



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, Corporation Counsel

Press Release

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For Immediate Release

NEW YORK CITY'S CORPORATION COUNSEL ADDRESSES NEED FOR TORT REFORM WITH ALBANY LEGISLATORS

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Albany, April 23, 2002 -- New York City Corporation Counsel Michael A. Cardozo, joined by Lawrence S. Kahn, the City's Chief Litigating Assistant, addressed the need for tort reform with legislators in Albany today. Tort reform is a major priority of Mayor Michael R. Bloomberg and his Administration as a way to bring spiraling jury awards under control and thereby limit the amount the financially strapped City must spend on tort judgments. The two also spoke at a press conference arranged by New Yorkers for Civil Justice Reform, an Albany-based group seeking legislative reform on tort issues.

"People sue the City of New York for just about any injury sustained on City property or incurred during involvement with a City employee," Cardozo noted. "Because of sympathetic and generous juries and laws that do not create an even playing field, they often recover in full, even when the City is just the innocent or slightly responsible 'deep-pocket' defendant."

In recent years, plaintiffs who sued the City have been obtaining astronomical awards from juries, without offsets to prevent double recoveries. The result has been an immense spike in the City's tort payouts over the past 23 years, including a 2,500 percent increase since 1978 -- from \$21.4 million to more than half-billion in fiscal year 2001.

"Juries have not hesitated to add many zeros to awards, both for pain and suffering and economic damages, based on inflated projections manufactured by economists trying to assess unpredictable medical costs," Kahn said. "Although trial judges and appellate courts will often reduce these verdicts, the verdicts the courts sustain today are no longer in the millions but in the tens of millions."

The New York City Law Department cited several egregious cases, including:

- An instance where two brothers in their late 20's recklessly scaled a fence and dove off a 10-foot high pier, breaking their necks. The jury awarded \$104 million -- \$75 million for pain and suffering. After reductions, the City was still ordered to pay \$19 million to each brother.
- A case where a car driven by a heroin and cocaine addict, high at the time of the accident, swerved around a City Sanitation truck and plowed into three plaintiffs on the sidewalk. The \$17.7 million award to the plaintiffs is entirely the City's to pay, even though the jury found the City only 23 percent at fault.
- A case where a sanitation worker who claimed to be disabled by a fall in a garage received a pension that will pay him three-quarters of his salary tax free -- and was awarded on top of that, without any offset for the pension, \$800,000 in lost earnings.

Tort reform will not eliminate tort payouts but will contain them to reasonable amounts, while still fairly compensating injured plaintiffs. "Even if just half of this past year's payout of \$557 million is saved, that money could be used to hire 5,500 new City workers at \$50,000 a year, who could teach our children, make our streets safer, keep our libraries open, and expand our parks and cultural activities," Cardozo noted. "Mayor Bloomberg will continue to pursue these tort reform initiatives aggressively."

Among the City's recommended solutions:

I. Monies that cities are ordered to pay for lost earnings should be offset by disability pensions and other similar benefits to prevent double awards.

II. A defendant should bear only proportionate responsibility for a plaintiff's injuries.

III. A plaintiff should not recover if he or she is predominantly at fault.

IV. A cap should be set at \$250,000 for the nebulous category of "pain and suffering."

V. Municipalities should be sued in the Court of Claims.

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