injured his knee after falling in a precinct staircase. The handrail in the staircase was loosened and was left on the ground causing the Officer to fall and sustain a tear to his right knee. The injury required arthroscopic surgery to repair the damaged knee. DCD, on behalf of the Officer, sued the City of New York pursuant to GML §205-e and Labor Law §27-a(3) alleging the City failed to provide a safe work place for the Officer. The matter settled for \$70,000 at a pre-trial conference.

## STATION HOUSE PARKING LOT

### ***City of New York is responsible for maintaining condition of command parking lot***

A Detective assigned to a Brooklyn command was awarded a \$75,000 settlement from the City of New York after falling in a large hole in a command parking lot. The Officer had just completed an assignment and was returning to his office when he fell in a two foot hole in the vicinity of his parked vehicle. The Detective suffered a serious injury to his left shoulder which required arthroscopic surgery. DCD, on behalf of the Detective, sued the City of New York pursuant to GML §205-e and the Administrative Code claiming the City failed to properly maintain the parking lot in a safe condition. The matter settled at a pre-trial conference for \$75,000.

## POLICE HEADQUARTERS

### ***Officer receives a \$900,000 settlement from City of New York after DCD revives lawsuit***

An Officer assigned to Police Headquarters received a settlement of \$900,000 from the City of New York after sustaining serious injuries while conducting a vehicle survey inside the Headquarters annex garage. The Officer accidentally stepped in an uncovered drain that was backed up with water which made the uncovered drain impossible to see. The Officer injured his right foot and back which required lumbar spinal fusion surgery. The Officer was awarded a ¾ line-of-duty disability pension. Initially, the Officer was unaware of his GML §205-e right to sue until an attorney who is familiar with DCD instructed the Officer to call our office. The Officer immediately retained DCD who filed an application with a Justice of New York County Supreme Court seeking permission to file a late notice of claim. The Officer was less than 45 days late in filing the notice of claim and the LOD report was concise and detailed regarding the accident. These facts compelled a New York County Supreme Court Justice to grant the Officer's application. DCD sued the City of New York pursuant to GML §205-e and Labor Law §27-a(3) claiming the City of New York had knowledge of the lack of a drainage cover thereby creating a dangerous condition. At a pre-trial conference the City settled the case for \$900,000.

## AUTO/CITY (OFF DUTY)

### ***Officer receives a \$150,000 settlement from the City of New York after being rear-ended by a fire truck***

An Officer assigned to a Bronx command was rear-ended by a New York City Fire Department truck while he was traveling from his home to his precinct. The Officer attempted to yield to the emergency vehicle by shifting to the right. However, the vehicle in front of the Officer's vehicle abruptly stopped forcing the Officer to stop. The fire truck struck the left side of the Officer's rear bumper causing a serious injury to the Officer's back. The Officer suffered a herniated disc with radiculopathy and was forced to undergo a discectomy to relieve pressure the herniated disc had on the nerves surrounding the spinal column. DCD, on behalf of the Officer, sued the City of New York on the ground that the fire truck negligently and recklessly caused the accident by rear-ending the Officer's vehicle. The Officer had a complete recovery and returned to full duty shortly after the surgery. The Officer accepted \$150,000 from the City of New York at a pre-trial conference.

## TRAINING

### ***Detective receives \$175,000 settlement from City of New York after injuring her Achilles tendon in a tactical training session***

A Detective assigned to a specialized detail sustained a torn Achilles heel after physically engaging with another member of the service during tactical training. The training took place in a trailer with a make-shift floor. DCD, on behalf of the Detective, argued the City of New York violated Labor Law §27-a(3) in not providing the Detective with a facility and flooring which was designed to handle physical training. Although the Detective was unable to articulate a specific reason why she suffered the Achilles injury, DCD was able to demonstrate the flooring was not suitable for training and also had a hole which may have contributed to the Detective's injury. Although the Detective returned to full duty status, DCD settled the case for \$175,000.

## CIVILIAN/AUTO

### ***Civilian passenger receives \$500,000 settlement from City of New York after being struck by a FDNY truck***

A motorist was traveling on Boston Road with the traffic signal in their favor when an FDNY fire truck traveling on East 169th Street, with lights and sirens on, went through a steady red light causing a collision with our client's vehicle. Our client suffered a serious injury to her leg which necessitated open reduction surgery. The City of New York filed a motion to dismiss our client's case alleging the fire truck had the green light when the truck proceeded through the intersection. Joseph L. Decolator defended the motion claiming there was a genuine issue of fact regarding which party had the right of way through the intersection. A Bronx Supreme Court Justice accepted Mr. Decolator's argument and denied the City's motion. The case settled against the City of New York at a pre-trial conference for \$500,000.

***Queens North Officers recover monetary damages from their personal auto policies after being intentionally struck and injured by a stolen vehicle***

A Sergeant and two Police Officers from a Queens North command sustained serious injuries when a convicted felon stole a civilian vehicle and intentionally ran down several members of the service with the stolen vehicle. Two Officers sustained injuries to their shoulders which required arthroscopic surgeries. The Sergeant sustained an injury to his knee which required surgery. Unfortunately, stolen cars do not possess liability insurance coverage and the perpetrator had no assets. However, the law allows members of the service to make a claim for personal injury compensation under each member's personal supplementary uninsured/underinsured motorist coverage if there is no other insurance coverage. The Sergeant recovered \$65,000 from his auto SUM coverage. One of the Officers recovered \$85,000 from his personal supplementary uninsured/underinsured automobile policy. The third Officer recovered \$25,000 the maximum SUM coverage he possessed.

***Note: It is essential that New York City Police Officers avail themselves of this additional monetary protection by increasing their supplementary uninsured/underinsured motorist coverage. Counsel should be contacted immediately after a line-of-duty accident to preserve the Officer's right for SUM coverage***

DCD cannot overstate the importance for members of the service to avail themselves of additional monetary protection by taking out maximum SUM coverage. The SUM coverage for Police Officers' personal automobile insurance usually covers line-of-duty accidents. Many motorists in New York State possess the minimum statutory policy limits thereby affording little protection to members of the service who are injured as a result of the negligence of these underinsured individuals. Members of the service can acquire additional protection by informing their insurance companies that they want to increase the SUM coverage to match the liability portion of their personal automobile insurance. The increase in rates are nominal and the insurance rates do not increase if a claim is made under SUM coverage. To illustrate the need for members of the service to protect themselves with SUM coverage, a Police Officer from Queens North was seriously injured in an RMP accident. The injury necessitated knee surgery. The offending vehicle possessed a minimal liability policy of \$25,000. The Officer only possessed the minimum \$25,000 SUM coverage. In New York State you are not allowed to stack the two coverages. Accordingly, the Officer was only able to recover \$25,000 for an injury which was worth substantially more.

**COMMERCIAL PREMISES/CONSTRUCTION**

***Lieutenant recovers \$540,000 from building owner and scaffolding company after sustaining injuries from falling scaffold***

A Lieutenant assigned to Brooklyn North was in his command when he witnessed construction scaffolding collapse from a building across the street from the precinct. The Lieutenant and an Officer went to the exterior of the building in an effort to secure the wind-blown scaffolding. While he was removing a large piece of plywood, several additional pieces of scaffold fell on the plywood the Lieutenant was carrying causing the Lieutenant's shoulders to hyperextend. Subsequent testing revealed positive findings on both of the Lieutenant's shoulders, and the Lieutenant underwent arthroscopic surgery to his right shoulder. The Lieutenant was awarded a ¼ line-of-duty disability pension based on this line-of-duty accident although the Lieutenant had prior surgery to both his shoulders. DCD, on behalf of the Lieutenant, sued the building owner and the scaffolding company pursuant to GML §205-e alleging the work performed by the scaffolding company on behalf of the building owner was negligent and in violation of the New York City Administrative Code. The building owner had been previously cited for a violation pertaining to the building's façade. The scaffold company was cited for a violation of the Building Code as a result of this incident. The insurance company for the building owner filed a summary judgment motion asking that the claim brought against them be dismissed in that they were not responsible for the falling scaffold material. Joseph L. Decolator, on behalf of the Lieutenant, fought vigorously to defend the Lieutenant's interests arguing that the building owner who hired the scaffold company possessed a non-delegable duty to any party who may have been injured by the negligent acts of the scaffold company. Mr. Decolator's brief, in opposition to the defendants' motion, forced the defendants to mediate the lawsuit. Dominic DiPrisco, in a five hour mediation, convinced the two defendants to settle the claims for \$540,000.

***Motorist who drove recklessly causing car stop held responsible for injured Officer although vehicle had no contact with Officer***

General Municipal Law §205-e, the Police Officer's Right To Sue statute, permits an injured Officer to sue a third party if the person's underlying conduct was unlawful and the unlawful conduct directly or indirectly caused the Officer's injuries. Members of the service can recover compensatory money damages if there is a "reasonable or practicable" connection between the unlawful conduct and the injury. In this case, the Officer from Manhattan South was conducting a car stop in the right lane of the BQE. A second vehicle driving erratically struck a yellow cab and then pinned the Officer who was outside his vehicle against the original vehicle he had stopped. The Officer sustained injuries to both knees which required arthroscopic surgeries. DCD, on behalf of the Officer, sued the motorist who struck him and also sued the motorist who caused the Officer to stop his vehicle. The insurance company representing the interests of the vehicle involved in the car stop filed an application in Bronx Supreme Court requesting that the action against their motorist be dismissed in that their client never struck the Officer and his injuries clearly were not the proximate cause of their client's motor vehicle violations. The attorneys for the insurance company failed to address the GML §205-e argument posed by DCD that proximate cause was not necessary to prove in a police line-of-duty accident case. The Bronx Supreme Court Justice ruled in the Officer's favor and denied the insurance company's attempt to have the case dismissed. The Officer recovered the maximum limits of both insurance policies and has a pending claim against his supplementary uninsured/underinsured motorist coverage.

**PREMISES/PRIVATE**

***Sergeant recovers \$162,500 from building owner after injuring his ankle when fire escape step collapsed***

A Manhattan South Sergeant received a \$162,500 settlement from a building owner after a step on a fire escape collapsed causing an injury to the Sergeant's right ankle. The Sergeant was responding to a 911 call for a rescue operation when he entered the fire escape of the building. While descending from the 3rd floor to the 2nd floor, a couple of steps collapsed causing the Sergeant's ankle to fall in the area vacated by the step. The Sergeant sustained a significant sprain which necessitated surgery. DCD sued the building owner pursuant to GML §205-e claiming the building owner's failure to maintain the condition of the fire escape was in violation of the New York City Administrative Law and the Building Code. DCD negotiated a \$162,500 settlement at a pre-trial conference.

***Officer recovers \$250,000 from homeowner after injuring his ankle while evading a pit bull attack***

An Officer from a Queens North command received a \$250,000 settlement from a homeowner as a result of tearing ligaments in his right ankle while attempting to evade a pit bull attack. The Officer responded to a radio call for vicious pit bulls. The pit bulls were owned by the tenant of the subject premises. The pit bulls charged the Officer, and the Officer fell and turned his ankle while he attempted to elude the dogs. The Officer sustained torn ligaments which necessitated surgery. The Officer was subsequently awarded a ¼ line-of-duty disability pension. DCD, on behalf of the Officer, sued the owner of the premises (the tenant was never found) alleging the owner was aware of the vicious propensity of the pit bulls and allowed the dogs to remain in the tenant's apartment. The insurance company for the homeowner filed an application to the Court asking that the lawsuit be dismissed in that the homeowner did not own or possess the pit bulls. Joseph L. Decolator successfully argued that the homeowner was responsible because although he was an absentee landlord, he visited the premises twice a week and was aware of the vicious pit bulls. Dominic DiPrisco settled the case for \$250,000, nearly 90% of the available homeowner's insurance policy.

**AUTO/CITY**

***Lieutenant receives \$300,000 settlement from City of New York after being rear-ended by an RMP***

A Lieutenant assigned to a Manhattan command was operating his department rental vehicle in Queens when he was rear-ended by an RMP. The Lieutenant suffered a lower back injury which contributed to a ¾ disability retirement. The Lieutenant sued the City of New York pursuant to GML §205-e and VTL §1129 claiming the operator of the RMP was driving too close to the Lieutenant's rental vehicle and negligently rear-ended his vehicle. Although the Lieutenant did not have back surgery, Dominic DiPrisco negotiated a \$300,000 settlement from the City of New York.

## NEWSLETTER REVIVES NINE MORE MOS LAWSUITS

This firm publishes newsletters in an effort to educate members of the service of their civil rights in a variety of personal injury settings. DCD is pleased to announce that the Police Officer's Right to Sue newsletters have successfully informed thousands of Police Officers of their right to sue pursuant to GML §205-e. In particular, the 2013 newsletter alerted nine Officers of their rights to sue pursuant to GML §205-e after the time limits to file their cases against the City of New York and the Housing Authority had expired. This firm revived all nine cases.

In the first case, an Officer assigned to Midtown North seriously injured her neck when the operator of the RMP rear-ended a civilian motorist while on routine patrol on the West Side Highway. The accident occurred when the operator of the RMP attempted to apply the brakes and his foot slipped off the brake pedal after his driver's seat unexpectedly moved forward. Apparently, the driver's front seat was not properly secured, and the RMP was in that condition for an extended period of time. The Officer was unaware of her GML §205-e right to sue and did not seek counsel. Unfortunately, the Officer's time to file a notice of claim against the City of New York had expired. (*Note: A notice of claim must be filed within 90 days of the accident when the defendant is a municipality.*) Approximately seven months had elapsed from the date of accident to when the Officer was informed about our newsletter. When the Officer retained DCD, this firm immediately filed the late notice of claim and then made an application to a Justice in New York County Supreme Court seeking permission for acceptance of the late filing. Justice Geoffrey Wright, New York Supreme Court, denied the Officer's application to file a late notice of claim. In ruling against the Officer, Justice Wright misapplied the law claiming the Officer's failure to articulate a reason for the delay in filing a notice of claim did not allow him to grant the Officer's application under General Municipal Law §50-e(5). DCD, on behalf of the Officer, appealed Justice Wright's erroneous decision to the Appellate Division, First Department. The First Department reversed Justice Wright's decision denying the Officer the right to file a late notice of claim. In its holding, the Appellate Division stated that the City and Police Department were aware of the facts of the accident due to the filing of the line-of-duty injury report, and the absence of a plausible reason for the filing delay was not a major factor under the provisions of the statute. Accordingly, the Appellate Division's decision allowed the Officer to file the late notice of claim. The lawsuit is presently pending in New York County Supreme Court.

***One of the key elements in gaining approval from the Court in filing a late notice of claim application is the detailed line-of-duty injury report (hereinafter referred to as LOD). Courts have consistently held that the filing of the LOD injury report gives the City immediate notice of the accident and also typically includes the underlying theory as to what caused the accident. One of the City's main arguments in opposing the filing of the late notice of claim application is that the municipality would be prejudiced by not being afforded the opportunity to immediately investigate the accident and to prepare a defense to any claims made against the City. Accordingly, the LOD injury report eliminates the City's claim of prejudice since the report gives the City immediate notice of the accident and an opportunity to investigate.***

In the second case, an Officer assigned to a Queens North command suffered a serious injury while she was exiting the door leading to the parking lot. She tripped on a piece of wood which was used to keep the basement door open. The Officer broke her right clavicle and suffered tears to her labral and rotator cuff. The Officer was unaware of her right to sue. The Officer retained DCD and DCD immediately filed the notice of claim to "stop the clock" from running. Approximately over ten months elapsed from the date of accident to the date the notice of claim was filed. DCD filed the late notice of claim application to a Justice of the Queens County Supreme Court requesting permission to file a late notice of claim. DCD was able to persuade the Court that the City would not be prejudiced by the late filing because the LOD paperwork was detailed and concise regarding the specifics of the accident. The Court granted the Officer's application and the matter is pending in Queens County. The Officer was awarded a ¾ line-of-duty disability pension.

In the third case, a Lieutenant assigned to a Queens Command injured his back when he slipped and fell on a tiled floor. Apparently, the Lieutenant had initially stepped on a carpet which was soaked due to a previously disclosed leak in the janitor's closet. The Lieutenant had consulted another attorney from the union who was familiar with DCD's work. The Lieutenant contacted and retained DCD. Unfortunately, the Lieutenant was one day late in filing the notice of claim against the City of New York. DCD was compelled to file a late notice of claim application to a Justice in Queens County Supreme Court. The City of New York did not oppose the application in light of the fact it was only one day late, and the Court granted DCD's application to file a late notice of claim. The case is pending in Queens Supreme Court.

In the fourth case, an Officer assigned to a Queens Command was injured when while standing on a ladder to retrieve a box of paper towels, an unsecured box on a raised pallet fell and knocked the Officer off the ladder and onto the floor. The Officer tore the proximal patellar tendon on his left knee. The Officer was unaware of his right to sue the City of New York until one of the attorneys who was familiar with DCD's office informed the Officer to contact us. The Officer retained DCD. However, the Officer was six days late in filing a notice of claim. DCD immediately filed the notice of claim with the City of New York and then filed an application with a Justice of the Queens County Supreme Court seeking permission to file a late notice of claim. The City did not oppose the application because the notice of claim was filed only six days late. The Court granted the application and the matter is pending in Queens Supreme Court.

In the fifth case, an Officer assigned to Brooklyn South sustained a serious injury to his elbow which necessitated surgery when he slipped on rock salt residue in the lounge area of the command. Apparently the salt was tracked into the command by other members of the service during inclement weather. The Officer was unaware of his GML §205-e right to sue until several days after the 90 day time limitation elapsed. The Officer retained DCD. DCD served the notice of claim against the City of New York and filed a petition requesting to file a late notice of claim. The City of New York did not oppose the application and the petition was granted. The matter is pending in Kings Supreme Court.

In the sixth case, an Officer assigned to a Staten Island command suffered an injury to his neck as a result of a motor vehicle accident involving his RMP and a civilian motorist. The airbags in the RMP failed to deploy. Approximately 90 days elapsed from the date of accident to when the Officer retained DCD. DCD immediately filed the notice of claim although technically it was one day late. The City objected to the one day late filing. DCD was compelled to file a late notice of claim petition with a Justice of the Supreme Court, Richmond County seeking permission to file the one day late notice of claim. The Court granted DCD's request and the matter is presently pending in Richmond County.

In the seventh case, an Officer from Queens South was seriously injured when the RMP he was a recorder in collided with a civilian vehicle en route to a 10-34. The operator of the RMP claimed he had lights and sirens on when he approached the intersection with the green light. The civilian motorist claimed he had the green light and the RMP passed a steady red light causing the accident. The recorder suffered a broken ankle. The Officer was unaware of his right to sue until another Officer alerted him to call DCD. Unfortunately, over five months elapsed from the date of accident to the date the notice of claim was filed. DCD filed a late notice of claim application with a Justice in Queens Supreme Court. The application was granted because the LOD and PAR was so detailed the City could not claim they were prejudiced by the late filing.

In the eighth case, a Sergeant from a Brooklyn Housing Command injured her left knee which necessitated surgery and a ¾ disability pension when she fell while struggling with a vagrant in a Housing Authority building staircase. While attempting to subdue the vagrant, the Sergeant twisted her knee on a substance on the step before she fell down onto a metal staircase. The Sergeant retained DCD and DCD immediately filed the notice of claim to "stop the clock" from running. DCD then filed the petition seeking permission from a Supreme Court Justice to permit the late filing of the notice of claim. Fortunately, the Sergeant's LOD paperwork was sufficiently detailed regarding what caused her injury thereby permitting a Supreme Court Justice to conclude that the Housing Authority would not be prejudiced if the Sergeant filed late. The case is presently pending in Kings County Supreme Court.

In the ninth case, a Sergeant assigned to a Bronx Command suffered a serious injury to her right hand when a chair she was using in her office lurched forward and caused her to fall onto the floor. The Sergeant required surgery to repair damage to her torn ulnar collateral ligament. The Sergeant was unaware of her GML §205-e right to sue until a lawyer who is familiar with DCD instructed the Sergeant to retain this firm. DCD immediately filed an application with a Justice of Bronx County Supreme Court seeking permission to file a late notice of claim. The Officer was more than five months late in filing the notice of claim and the LOD report was concise and detailed regarding the accident. These facts compelled a Bronx County Supreme Court Justice to grant the Sergeant's application. The matter is presently pending.