



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 LAW DEPARTMENT PREVAILS IN
BRONX TRIP AND FALL CASE THAT INVOLVED DISPUTED TESTIMONY**

***WIN IS THIRD VICTORY FOR OFFICE'S BRONX TORT DIVISION IN LESS THAN A MONTH
AND EIGHTH OF 11 SINCE FEBRUARY 2004***

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New York, June 28, 2004 – After a weeklong trial, a Bronx jury found last Friday (June 25, 2004) that the City of New York was not negligent in a case involving an alleged fall by a plaintiff, Ramon Placencia, into a sewer catch basin. The case was the third win for New York City before a Bronx jury in less than a month and the eighth of 11 cases won since late February.

According to plaintiff Placencia's testimony, he fell at 4 o'clock in the morning on Oct. 15, 1988, as he was going to get a cup of coffee after leaving his brother's new auto repair shop where he had been helping to perform renovations. Placencia said he stepped on a piece of plywood used to cover an open sewer catch basin, ultimately falling through the plywood and into the catch basin itself.

However, evidence introduced at trial established that Placencia had told hospital personnel that his injury had in fact taken place when he fell from a ladder or an open window. Evidence introduced at trial also showed the plaintiff had alcohol on his breath at the time of his admission to Lincoln Hospital, where he was treated for a lower back injury.

"We are very pleased that the jury supported our presentation of the case," noted Edward Spark, an Assistant Corporation Counsel in the Bronx Tort Division and the attorney that tried the case for the City.

The case follows two other jury trial verdicts for the City in the Bronx:

- On Tuesday of last week (June 22, 2004), the office won a case involving several New York City police officers who had subdued a Bronx man, Michael Bents, in 1994 whom they said struggled with them. The man's arrest followed a high-speed chase that began with a radio call suggesting that guns might be in the fleeing auto. The jury returned a verdict in less than 45 minutes, finding that two of the officers had acted appropriately. In addition, the judge dismissed the case against two additional officers, resulting in a complete City victory. Assistant Corporation Counsel Joe Mohbat of the Bronx Tort Division led the legal team in that case.
- On Wed., May 26, 2004, the office won a case involving a woman, Ileana Almodovar, who got out of her car under a dark overpass in the Bronx, so her son could check for a noise. A passing car hit her, shattering her leg. She sued her son, who was driving the car, the other driver and the City's Department of Transportation. As far as the City's liability, the woman alleged that the City was required to have 24-hour lighting in the tunnel. However, the City produced a State expert witness at trial who refuted that this was a requirement. The jury returned a verdict finding no

liability against the City. Assistant Corporation Counsel Robert Ludlum in the Bronx Tort Division was the City's lead attorney.

"These recent wins show the strength and diligence of our Tort Division in pursuing cases where the City is not at fault," noted Corporation Counsel Michael A. Cardozo. "It also shows the high quality of lawyering in our Bronx office."

The office has won 8 of its last 11 verdicts since late February. Among these was a well-known case called Garricks, which involved a woman who slipped and fell on ice although the City went to extreme measures following a large snowstorm in February 1995. Assistant Corporation Counsel Jennifer Herscovici won the Garricks case on retrial this past April. In addition, of the 8 Tort wins since late February, Ed Spark has won three of the decisions.

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 90,000 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 or via direct link at www.nyc.gov/html/law/home.html.

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