



NEW YORK CITY LAW DEPARTMENT  
OFFICE OF THE CORPORATION COUNSEL

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Press Release

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*For Immediate Release*

**CITY SECURES SEVERAL WINS IN STATE'S HIGHEST COURT, INCLUDING  
VICTORIES IN A PARKS LOLLAPALOOZA FESTIVAL CASE  
AND A POLICE CASE INVOLVING THE PUERTO RICAN DAY PARADE**

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New York, May 6, 2004 – The New York City Law Department won several new cases today before the Court of Appeals in Albany, New York State's highest court. Among the victories included wins involving a Parks suit stemming from the Lollapalooza music festival as well as an administrative case involving an officer disciplined after the 2000 Puerto Rican Day Parade.

***Ram Krishna Maheshwari Parks Case***

The first case, *Ram Krishna Maheshwari v. City of New York*, involved an attack at a concert held in a City park. On July 10 and 11, 1996, a concert production company named Delsener/Slater produced a Lollapalooza concert – a festival featuring heavy metal and rap acts – at Downing Stadium on Randall's Island in New York City. The park is owned by the City. On the concert's first night, the plaintiff, (Mr.) Ram Krishna Maheshwari, went to the concert to distribute pamphlets on behalf of the International Society for Krishna Consciousness. While the plaintiff was in the Sunken Meadow parking area, four unidentified young men assaulted him without provocation. When the attack occurred, officers were stationed at certain parts of the parking fields, but apparently none were in the Sunken Meadow parking area. The plaintiff suffered serious personal injury. In his complaint, he sued Delsener and the City for not providing adequate security.

The Court rejected his claim and affirmed the lower court's dismissal of the case. The Court said the attack was not a foreseeable result of any security breach. The Court agreed with the lower court's finding that "it is difficult to understand what measures could have been undertaken to prevent plaintiff's injury except presumably to have had a security officer posted at the precise location where the incident took place or wherever pedestrians were gathered, surely an unreasonable burden."

Julian L. Kalkstein, a Senior Counsel in the Law Department's Appeals Division, handled the case at the appellate levels. "The Law Department was gratified with this decision, as it places a reasonable limit on municipal liability when cities are faced with spontaneous criminal acts committed during large-group gatherings," he said.

***Victor Rodriguez-Rivera Puerto Rican Day Parade Police Case***

The second case, *Victor Rodriguez-Rivera v. Raymond Kelly*, involved a police officer, Victor Rodriguez-Rivera, who was found guilty by the Police Commissioner Kelly of failing to assist a female sexual assault victim during the 2000 Puerto Rico Day Parade held in New York City.

The officer was penalized with a loss of 15 days of vacation. A divided lower court set aside the penalty, arguing there was insufficient evidence that the petitioner was the derelict officer. However, the Court of

Appeals today agreed with the City and found there was ample evidence "to support the Police Commissioner's determination that petitioner failed to render all necessary police assistance."

Steve McGrath, Deputy Chief of the Law Department's Appeals Division, represented the Police Commissioner at the appellate levels, and Michele Molfetta, an Assistant Corporation Counsel in the Law Department's Labor & Employment Law Division, represented the City at trial court.

"In this case, the officer ignored the complaint of the assaulted victim and should have taken appropriate action to assist her," McGrath said. "The Court correctly found that the Police Commissioner had a right to discipline the officer in question."

### ***Bruni Department of Environmental Protection Tort Case***

The third case, *Bruni v. City of New York*, involved a partial Law Department win. The Court of Appeals held that a Department of Environmental Protection (DEP) sewer catch-basin repair order can serve as a "written acknowledgment" of a defective street condition under the City's prior written notice statute, since DEP had responsibility for the resultant street repair. However, the Court declined to reinstate a \$1.6 million verdict in favor of a plaintiff named Joseph Brunni of Brooklyn, who injured his jaw in 1997 when he fell over a hole next to a deteriorated catch-basin in Brooklyn. In addition, the Court said that the jury must consider "comparative negligence" during a retrial or the fact that the plaintiff may have contributed to the accident. "The [lower court] jury should have been asked whether plaintiff was negligent, and if so to what extent his negligence contributed to causing the accident," the Court of Appeals wrote.

Norman Corenthal, Senior Counsel in the Law Department's Appeals Division, argued the case at the appellate levels. Eric Thompson, Senior Counsel in the Law Department's Tort Division, handled the case at the trial level. "While we are disappointed by the Court's decision on the written acknowledgment issue, we are gratified that a retrial has been ordered, and that a trial jury will now properly consider the impact of the plaintiff's own negligence in causing his accident," Corenthal said.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and the top three largest public law offices in the country. Tracing its roots back to the 1600's, the Department's 650-plus lawyers handle more than 100,000 cases and transactions each year in 17 separate legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. Its web site can be accessed through the City government home page at [www.nyc.gov](http://www.nyc.gov) or via direct link at [www.nyc.gov/html/law/home.html](http://www.nyc.gov/html/law/home.html).

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