

POLICE OFFICER'S RIGHT TO SUE 2018 NEWSLETTER

SUPERVISOR RECEIVES A \$1,300,000 SETTLEMENT FROM THE CITY OF NEW YORK AFTER SUSTAINING INJURIES IN A MUNICIPAL VEHICLE ACCIDENT

A Supervisor employed by the New York City Police Department received a settlement of \$1,300,000 from the City of New York after sustaining injuries when he was struck by a municipal vehicle after responding to a radio run. The Supervisor sustained a lower leg injury which became a chronic condition. The Department surveyed him off the job. The Supervisor was then awarded a ¾ line-of-duty disability pension. After filing a notice of claim with the City of New York within 90 days of the date of the accident, DCD sued the City of New York pursuant to GML §205-e and common law negligence alleging the operator of the municipal vehicle violated §§1180(a), 1146, 1212 and 375(1) of the Vehicle and Traffic Law. DCD claimed the City of New York was reckless and negligent in the ownership, operation, management and control of the subject vehicle. Dominic DiPrisco settled the case with Corporation Counsel for \$1,300,000.

DETECTIVE RECEIVES A \$900,000 SETTLEMENT AFTER SUSTAINING INJURIES AS A RESULT OF BEING REAR-ENDED BY AN ACCESS-A-RIDE

A New York City Detective received a settlement of \$900,000 after sustaining a serious back injury as a result of being rear-ended by an access-a-ride. The Detective was traveling on a highway when traffic slowed, the access-a-ride failed to keep a safe distance from the Detective's unmarked RMP and rear-ended the automobile. The Detective suffered lower back herniations with radiculopathy which necessitated lumbar microsurgical decompressive laminotomy. A year after the surgery, the Detective was informed by his orthopedist that a second surgery was recommended. The Detective elected not to have the second surgery.

The Detective was subsequently awarded a ¾ line-of-duty disability pension. DCD sued the private owner of the access-a-ride pursuant to GML §205-e alleging the defendant's operator violated Vehicle and Traffic Law §§1129(a), 1180(a), 1212 and 375(1). After extensive motion practice over a seven-year period, Dominic DiPrisco settled the case during a pre-trial mediation for \$900,000.

OFFICER RECEIVES A SETTLEMENT OF \$697,500 FROM A CIVILIAN MOTORIST AFTER MOTORIST FAILED TO YIELD TO AN EMERGENCY VEHICLE CAUSING ACCIDENT

A New York City Police Officer received a \$697,500 settlement from a civilian motorist after she was seriously injured in an unmarked RMP accident. The injured Officer was the operator of the unmarked Department vehicle responding to a 10-10 shots fired when she approached an intersection with lights and sirens on. The light was red for the Officer and green for the civilian operator. The Officer cautiously approached the intersection when the civilian operator failed to yield to the emergency vehicle causing the intersection accident. The Officer sustained a serious neck injury which required cervical fusion surgery. The Officer was awarded a ¾ line-of-duty disability pension. DCD sued the defendant owner/operator of the vehicle pursuant to Vehicle and Traffic Law §§1144, 1180(a), 1212 and 375(1) alleging the motorist was negligent in failing to yield to an emergency vehicle. Although the Police Department blamed the accident on the Officer, Dominic DiPrisco was able to settle the case against the civilian defendant for \$697,500 at a pre-trial mediation.

STATION HOUSE

AN OFFICER RECEIVES A \$500,000 SETTLEMENT FROM THE CITY OF NEW YORK AFTER SUSTAINING INJURIES FROM FALLING OFF A LADDER AT A COMMAND

A New York City Police Officer received a \$500,000 settlement from the City of New York. The Officer was assigned to a specialized detail which duties included installing and removing audio/visual equipment from commands. The Officer was assigned to remove and replace a large screen television with another Officer. Both Officers were on a ladder on each side of the television when one of the Officers allowed the weight of the television to shift causing the other Officer to fall off the ladder. The fall caused the Officer to hyperextend his shoulder, tearing his right shoulder rotator cuff. The injury required surgery and the Officer was subsequently awarded a ¾ line-of-duty disability pension. The Officer retained DCD who immediately filed a notice of claim against the City within the 90-day time limitation. DCD then sued the City of New York pursuant to General Municipal Law §205-e alleging the City violated §§27-a(3), 240(1), 241(b) and 200(1) of the Labor Law, §28-301.1 of the New York City Administrative Code and §153.19 of the New York City Health Code. Dominic DiPrisco settled the case for \$500,000 at a pre-trial conference.

OFFICER RECEIVES A SETTLEMENT OF \$650,000 FROM THE CITY OF NEW YORK AFTER INJURING HIS SHOULDER FROM FALLING DOWN A STATION HOUSE STAIRCASE

A New York City Police Officer received a \$650,000 settlement from the City of New York after slipping on water on a station house staircase. The air conditioning in the command wasn't working and a member of the service opened a skylight located above the subject staircase. Unfortunately, the skylight remained open during a rain storm causing a water condition on the staircase. The Officer slipped on the water sustaining an injury to his left shoulder. The injury required surgery to repair a torn labrum and partially torn rotator cuff. The Officer subsequently received a ¾ line-of-duty disability pension. Unfortunately, the Officer did not know he could sue the City of New York and approximately seven months elapsed from the date of the line-of-duty accident making it difficult for a Court to approve an application for permission to file a late notice of claim. DCD filed the application for permission to file approximately four months after the 90-day time limitation to file expired. DCD was successful in persuading a Justice of the Kings County Supreme Court to grant the Officer's application to file a late notice of claim. DCD then sued the City of New York pursuant to GML §205-e claiming the City of New York violated Labor Law §27-a(3) by not providing the Officer with a "safe place to work." DCD also alleged the City of New York violated §§27-369 and 28-301.1 of the New York City Administrative Code. After several conferences and pre-trial Court appearances, Dominic DiPrisco was able to secure a \$650,000 settlement for the injured Officer.

OFFICER RECEIVES A SETTLEMENT OF \$250,000 FROM THE CITY OF NEW YORK WHEN THE DOOR OF A NARCOTICS SAFE COLLAPSED ON HER FINGER NECESSITATING SURGERY

A New York City Police Officer received a \$250,000 settlement from the City of New York after sustaining a serious injury to her finger which required surgery. The Officer went to the command's evidence safe to retrieve narcotics ready for transfer. As she opened the door of the safe, the metal door unhinged, slamming and breaking the Officer's finger on her shooting hand. The injury necessitated surgery which included the insertion of wires needed to fuse the joints. The Officer did not know she could sue the City of New York until she saw DCD's newsletter. Unfortunately, approximately eight months 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. DCD filed the petition and was successful in convincing the Court to grant permission to file the notice of claim late. DCD then sued the City of New York pursuant to GML §205-e alleging the City of New York violated the Labor Law and the Administrative Code in

not providing the Officer with a safe place to work. The City of New York filed a motion with the Court in an attempt to have the case dismissed arguing that Labor Law §27-a(3) was not violated.

Joseph L. Decolator defended the motion and convinced the Justice that Labor Law §27-a(3) was violated and the case proceeded on the trial calendar. The matter settled for \$250,000 at a pre-trial conference.

PREMISES/PRIVATE

OFFICER RECEIVES A SETTLEMENT OF \$280,000 FROM A PRIVATE DEFENDANT AFTER HE FELL ON DEBRIS AT A CONSTRUCTION SITE WHILE CHASING THREE INDIVIDUALS

A New York City Police Officer received a \$280,000 settlement from a construction company when he was injured after slipping on debris in a construction site while chasing three perpetrators. The Officer suffered a severely sprained right ankle which necessitated arthroscopic surgery. The Officer was subsequently awarded a ¾ line-of-duty disability pension. The Officer retained DCD approximately 15 months after the LOD injury and didn't possess any photos of the accident scene. DCD sued the construction company pursuant to GML §205-e alleging the defendant violated §19-109(a)(b)(c) of the New York City Administrative Code and §200 of the Labor Law. The defendant filed a motion for summary judgment seeking dismissal of the case alleging the Officer didn't see or know what he slipped on other than mud in front of the construction site and that the defendant didn't create the condition or possess prior notice of the defective condition which caused his injury. Joseph L. Decolator defended the motion to dismiss and was successful in convincing a Supreme Court Justice to deny the defendant's request to dismiss the case. The defendant's attorney filed a notice of appeal of the lower court decision and perfected the appeal at a great cost. While the appeal was pending, the matter went to mediation where Dominic DiPrisco settled the case for \$280,000.

SUPERVISOR RECEIVES A \$150,000 SETTLEMENT FROM PRIVATE BUILDING OWNER AFTER SLIPPING ON HALLWAY DEBRIS CAUSING INJURIES

A New York City Police Department Supervisor seriously injured both his shoulders after slipping on wet steps and debris while descending steps at the scene of a barricaded perpetrator. The injuries necessitated surgery on both shoulders. The Supervisor received a ¾ line-of-duty disability pension. DCD sued the building owner pursuant to GML §205-e alleging the property owner was negligent in failing to maintain the staircase in a safe manner. At the end of the litigation, while the case was on the Court calendar, the insurance company for the defendant went into liquidation and a Receiver was appointed to liquidate the insurance company's assets. Unfortunately, there were limited funds the Receiver had to settle cases. DCD was able to secure \$150,000 from the Trustee and Receiver to settle the case.

OFFICER RECEIVES A \$360,000 SETTLEMENT FROM A PRIVATE BUILDING OWNER AFTER FALLING ON STAIRCASE DEBRIS CAUSING INJURY

A New York City Police Officer received a \$360,000 settlement from a private building owner after falling on an unknown substance in a dimly lit staircase. The Officer sustained a serious injury to his knee which required several surgeries. The Officer was subsequently awarded a ¾ line-of-duty disability pension. DCD sued the building owner pursuant to GML §205-e alleging the property owner was negligent in failing to maintain the staircase in a safe manner. DCD settled the case for \$360,000 at a pre-trial mediation.

DEFECTIVE RMP'S

OFFICER RECEIVES A \$600,000 SETTLEMENT FROM THE CITY OF NEW YORK AFTER SUSTAINING INJURIES WHEN THE RMP HE WAS OPERATING HAD AN EQUIPMENT MALFUNCTION CAUSING THE RMP TO CRASH INTO THE CENTER DIVIDER

A New York City Police Officer received a settlement of \$600,000 from the City of New York after sustaining numerous facial fractures, a knee injury and a shoulder injury all of which required surgery. The Officer was subsequently awarded a ¾ line-of-duty disability pension. The Officer was injured when he was returning from a detail, the RMP veered left and crashed into the center median of a highway. An inspection of the RMP after the accident revealed the axle of the driver's front tire broke causing the Officer to lose control of the vehicle. Although the Police Officer's Right to Sue statute, GML §205-e, allows Police Officers the right to sue for injuries sustained in line-of-duty accidents caused by RMP malfunctions or defects, it is the Officer's burden to demonstrate the Department had actual or constructive notice of the malfunction or defect. If the Officer was unable to prove this notice requirement, there would have been a distinct probability that the Court would have dismissed the case.

DCD filed a notice of claim against the City of New York within the 90-day time limitation. DCD then sued the City of New York pursuant to GML §205-e alleging the City of New York violated Labor Law §27-a(3) in not providing the Officer with a safe place to work and Vehicle and Traffic Law §375 in allowing the Officer to operate the RMP with an equipment malfunction. DCD hired an accident reconstructionist who also inspected the vehicle. After inspecting the vehicle, the expert researched the 2008 Ford Crown Victoria and found that some of these police cars were recalled for faulty steering. The expert also examined the maintenance history of the subject vehicle. The City of New York also consulted their own expert to dispute the argument that the subject matter of the recall notice led to the equipment failure of the RMP and that it was a different part of the wheel which broke causing the accident. The City continued to argue that the Department did not have any actual (i.e., work orders, prior maintenance records, log entries or memo book entries) or constructive notice (i.e., rust on the wheel or axle) of the condition of the axle prior to the separation from the wheel. DCD argued that the vehicle was subject to a recall for faulty steering thereby providing the City with adequate notice of a pending malfunction. After extensive settlement negotiations, the Officer elected not to go to trial and accepted the City of New York's offer of \$600,000 to settle the case.

OFFICER RECEIVES \$200,000 SETTLEMENT FROM CITY OF NEW YORK AFTER HIS LEG BECAME ENTANGLED ON EXPOSED WIRES WHILE EXITING RMP

An Officer employed by the New York City Police Department received a settlement of \$200,000 from the City of New York as a result of suffering a serious knee injury after his leg became entangled on exposed wires while exiting the RMP. The Officer sustained multiple tears inside his knee which required surgery. DCD filed a notice of claim against the City of New York within the statutory 90-day time limitation. DCD then sued the City of New York pursuant to GML §205-e alleging the City of New York violated Vehicle and Traffic Law §375 in providing the Officer with an RMP which had an equipment violation that caused his injury. Dominic DiPrisco settled the case for \$200,000 at a pre-trial conference.

RANGE

OFFICERS RECOVER SETTLEMENTS FROM THE CITY OF NEW YORK AFTER SUSTAINING INJURIES WHEN STRUCK BY SHRAPNEL AT THE RODMAN'S NECK RANGE

In separate cases, three New York City Police Officers received settlements from the City of New York after being struck by shrapnel while attempting to qualify at the Rodman's Neck Range. DCD has demonstrated from prior cases that the design of the Rodman's Neck Range is flawed and any ricochet which strikes a member of the service is actionable against the City of New York. In a prior case featured in our 2011 Newsletter, DCD recovered 1.5 million dollars for a Police Officer who suffered

disabling injuries after being struck by a ricochet in his temple while he was attempting to qualify. DCD hired a firearms ballistic and range expert who, after visiting the Rodman's Neck Range, declared the range to be "inherently dangerous." The expert opined that a properly configured range should never have a ricochet which endangers members of the service and that the berms located behind the target stanchions were full of lead which caused many of the ricochets.

OFFICER RECEIVES A SETTLEMENT OF \$150,000 FROM THE CITY OF NEW YORK AFTER TRIPPING ON A BROKEN SIDEWALK INSIDE RODMAN'S NECK RANGE

An Officer employed by the City of New York was awarded a \$150,000 settlement from his employer after sustaining a serious facial injury when he tripped on a broken sidewalk at Rodman's Neck Range. The Officer received 60 to 70 sutures and sustained a significant facial scar after the fall. DCD filed the notice of claim within the specified 90-day time limitation and then sued the City of New York pursuant to GML §205-e claiming the City of New York violated §27-a(3) of the Labor Law and §28-301.1 of the New York City Administrative Code. The City of New York settled this matter for \$150,000.

SNOW/ICE/CITY/PRIVATE

OFFICER RECEIVES A SETTLEMENT OF \$200,000 FROM THE CITY OF NEW YORK AFTER FALLING ON ICE WHILE EXITING FRONT ENTRANCE OF COMMAND

A New York City Police Officer sustained a serious injury to his knee when he slipped on ice while exiting the front of his command. The injury necessitated arthroscopic surgery to repair a torn ACL. The Officer was able to return to full duty prior to re-injuring the same knee. DCD sued the City of New York pursuant to GML §205-e alleging the City of New York violated New York City Administrative Code §§27-479, 19-152 and 7-201(c)(2) in failing to keep the sidewalk in front of the command free and unobstructed from dangerous conditions such as ice. During a pre-trial conference, Dominic DiPrisco settled the case for \$200,000.

OFFICER RECEIVES A SETTLEMENT OF \$275,000 FROM A PRIVATE BUILDING OWNER AFTER FALLING ON SNOW AND ICE IN FRONT OF A COMMERCIAL BUILDING

A New York City Police Officer fractured his left ankle necessitating surgery when he slipped on snow and old ice after exiting his Department vehicle. The Officer attempted to gain access to the sidewalk from his parking spot when he encountered a mound of snow on the sidewalk. The Officer slipped on the snow and sustained the serious injury. The Officer returned to full-duty after a lengthy rehabilitation. DCD sued the owner of the property pursuant to GML §205-e alleging the property owner violated §7-210(a) (b) of the New York City Administrative Code in failing to keep the public sidewalk abutting the building free from ice and snow. During a pre-trial conference, the case settled for \$275,000.

OFFICER RECEIVES A SETTLEMENT OF \$140,000 FROM A PRIVATE COMMERCIAL LAND OWNER AFTER FALLING ON ICE AND OLD SNOW WHILE CHASING A PERP ON THE SIDEWALK OF A COMMERCIAL BUILDING

A New York City Police Officer received a settlement of \$140,000 from a commercial building owner when he sustained a knee injury after falling on ice and old snow while chasing an armed perpetrator in front of an apartment building. The Officer's injury necessitated surgery to repair a torn medial and lateral meniscus. DCD sued the owner of the property pursuant to GML §205-e alleging the property owner violated 9NYCRR 1242.3[a][b], 1244.1[c][g][h]; §§27-479 and 28-301.1 of the New York City Administrative Code and §153.19 of the New York City Health Code in failing to keep the parking lot free and unobstructed from dangerous conditions such as old ice. The matter settled for \$140,000 at a pre-trial conference.

OFFICER RECEIVES A SETTLEMENT OF \$250,000 FROM THE CITY OF NEW YORK AND CIVILIAN MOTORIST AFTER SUSTAINING INJURIES IN LOD RMP ACCIDENT

A New York City Police Officer received a \$250,000 settlement from the City of New York and a civilian motorist. The Officer was the recorder when a distressed motorist flagged down the RMP. Shortly thereafter, another civilian motorist, unrelated to the prior incident, crashed into the rear of the RMP causing injuries to the Officer. The Officer sustained a neck injury which eventually required surgery. The Officer was awarded a ¾ line-of-duty disability pension. The Officer testified she sustained the neck injury because the RMP seat and headrest were broken causing her to strike the cage when the motorist rear-ended the RMP. DCD sued the City of New York pursuant to GML §205-e alleging the City violated Labor Law §27-a(3) and Vehicle and Traffic Law §375(1) in not providing the Officer with a crashworthy vehicle. DCD also sued the civilian motorist pursuant to GML §205-e claiming the civilian motorist violated Vehicle and Traffic §§1144(a), 1140, 1141, 1111, 1180, 1212 and 375(1) in rear-ending the RMP causing injuries. The civilian motorist only possessed a \$50,000 liability policy. The defendant's insurance company surrendered the policy limits to the Officer. The City argued that they weren't responsible for the Officer's injuries even if the RMP had a broken seat and headrest because they didn't have the required prior notice about the defect and, therefore, didn't have the opportunity to repair the RMP. DCD interviewed many Officers who were familiar with the RMP in question; however, none of the Officers came forward with knowledge of the defect prior to this accident. Dominic DiPrisco was able to convince the City of New York that the Officer's testimony that she knew of the defects prior to the accident was sufficient proof of notice, and the City settled the case for \$200,000 for a total settlement of \$250,000.

DCD SETTLES CASE AGAINST CITY OF NEW YORK AND CIVILIAN MOTORIST FOR \$625,000 AFTER DETECTIVE SUSTAINED INJURIES IN A LOD AUTO ACCIDENT

A Detective employed by the New York City Police Department received a settlement of \$625,000 from a civilian motorist and the City of New York. The Detective was the recorder in an unmarked RMP responding to an assignment pursuant to a command directive. The unmarked RMP did not have its lights and sirens on. A civilian vehicle traveling northbound approached the intersection with the green light and collided with the unmarked RMP traveling eastbound. The RMP had a steady red light. The Department cited the operator's actions in causing the accident. The Detective sustained a serious injury to his shoulder which necessitated surgery. The Detective was subsequently awarded a ¾ line-of-duty disability pension. After filing a notice of claim with the City of New York within 90 days of the date of the accident, DCD sued the City of New York pursuant to GML §205-e and common law negligence alleging the operator of the RMP violated §27-a(3) of the Labor Law and Vehicle and Traffic Law §§1104e, 1104(b)(2), 1144(b) for failure to warn and operating the vehicle in a negligent manner. DCD also sued the civilian motorist for failure to yield to an authorized police vehicle and failure to prevent the collision. The civilian motorist only had \$25,000 in liability insurance coverage which DCD was able to collect. Dominic DiPrisco received an additional \$600,000 from the City of New York to resolve the matter.

OFFICER RECEIVES A \$325,000 SETTLEMENT FROM TWO PRIVATE DEFENDANTS' AUTOMOBILE INSURANCE COMPANIES WHEN HE SUSTAINED INJURIES AFTER BEING DRAGGED BY A MOTOR VEHICLE

A New York City Police Officer received a settlement of \$325,000 (insurance company policy limits) from two private insurance companies after sustaining a shoulder injury while attempting to apprehend a perp when the subject vehicle was moving. The Officer sustained a torn labrum to his dominant shoulder which necessitated surgery. The Officer was subsequently awarded a ¾ line-of-duty disability pension. Prior to the stop, the Officer spotted one of the defendants purchasing a firearm. As he approached the car on foot, the Officer reached into the window in an effort to control the vehicle and the perp. The perp turned the vehicle to the left making contact with another vehicle and pinning the Officer's legs against the other vehicle. At the same time, the Officer grabbed the back of the defendant's pants and hyperextended his shoulder in an attempt not to be thrown from the car. The Officer eventually fell to the ground, and the defendant was apprehended shortly after being shot by the Officer's partner. The vehicle the defendant was driving was a rental. The rental was in the name of another individual who was not present during the incident. DCD sued the driver defendant and also sued the renter claiming that the rental defendant gave the driver permission to operate the rental vehicle. The insurance company for the renter filed a summary judgment motion to dismiss the case claiming the operator defendant was not given permission by the renter to operate the vehicle. Joseph L. Decolator successfully defended the motion, and the matter subsequently settled for the policy limits of \$325,000.

OFFICER RECEIVES A SETTLEMENT OF \$220,000 FROM A CORPORATE DEFENDANT AFTER HE WAS STRUCK BY THEIR VEHICLE WHILE ON A FOOT POST

A New York City Police Officer was seriously injured when a motorist employed by a corporate defendant misjudged a turn and crashed into a wooden barrier while the Officer was leaning on the barrier. The Officer sustained a torn shoulder labrum which required arthroscopic surgery. The Officer also injured his elbow and, after a second unrelated line-of-duty accident, he required arthroscopic surgery to repair a UCL tear. DCD sued the motorist and the corporate defendant pursuant to GML §205-e alleging the defendants violated Vehicle and Traffic Law §§1180(a), 1212 and 1144. Dominic DiPrisco settled the case for a combined \$220,000 settlement at a pre-trial mediation session.

SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORIST 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 Officer's 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 uninsured/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.