



Office of the
New York City Comptroller
Scott M. Stringer
Bureau of Law and Adjustment
www.comptroller.nyc.gov

June 2016



Claims Report:

Fiscal Year 2015





THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER

SCOTT M. STRINGER
COMPTROLLER

June 15, 2016

Dear Fellow New Yorkers:

I am pleased to share with you the New York City Comptroller's Office Claims Report for fiscal year (FY) 2015, covering July 1, 2014 through June 30, 2015. This report, the second in my administration, evaluates not only trends in tort claims, but also closely analyzes types of claims that have not been sufficiently scrutinized in the past. To increase transparency for all claims filed against the City, the FY 2015 Claims Report takes a closer look at non-tort claims related to construction delays, special education-related claims, as well as affirmative claims brought on behalf of the City.

In FY 2015, personal injury and property damage (tort) claim settlements cost the City \$585.9 million, nearly a five percent increase from the \$560.7 million paid in FY 2014. The City settled other non-tort claims for a total of \$372.2 million, representing a 38 percent increase from FY 2014 settlements totaling \$269.2 million. It should be noted that this significant increase in non-tort claim settlements corresponds with a 91 percent increase in special education-related settlements, which accounted for \$250.8 million of the \$372.2 million paid for the resolution of non-tort claims in FY 2015.

To stem the tide of ever-increasing settlement and judgment costs, my administration has developed data-driven tools to reduce future costs, including ClaimStat, and spearheaded unprecedented coordination with other City agencies to share data. We will continue to use all the information and technology available to implement data-driven processes to weed out meritless claims while efficiently resolving claims that have legal merit. In the long term, adept implementation of technology and coordination with City agencies should result in a decrease in claims, a safer City, and a more equitable legal process for all New Yorkers.

During FY 2015, a number of significant civil rights claims were settled pre-litigation to avoid lengthy proceedings that are costly for the City and claimants alike. Civil rights claims reflected in this report include the wrongful conviction claims of Jonathan Fleming, Robert Hill, Alvena Jennette, and the Estate of Darryl Austin. In addition, my office settled pre-litigation the wrongful death claim filed by the estate of Jerome Murdough, who died while in Department of Correction (DOC) custody. When it is prudent to do so, my office will continue to evaluate and resolve meritorious claims pre-litigation, which provides closure to claimants sooner and enables the City to better leverage its litigation and trial counsel resources.

The FY 2015 Claims Report outlines claim trends by type across City agencies. It should serve as a road map for all agencies so that they may perform their own risk analysis in order to reduce claim costs. Our citizens should be less burdened with costs related to claims and lawsuits against the City because savings from reduced settlements and costs could shift money toward critical City services, affordable housing, infrastructure, and other municipal needs that will improve the quality of life for all New Yorkers.

Sincerely,

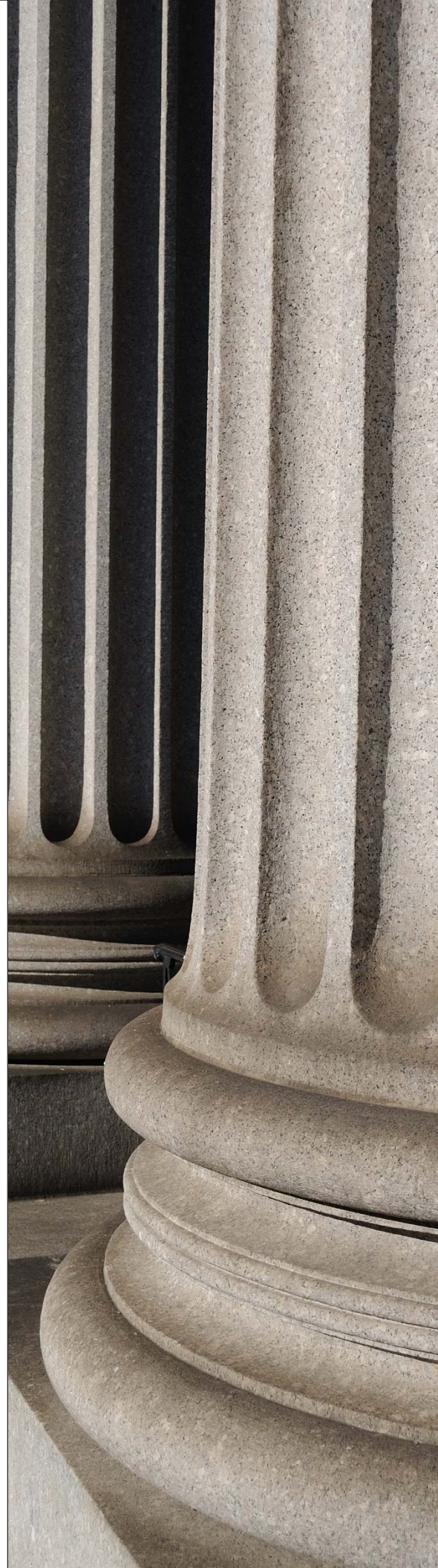
A handwritten signature in black ink, appearing to read "Scott M. Stringer", written in a cursive style.

Scott M. Stringer

New York City Comptroller

TABLE OF CONTENTS

I. EXECUTIVE SUMMARY	1
II. OVERVIEW OF THE COMPTROLLER'S INITIATIVES TO MANAGE RISK AND IMPLEMENT BEST PRACTICES.....	2
III. LEGACY CLAIMS.....	3
IV. TORT CLAIMS.....	5
A. PERSONAL INJURY CLAIMS.....	6
B. PROPERTY DAMAGE CLAIMS	7
C. TORT CLAIM TRENDS BY CLAIM TYPE.....	8
1. MEDICAL MALPRACTICE CLAIMS	9
2. POLICE ACTION CLAIMS.....	10
3. CIVIL RIGHTS CLAIMS	11
4. MOTOR VEHICLE CLAIMS	12
5. SIDEWALK CLAIMS	13
D. TORT CLAIM TRENDS BY AGENCY	14
1. NEW YORK CITY POLICE DEPARTMENT	15
2. NYC HEALTH + HOSPITALS	16
3. DEPARTMENT OF CORRECTION	18
4. FIRE DEPARTMENT OF THE CITY OF NEW YORK	19
E. TORT CLAIM TRENDS BY BOROUGH.....	20
V. LAW (NON-TORT) CLAIMS	21
APPENDICES	
A: DESCRIPTION OF CLAIM TYPES	27
B: LEGAL BACKGROUND	32
C: TOP NINE TORT CLAIMS ADJUDICATED IN FISCAL YEAR 2015	33
D: CHART INDEX	34
E: DETAILED TABLES	35
ENDNOTES.....	41



I. EXECUTIVE SUMMARY

Under the New York City Charter, the Comptroller is responsible for settling and adjusting claims for and against the City of New York.¹ This work is performed by the Comptroller's Office Bureau of Law and Adjustment (BLA), which is composed of attorneys, claims professionals, and administrative staff under the direction of the Comptroller, General Counsel, and the Assistant Comptroller for BLA.

In an effort to drive down the cost of settlements and judgments by empowering City agencies to reduce claims, the Comptroller's Office continues to work with City agencies to implement a city-wide, data-driven approach to legal risk analysis of claims that identifies potential problem areas in real time. This approach, known as ClaimStat, analyzes claim patterns that could lead to costly settlements and judgments against the City as a way to identify problems and propose pro-active solutions.

In FY 2015, BLA adjusted or settled 14,814 claims that ultimately resulted in authorizing total payment of \$958.1 million.

For FY 2015, the City paid out \$585.9 million in tort claim settlements and judgments—nearly five percent more than the \$560.7 million paid out in FY 2014.² These tort claims ranged from “slip, trip and fall” to medical malpractice, police action, and motor vehicle property damage claims.³

In addition to tort claims, the City paid out \$372.2 million in law (non-tort) claims in FY 2015, an increase of 38 percent from the \$269.2 million paid in FY 2014. These claims consist primarily of contract disputes between City agencies and their contractors, as well as alternative dispute resolution claims, equitable claims, employment-related claims, Department of Education (DOE) special education-related claims, and sidewalk assessment claims.⁴ Notably, DOE special education claims⁵ experienced a 91 percent increase in the amount of settlements paid out, accounting for \$250.8 million of the \$372.2 million paid in law claim settlements in FY 2015.

In FY 2015, the City paid out \$67.5 million for claims that accrued from 1987 to 2006, including a single \$25 million payout for a 1998 claim against the FDNY.

Finally, this report also includes a look-back to FY 2006 to provide a broader perspective on claims filings and settlements in order to contextualize the FY 2015 numbers.

II. OVERVIEW OF THE COMPTROLLER'S INITIATIVES TO MANAGE RISK AND IMPLEMENT BEST PRACTICES

ClaimStat Update and Inter-Agency Partnerships

In 2014, in an effort to drive down the cost of claims, the Comptroller's Office launched ClaimStat, a data-driven analysis of claims against the City. ClaimStat was implemented to help agencies reduce claims by providing data that identifies practices that lead to costly settlements and judgments against the City. With the ClaimStat data, the Comptroller's Office has released agency related updates concerning claims, demonstrating trends in claims and resolved claim payouts. In addition, the Comptroller's Office has partnered with several City agencies in order to share relevant claims data to better manage risk and efficiently allocate City resources.

The Comptroller's Office has partnered with the NYPD to exchange real-time data to identify claim trends as early as possible. The partnership allows the Comptroller's Office to make an early and accurate assessment of the City's exposure on certain types of claims and enables the NYPD to consider policies that may address or reverse trends that indicate increased exposure for the City.

During 2015, BLA also partnered with Department of Citywide Administrative Services (DCAS) and obtained access to motor vehicle accident reports maintained by DCAS to adjust and settle meritorious claims as early as possible to avoid unnecessary litigation. To further the partnership, BLA will provide to DCAS, on a regular basis, claims and settlement information. In addition, BLA has coordinated with the Department of Transportation (DOT) to gain access to electronic records of complaints related to the City's arterial roadways. The DOT database is an essential tool for BLA to determine whether the City has received prior notice of arterial highway defects on a real-time basis for faster resolution of pothole related claims. The current cooperation on claim matters between the Comptroller's Office and City agencies is unprecedented, and it is a program the Comptroller's Office looks to expand.

Recovery Program Update

The Comptroller's Office partners with the Human Resources Administration (HRA)—particularly with the Office of Child Support Enforcement—to collect reimbursements for public assistance and Medicaid benefits, as well as child support obligations, from claimants who received settlement payouts from the City. In FY 2015, BLA collected \$5.9 million from claimants with outstanding obligations to the City and from individuals with child support orders in arrears.

The Comptroller's Office and the Office of Child Support Enforcement worked together to fully automate the child support collection process, so that alerts are sent directly to BLA's claim system. This child support collection process automatically generates and serves the

Comptroller's Office with child support enforcement orders. The automation of the process ensures that outstanding payments are processed and collected properly.

Damage to the City (Pre-Litigation)

The Comptroller's Office initiates affirmative claims to collect money from individuals who have damaged City property. Most of these claims involve damage to City-owned motor vehicles and City infrastructure. As a result of BLA's efforts in asserting these claims on behalf of the City, BLA collected \$1.3 million in FY 2015.

Son of Sam Law (New York State Executive Law § 632-a)

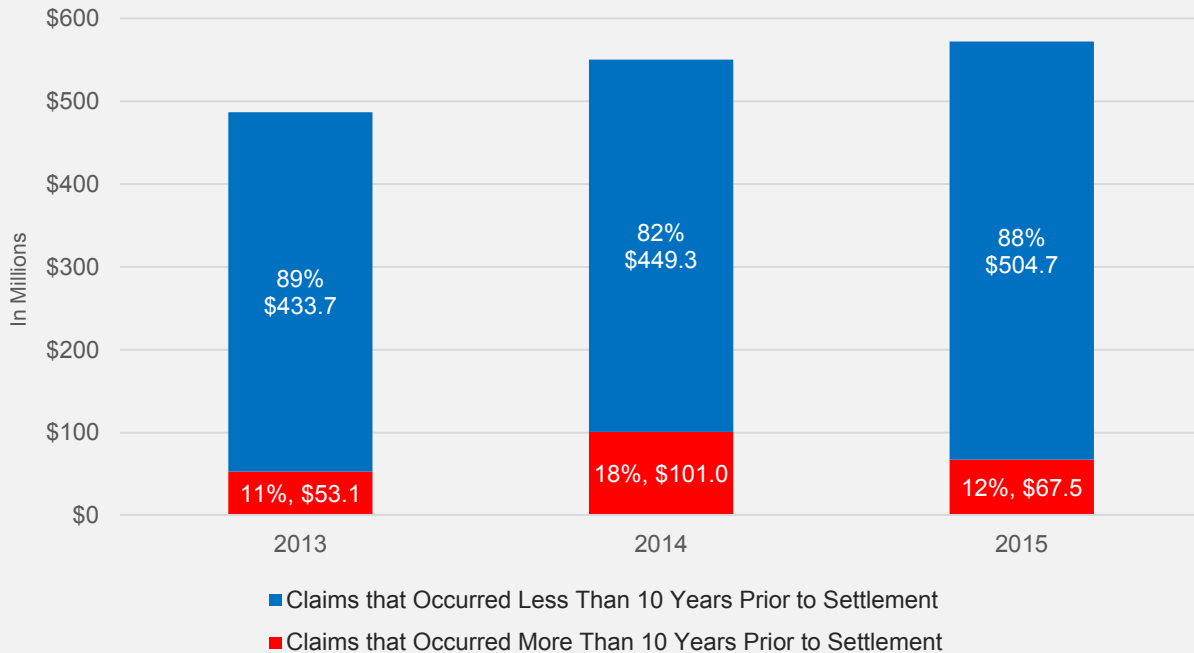
The New York State Son of Sam Law permits a crime victim to commence a civil action to recover money damages for "profits from a crime" or the "funds of a convicted person."⁶ Under the law, the Comptroller's Office must report to the New York State Office of Victim Services (Victim Services) any settlement obligation to a convicted person that exceeds \$10,000. BLA has automated the process to identify claims that should be reported and works with Victim Services and the New York State Attorney General's Office to help identify funds in excess of \$10,000 awarded to convicted persons from whom victims can recover money. At the close of FY 2015 BLA had paid \$241,000 to crime victims who recovered under the Son of Sam Law.

III. LEGACY CLAIMS

Payments for Personal Injury Tort Claims that Occurred from 1987 to 2006

New Yorkers, including those taxpayers who have just entered the NYC workforce, continue to pay for claims that were filed more than a decade ago. In FY 2015, the City paid out \$67.5 million for claims that accrued from 1987 to 2006, including a single \$25 million payout for a 1998 claim against the FDNY alleging that EMS failed to properly treat a claimant during an emergency response. In FYs 2013 and 2014, the City also paid substantial settlement and judgment amounts to resolve claims stemming from incidents that occurred as far back as 1985—\$101 million in FY 2014 and \$53.1 million in FY 2013.⁷

Chart 1
Total Personal Injury Tort Claim Payouts for Legacy Claims
FYs 2013-2015

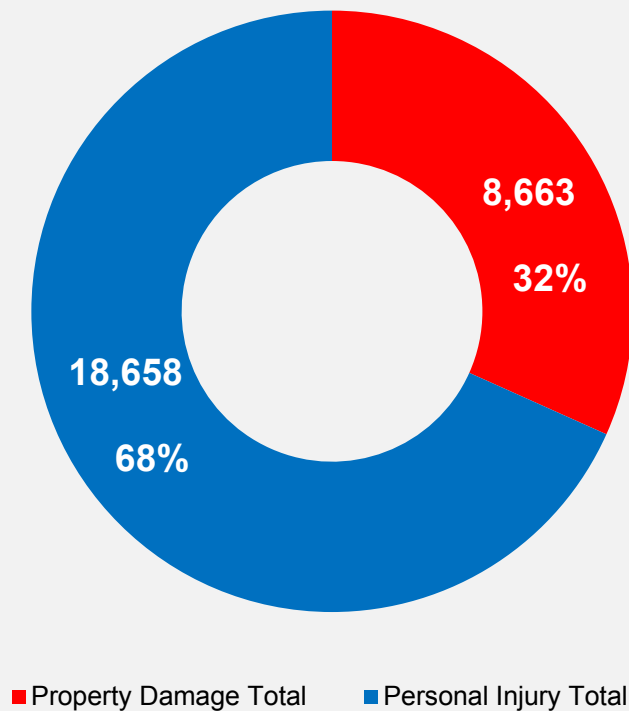


Matters that concern significant public policy or that could establish precedent affecting management of the City’s fisc should be vigilantly litigated regardless of cost. However, in certain instances, prolonged and drawn out litigation, which can ultimately become a legacy claim, has not been the most effective use of the City’s resources and has even increased New Yorkers’ exposure to exorbitant verdicts and judgments. Therefore, the City should be prudent in determining at early stages whether litigation is required to protect the public. This analysis requires balancing the need for litigation that defends municipal policies and establishes that the City will not cave to pressure to settle suits it can ably defend against maximizing the efficiency of the City’s litigators and preserving the public coffers long-term. Remittance of high settlement amounts will likely continue for the foreseeable future given the volume of over-litigated and delayed cases currently on the docket. To safeguard the current and next generation of New Yorkers, the Comptroller’s Office will continue to settle meritorious claims in their early stages when appropriate to drive down future settlement and judgment costs.

IV. TORT CLAIMS

Tort claims consist of personal injury and property damage claims. While the number of tort claims filed in FY 2015 decreased, the amount paid out on settled tort claims in FY 2015 increased.⁸ In FY 2015, 27,321 new personal injury and property damage claims were filed—a six percent decrease from the 28,968 tort claims filed in FY 2014.⁹

Chart 2
Number and Percentage of Tort Claims Filed by Category
FY 2015

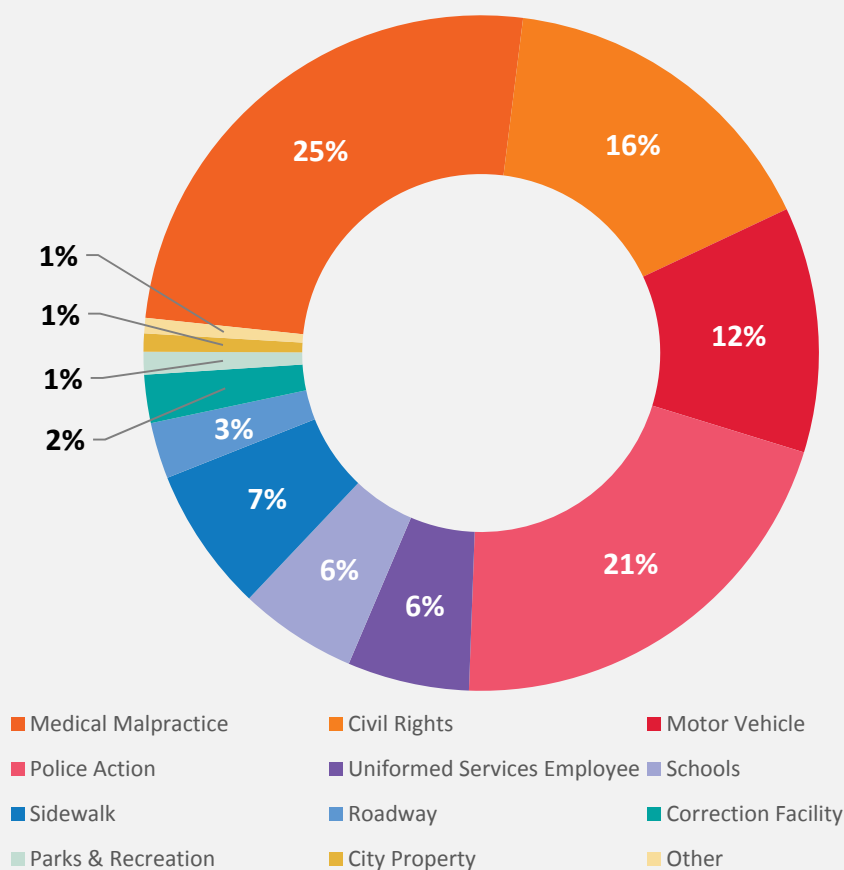


In FY 2015, settled tort claims cost the City \$585.9 million, nearly a five percent increase from the \$560.7 million paid out by the City in FY 2014.

A. PERSONAL INJURY CLAIMS

Personal injury claims are the most frequently filed and the most costly to resolve. Such claims include, but are not limited to, allegations of medical malpractice, civil rights violations, injuries occurring in schools, as well as claims arising from allegedly defective sidewalks, alleged motor vehicle accidents involving City-owned vehicles, or the actions of police or uniformed services employees. Personal injury claims accounted for \$572.2 million, or 98 percent, of the \$585.9 million paid out on settled tort claims in FY 2015. The average settlements and judgments cost for all personal injury cases in FY 2015 was \$80,744, 10 percent higher than the average of \$73,201 in FY 2014. Out of the 7,086 personal injury settlements, there were 95 personal injury claim payouts for \$1 million or more in FY 2015, totaling \$259.1 million. These 95 claims represent 45 percent of the total personal injury claim payouts for FY 2015.

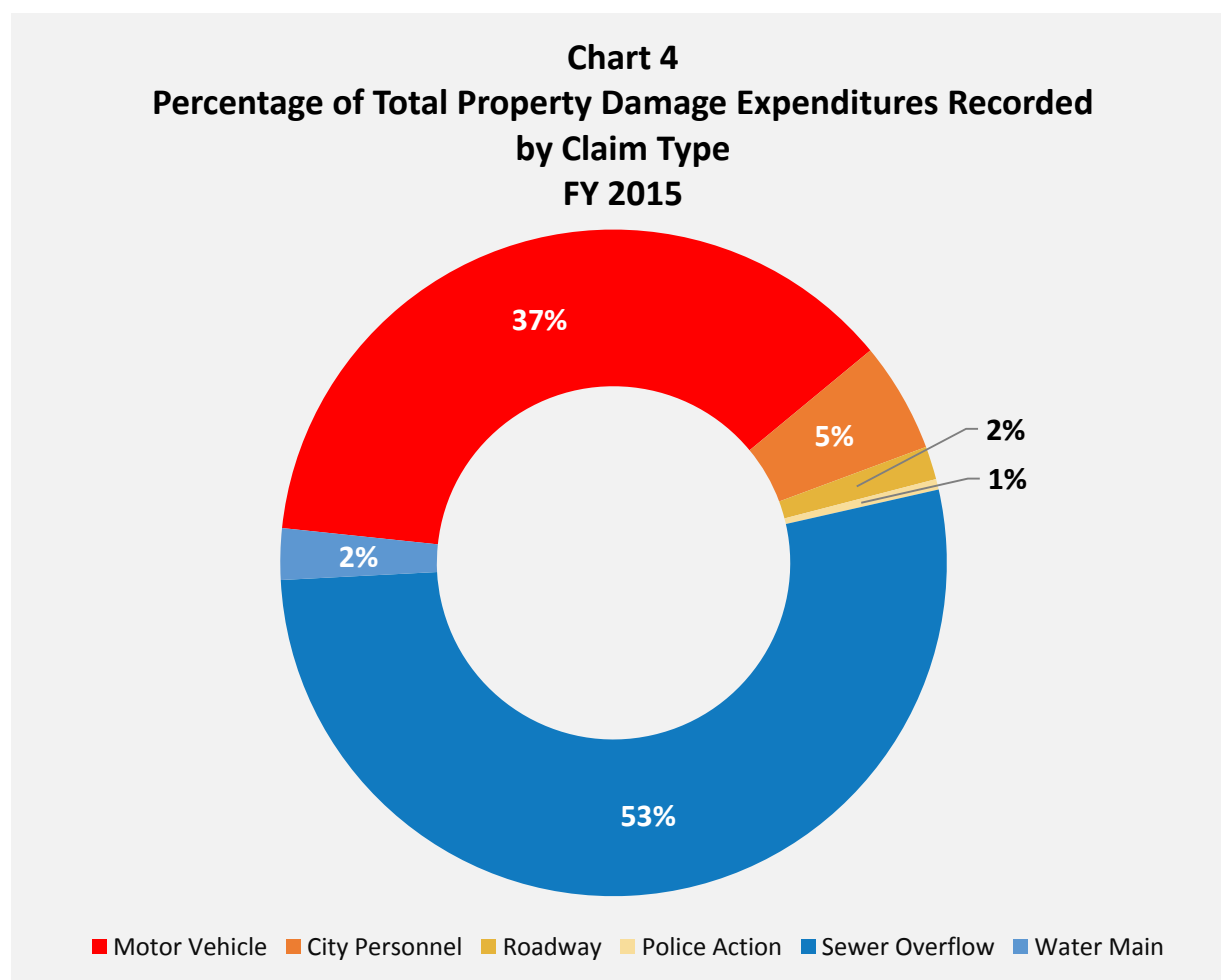
Chart 3
Percentage of Total Personal Injury Expenditures Recorded
by Claim Type
FY 2015



B. PROPERTY DAMAGE CLAIMS

Property damage claims consist of damage or loss to personal property as a result of the City's alleged negligence, including motor vehicle accidents, roadways, water main breaks, and sewer overflows. In FY 2015, 8,663 property damage claims were filed, an 11 percent decrease from the 9,770 claims filed in FY 2014. Property damage settlement and judgment payouts increased by 33 percent in FY 2015 to \$13.8 million from \$10.3 million in FY 2014. Property damage claims comprised just two percent of the City's total tort claim payouts in FY 2015.

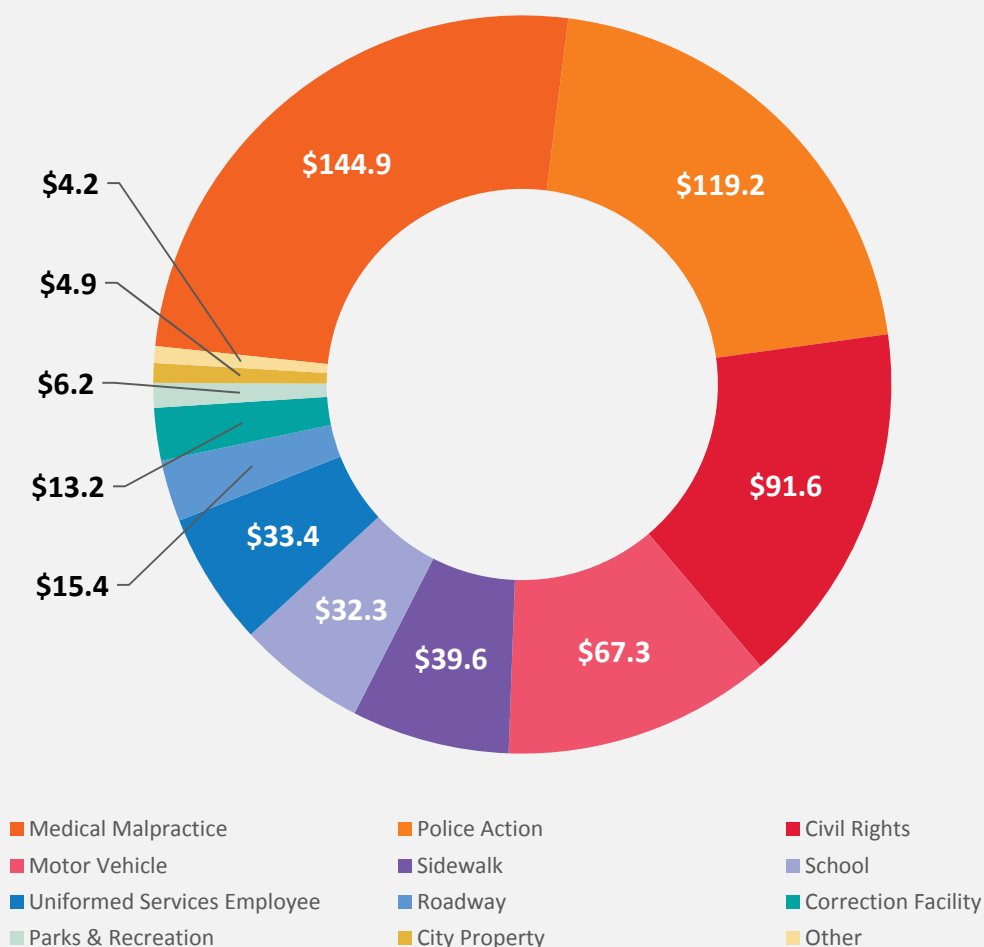
In FY 2015, 51 percent of the property damage payouts were attributable to claims arising from a single event in April 2014—a sewer overflow in Lindenwood, Queens. BLA settled 616 claims for property damage resulting from the Lindenwood flooding for \$7 million, without claimants initiating a lawsuit.



C. TORT CLAIM TRENDS BY CLAIM TYPE

In FY 2015, the five costliest personal injury claims categories in terms of settlements and judgments paid out were medical malpractice claims (\$144.9 million), police action claims (\$119.2 million), civil rights claims (\$91.6 million), motor vehicle claims (\$67.3 million), and sidewalk claims (\$39.6 million). Together, these resolved claims accounted for 81 percent of all personal injury settlements and judgments paid out in FY 2015.

Chart 5
Expenditures Paid (In Millions) for Personal Injury Claims
by Claim Type
FY 2015

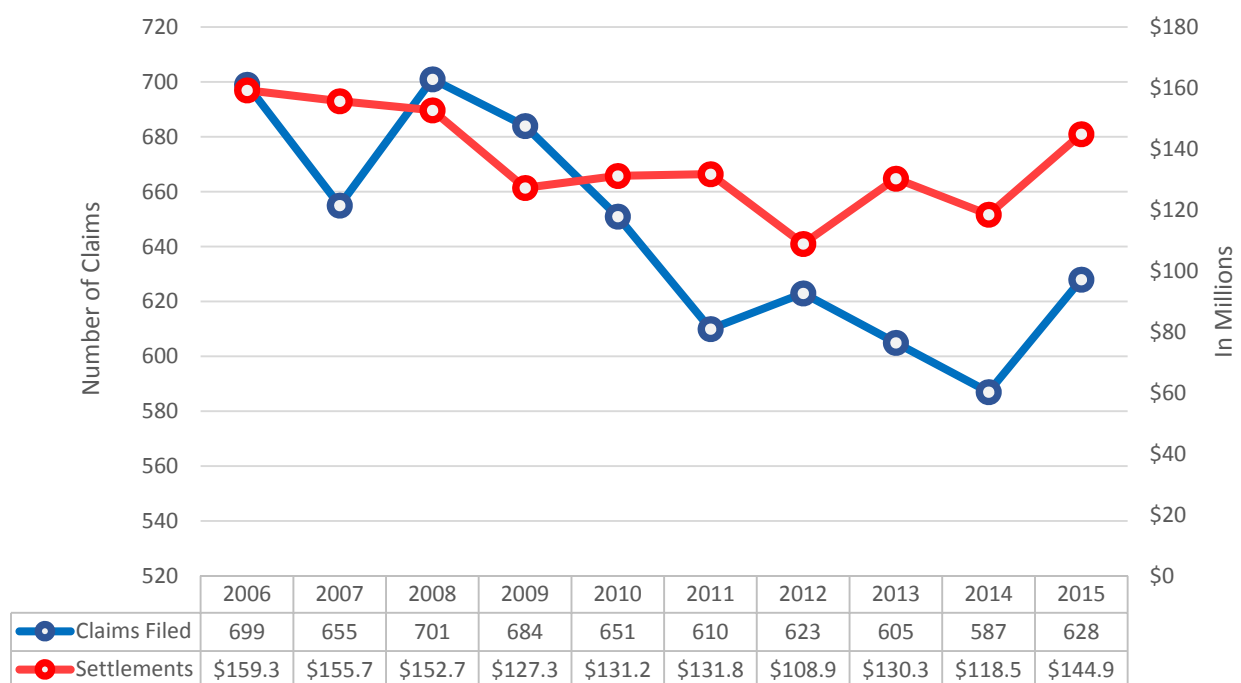


1. Medical Malpractice Claims

Medical malpractice claims are derived from diagnosis, treatment, or care and are typically filed against a NYC Health + Hospital (HH) (formerly Health and Hospitals Corporation) facility or the City. Settlement of medical malpractice claims accounted for 25 percent of the total \$572.2 million paid out for personal injury claims resolved in FY 2015. The 246 medical malpractice claims resolved in FY 2015 cost the City \$144.9 million in settlement and judgment payouts, compared to \$118.5 million paid out in FY 2014 for 204 settled medical malpractice claims. In FY 2015, 31 of the 95 personal injury tort cases resolved for \$1 million or more were for medical malpractice claim payouts, totaling \$90.1 million. Although medical malpractice claims are a comparatively small percentage of personal injury claims filed, they continue to be the costliest type of personal injury claim.

Since medical malpractice claims often take five to ten years to resolve because of their complexity, the number of claims filed is a better indicator of medical malpractice claims activity than the dollar amount paid out in any single year. The number of new medical malpractice claims filed in FY 2015 rose seven percent to 628 claims from FY 2014, when 587 claims were filed. The continued increase in settlements and judgments paid out on medical malpractice claims is anticipated because of the spike in medical malpractice claims filed between FYs 2006 and 2010.

Chart 6
Medical Malpractice (PI) Claims Filed and Settled
FYs 2006-2015

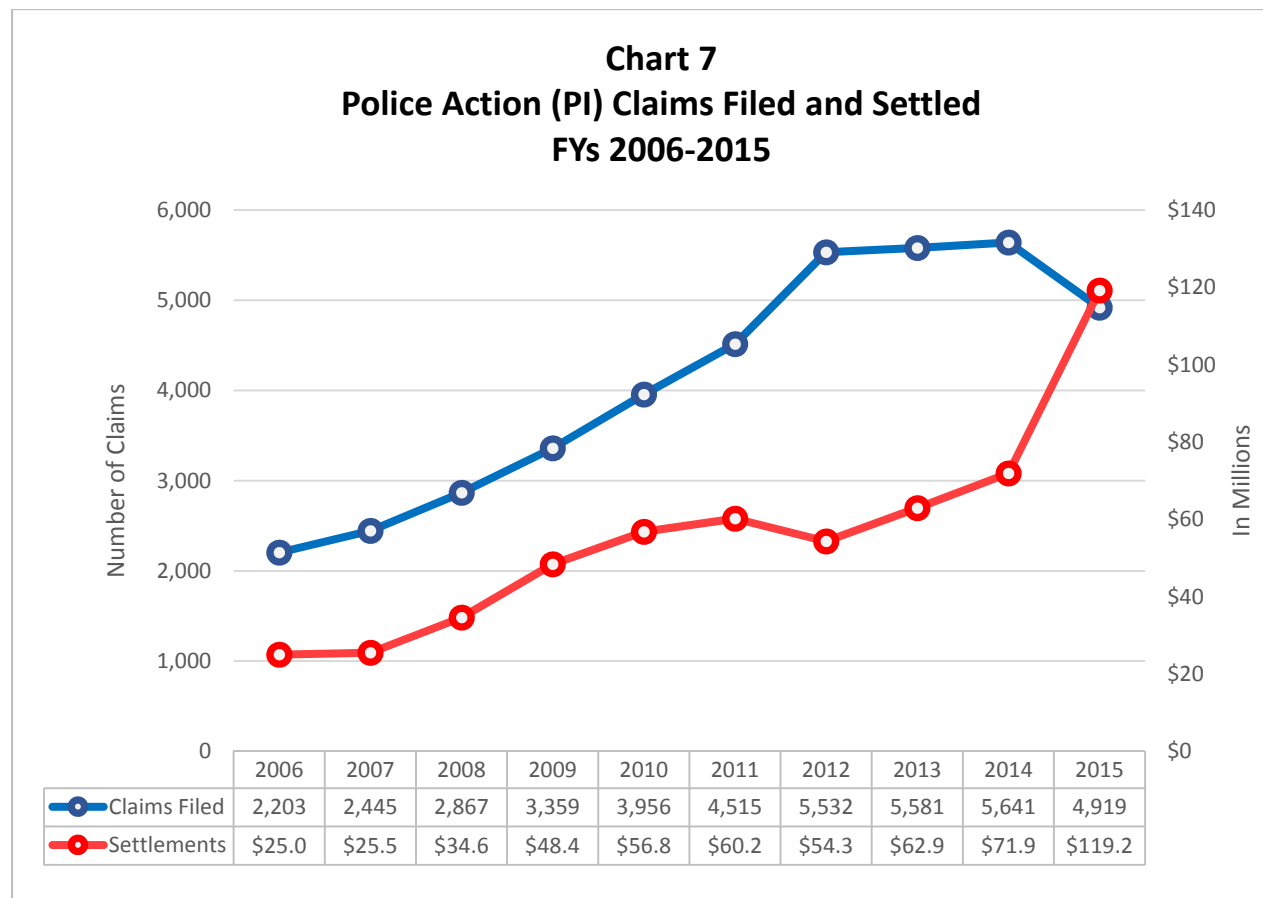


2. Police Action Claims

Police action claims result from allegations of improper police conduct, such as false arrest or imprisonment, or excessive force under New York State law and are litigated in New York State courts. Police action claims were the most frequently filed personal injury claim and accounted for the second highest claim payout in FY 2015. There were 4,919 new police action claims filed in FY 2015, down 13 percent from FY 2014 when 5,641 police action claims were filed.

The decline in police action claims filed reverses a prior trend of rising police action claims filed that peaked in FY 2014. This reduction coincides with the implementation of the Comptroller's Office ClaimStat program, which allows the NYPD to identify and address claim trends—and their potential underlying causes—in real time.

In FY 2015, the cost of settled police action claims was \$119.2 million compared to \$71.9 million in FY 2014, a 66 percent increase in payouts. The increased cost to settle these claims is attributed to the rise of claims filed beginning in FY 2011 despite the recent decline in the number of police action claims filed. The high number of police action claims filed in previous years may result in continued costly settlements and judgments in the years to come.

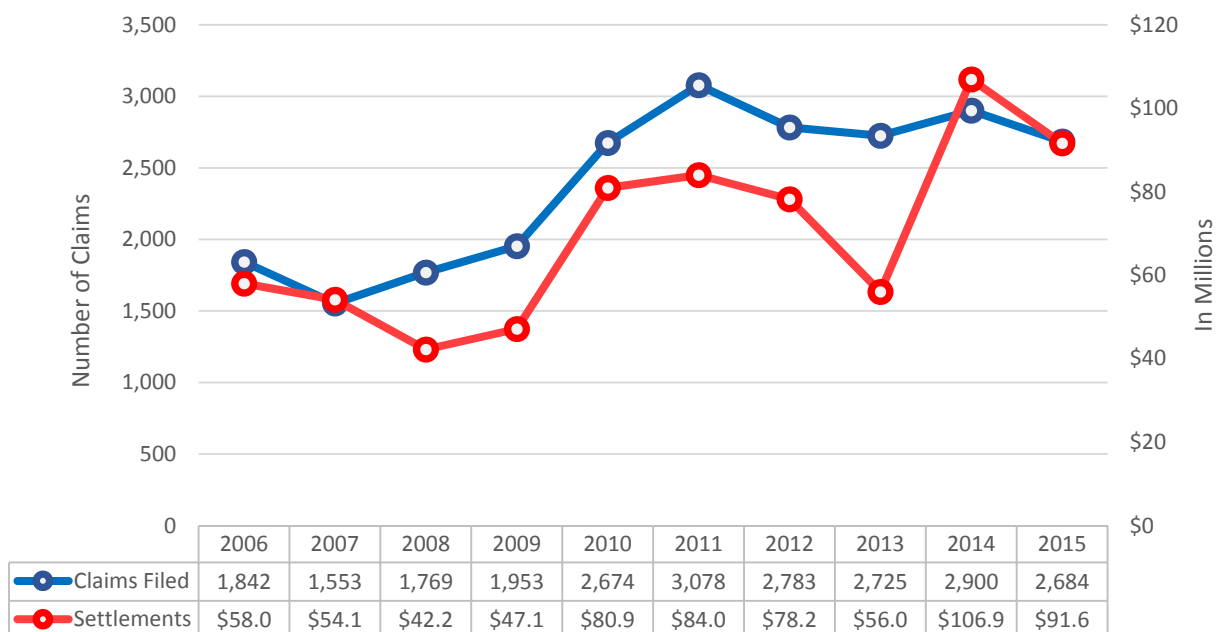


3. Civil Rights Claims

Civil rights claims typically arise from alleged statutory or constitutional violations such as discrimination based on sex, race, religion, disability, sexual orientation, or age. Claims in this category also include alleged constitutional civil rights violations by law enforcement personnel under 42 U.S.C § 1983 and are litigated in federal court.

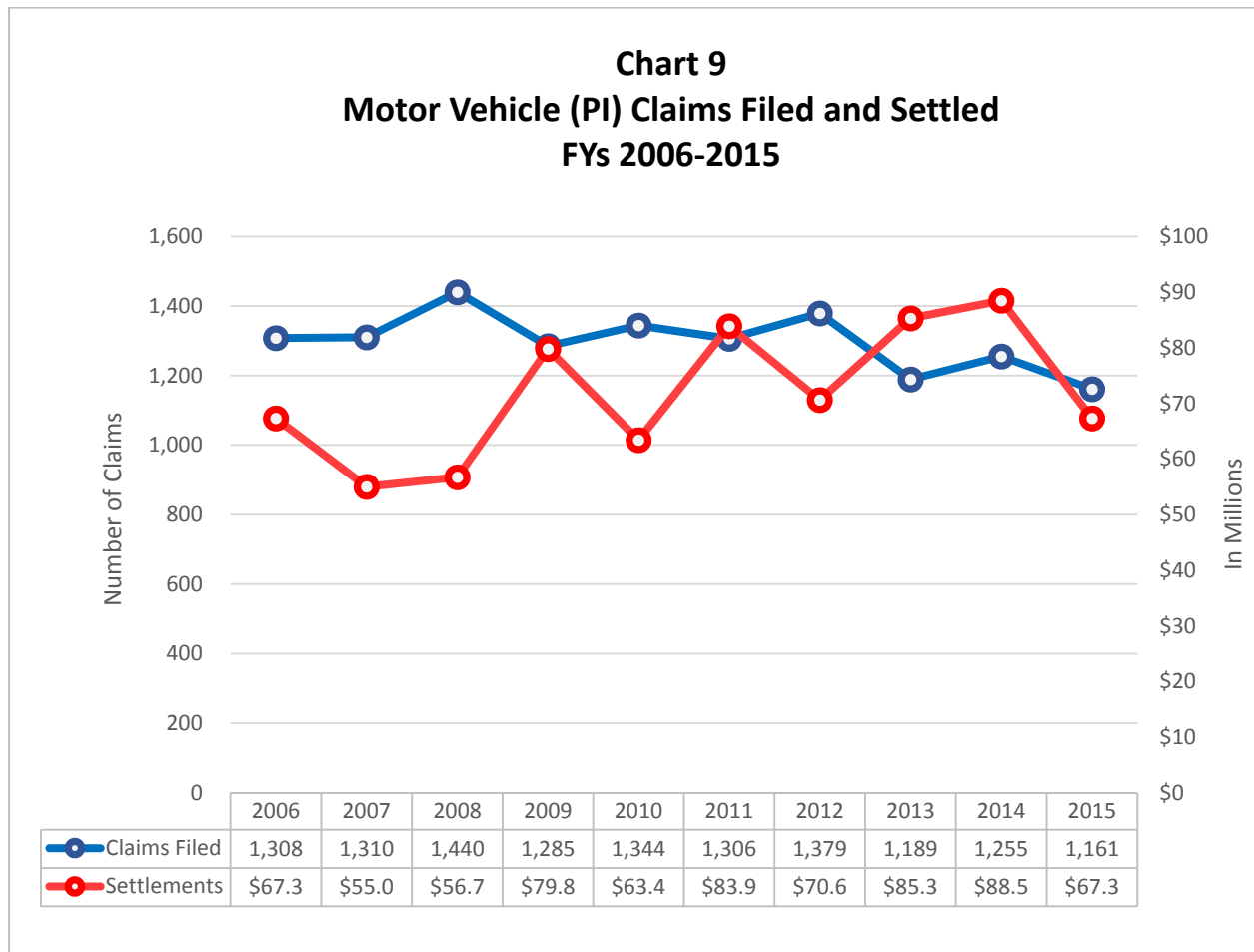
There were 2,684 civil rights claims filed in FY 2015, compared to 2,900 claims filed in FY 2014, a seven percent drop in claims filed. There was also a fourteen percent decrease in the cost of civil rights claims payouts in FY 2015 down to \$91.6 million from \$106.9 million in FY 2014. In FY 2015, the Comptroller's Office settled Jonathan Fleming's and the Hill Brothers' wrongful conviction claims pre-litigation to avoid lengthy proceedings that are costly for the City and claimants alike. After spending nearly 25 years in prison, Jonathan Fleming's murder conviction was vacated after discovery of a lost telephone receipt that supported his alibi that he was in Florida at the time of the murder; BLA settled his civil claim pre-litigation for \$6.25 million. Additionally, after the King's County District Attorney Kenneth Thompson vacated the convictions of Robert Hill, who spent 27 years in prison, Alvena Jennette, who spent 20 years in prison, and the Estate of Darryl Austin, who died in 2000 after spending 13 years in prison, BLA settled all three claims pre-litigation for \$7.15 million, \$6 million, and \$3.85 million, respectively.

Chart 8
Civil Rights Claims Filed and Settled
FYs 2006-2015



4. Motor Vehicle Claims

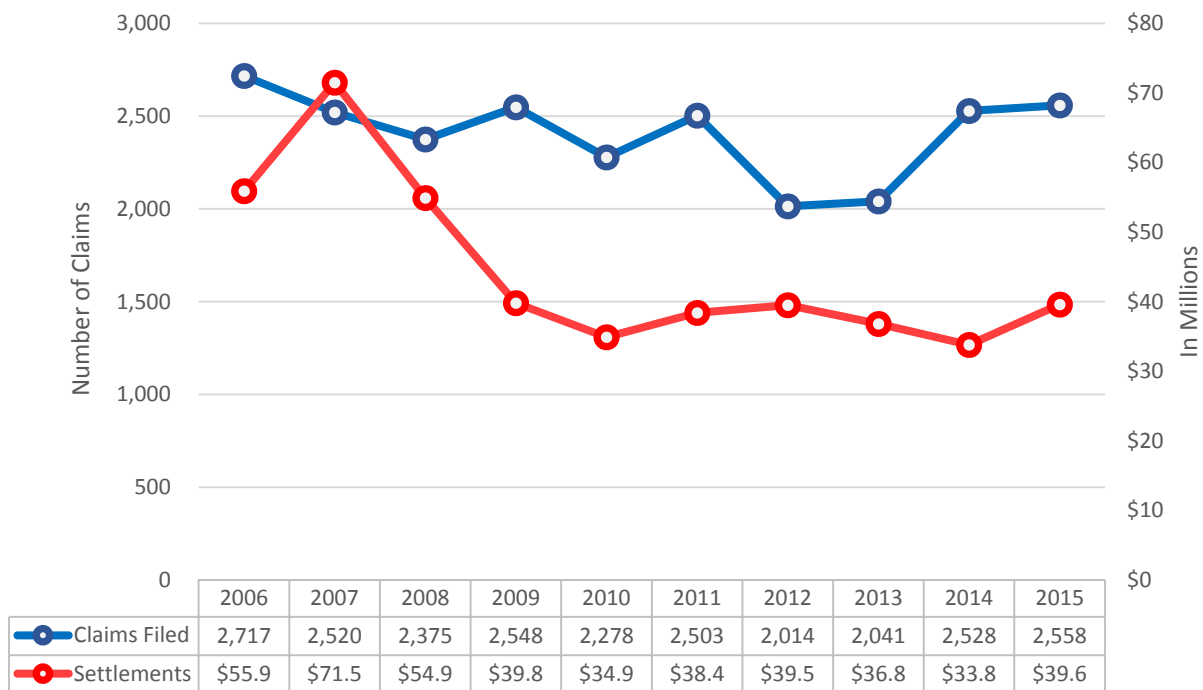
Personal injury motor vehicle claims involve alleged accidents with City-owned vehicles. There were 1,161 new personal injury motor vehicle claims filed in FY 2015, down seven percent from FY 2014, when 1,255 claims were filed. Personal injury motor vehicle claims cost \$67.3 million in FY 2015, a 24 percent decrease, compared to \$88.5 million in FY 2014. The decline in the cost of settlements and judgments in motor vehicle claims in FY 2015 can be attributed to fewer personal injury motor vehicle claims filed in prior years.



5. Sidewalk Claims

Sidewalk claims arise from alleged defects, such as cracked or uneven surfaces, on public sidewalks. This type of claim includes personal injuries for “slip, trip and fall” accidents resulting from such alleged defects, as well as incidents on snow and ice-covered sidewalks. Legislation enacted in 2003 has limited the City’s liability for injuries caused by alleged sidewalk defects. Local Law 49 (NYC Administrative Code § 7-210) generally limits the City’s liability to (1) sidewalks adjoining City-owned property, or (2) sidewalks that are in front of owner-occupied residential property having no more than three units. Sidewalk claims rose slightly to 2,558 claims in FY 2015 from 2,528 claims in FY 2014. With the increase in claims in FYs 2014 and 2015 from previous years, the cost in settlements and judgments rose as well. The total cost of sidewalk claims in FY 2015 was \$39.6 million, up from \$33.8 million in FY 2014.

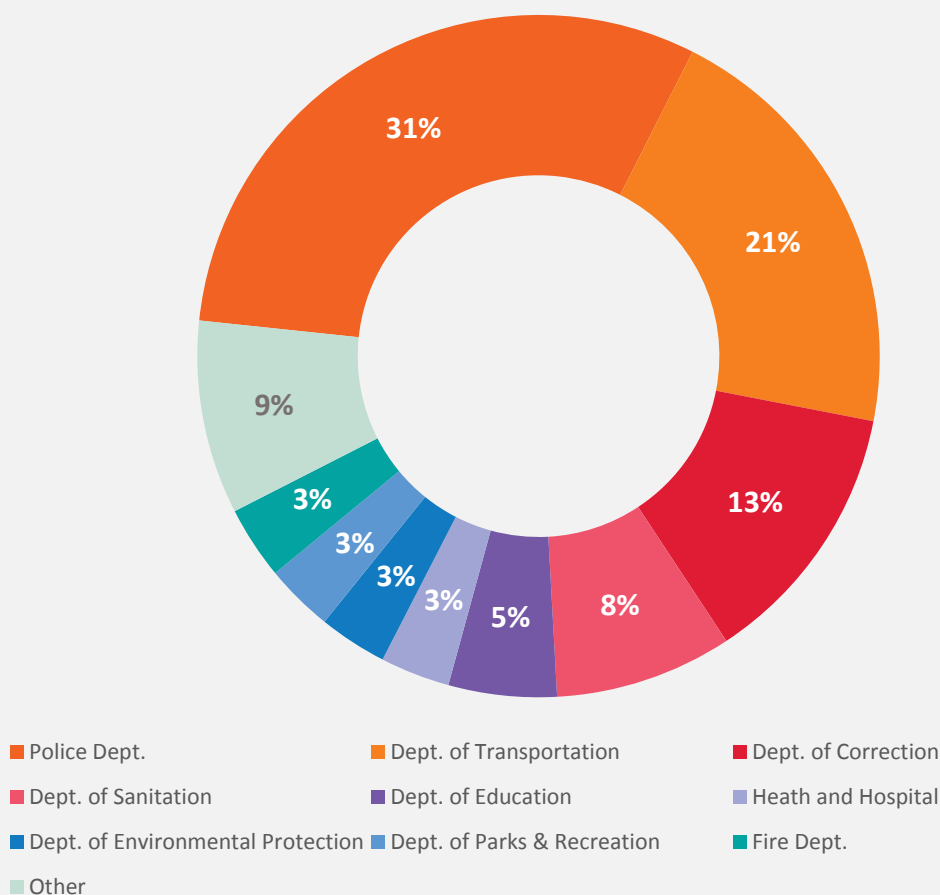
Chart 10
Sidewalk (PI) Claims Filed and Settled
FYs 2006-2015



D. TORT CLAIM TRENDS BY AGENCY

In FY 2015, the five agencies that experienced the highest number of total claims filed were the NYPD (8,411 claims), DOT (5,628 claims), DOC (3,459 claims), Department of Sanitation (DSNY) (2,299 claims), and DOE (1,400 claims). Of these five agencies, each agency experienced a decline in claims filed, except for the DOC, which experienced a 19 percent increase in claims filed in FY 2015.

Chart 11
Percentage of Tort Claims Filed by Agency
FY 2015

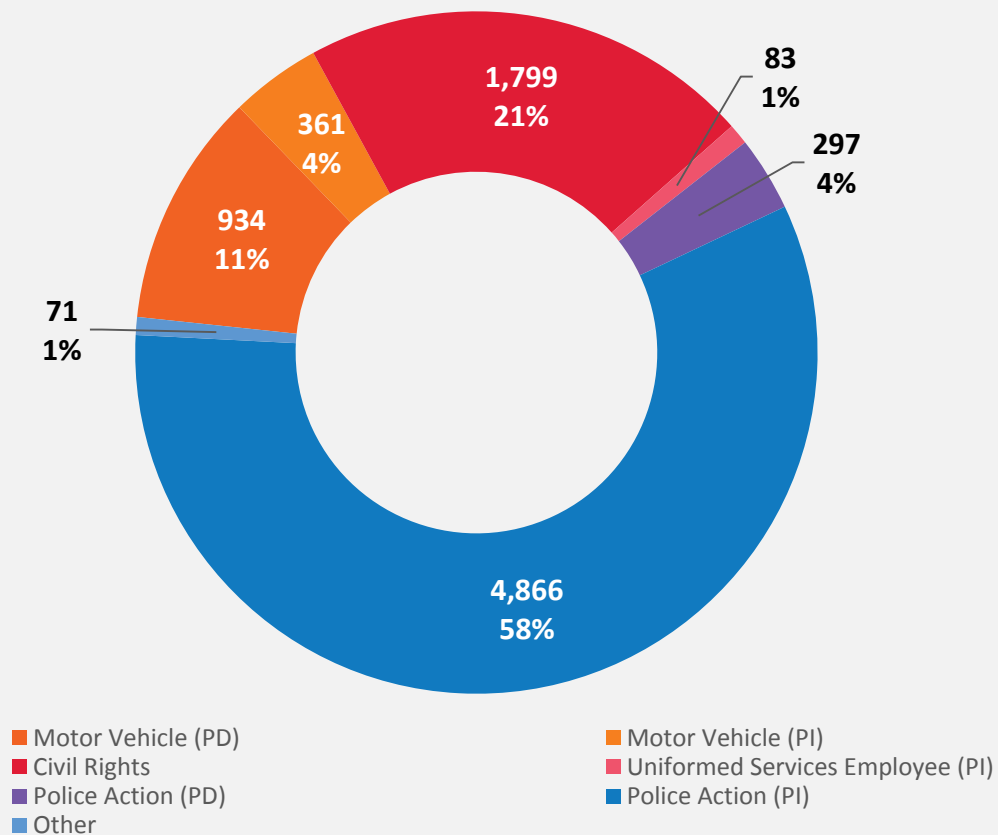


The five agencies with the highest settled tort claim costs in FY 2015 were the NYPD (\$222.7 million), HH (\$121.3 million), DOT (\$52 million), FDNY (\$46.6 million), and DOE (\$35.5 million).

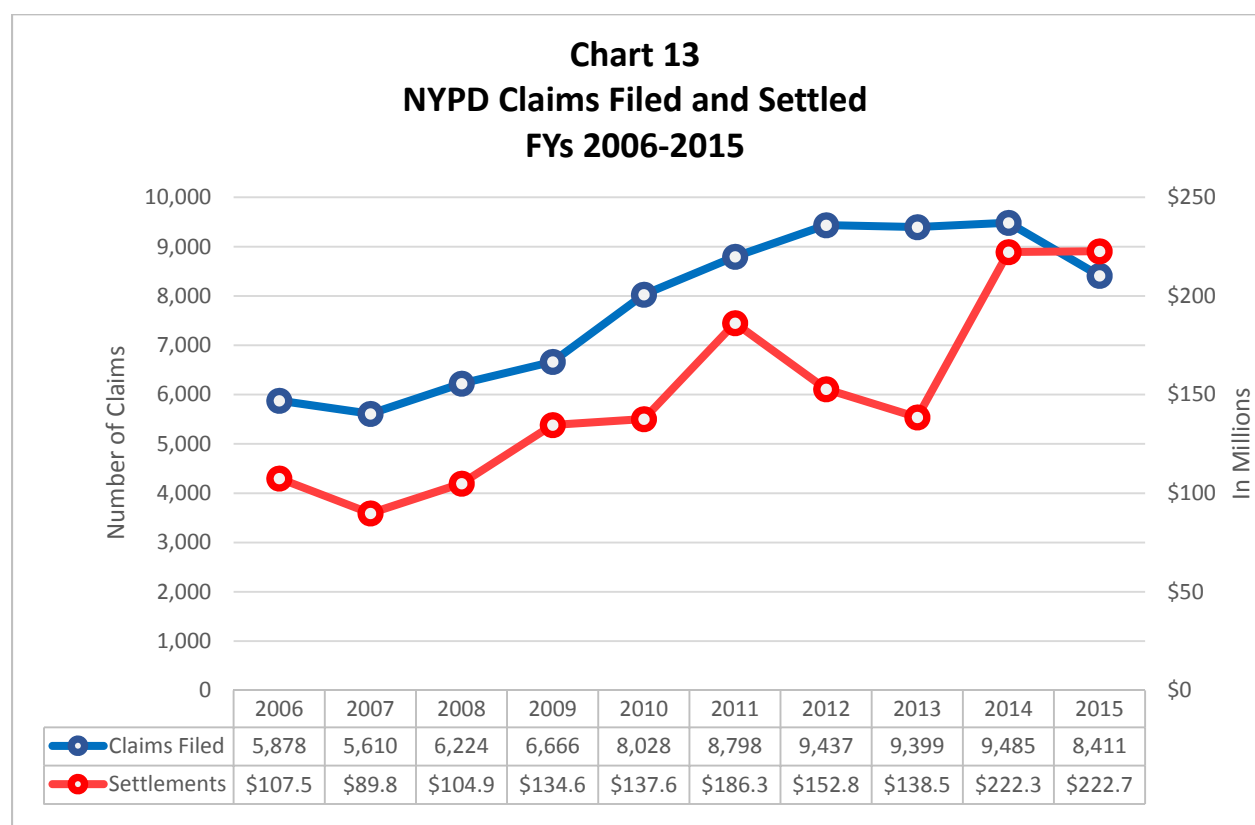
1. New York City Police Department

Tort claims against the NYPD include, but are not limited to, allegations of excessive force, civil rights violations, and personal injury or property damage arising out of motor vehicle accidents involving police vehicles. In FY 2015, the number of claims filed against the NYPD decreased to 8,411 from 9,485 claims filed in FY 2014, which represents an 11 percent decrease.

Chart 12
Percentage and Number of NYPD Claims Filed by Claim Type
FY 2015



Claims against the NYPD that settled in FY 2015 cost the City \$222.7 million, compared to \$222.3 million in FY 2014. In the past decade, the number of claims filed against the NYPD has increased each year, peaking in FY 2014. This upward trend in NYPD claims settlement and judgment payouts is expected to continue into the future despite a decrease in the number of claims filed in FY 2015, as final resolution of a claim can take many years. NYPD claims accounted for 38 percent of the total cost of FY 2015 personal injury and property damage claims settled.



2. NYC Health + Hospitals

Claims against HH encompass claims for personal injuries including medical malpractice, “slip, trip and fall” accidents on hospital property, and property damage sustained on hospital property. Unlike all other City agencies, whose tort claim costs are paid from the Judgments and Claims account established annually in the City’s General Fund, HH assumes financial responsibility for medical malpractice liabilities, up to a “capped limit” set by the Office of Management and Budget. Because many medical malpractice claims are typically not resolved for five to ten years from the date of filing, the number of claims filed against HH in a given year is a better indicator of current hospital claim trends than the amount paid out in any one year.

In FY 2015, 905 claims were filed against HH, 628 claims, or 69 percent of those claims, were for medical malpractice. HH claims constituted three percent of the total number of tort claims resolved in FY 2015, but accounted for the second highest tort expenditure at \$121.3 million or 21 percent of the total amount paid for tort claims in FY 2015.

Notably, the number of medical malpractice claims filed against HH's acute care hospitals¹⁰ increased by 43 claims in FY 2015 to 528 claims from 485 claims filed in FY 2014, or an increase in nine percent, which reversed a prior decline in claims filed against these hospitals.

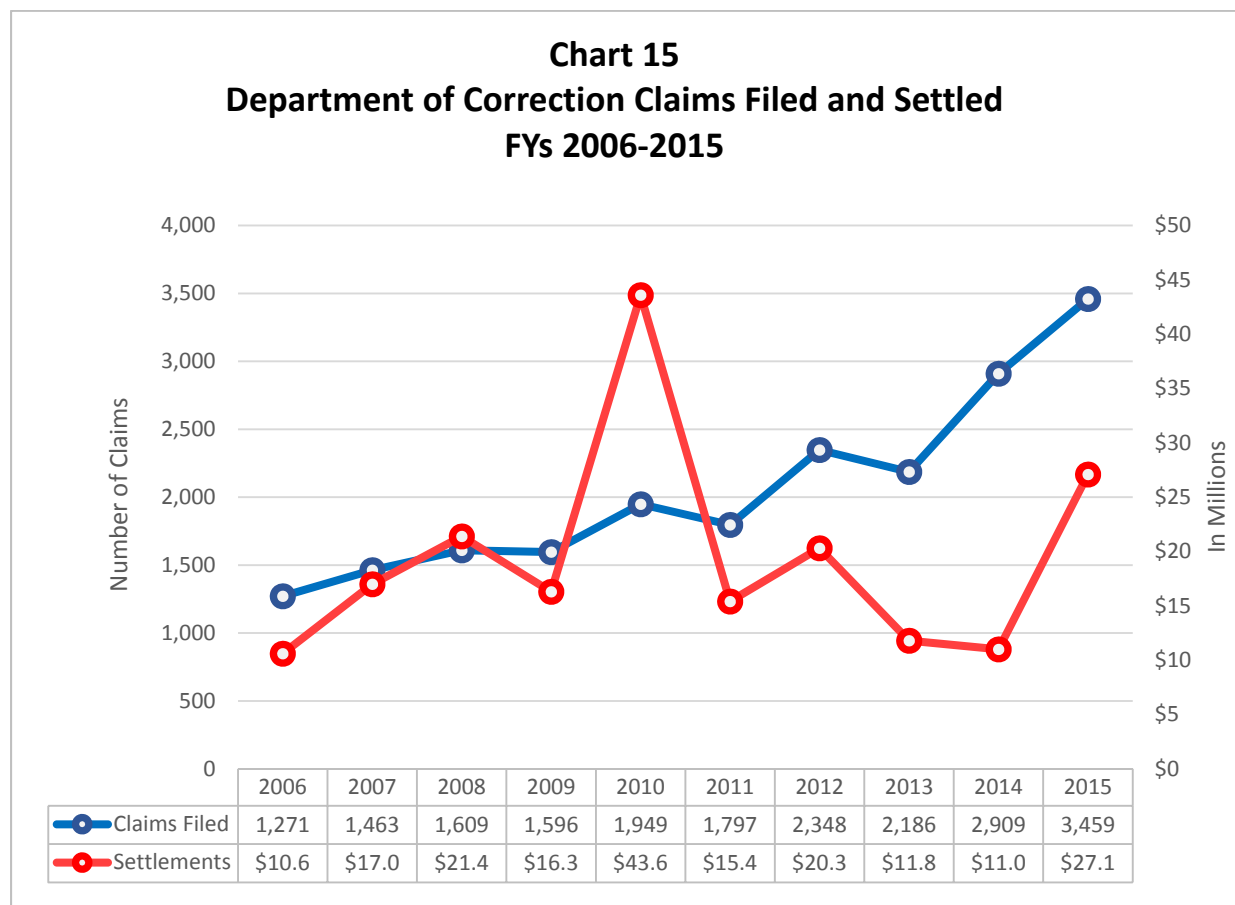
Chart 14
HH Medical Malpractice Claims Filed and Settled
FYs 2014-2015

Hospital Acute Care	Number Resolved FY 2015	Amount Paid (In Millions)	Claims Filed FY 2015	Claims Filed FY 2014	Increase/ (Decrease)
Bellevue	29	\$11.2	82	65	17
Coney Island	18	\$6.8	43	36	7
Elmhurst	20	\$10.0	52	49	3
Harlem	12	\$4.6	28	26	2
Jacobi / Bronx Municipal	32	\$14.9	68	63	5
Kings County	36	\$22.0	90	74	16
Lincoln	25	\$15.8	64	61	3
Metropolitan	15	\$3.5	18	22	(4)
North Central Bronx	6	\$6.6	6	16	(10)
Queens Hospital Center	15	\$9.0	28	25	3
Woodhull	20	\$10.7	49	48	1
Total	228	\$115.1	528¹¹	485	43

3. Department of Correction

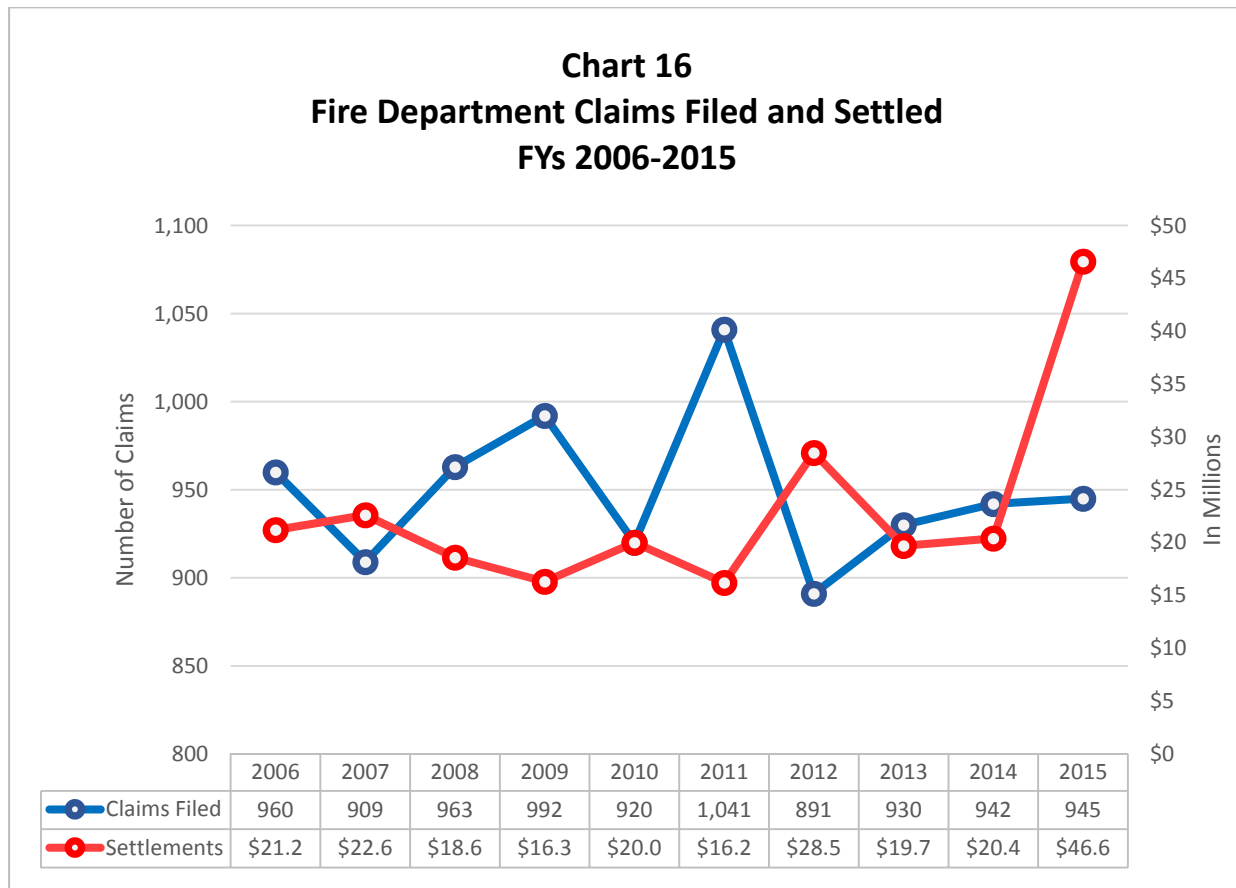
The FY 2013-2014 Claims Report projected an increase in the number of DOC claims and cost for settlements and judgments. In FY 2015 DOC settlement and judgment costs did in fact surge to \$27.1 million from \$11 million in FY 2014—a 146 percent increase. In FY 2015, BLA settled pre-litigation the wrongful death claim filed by the estate of Jerome Murdough, who died while in DOC custody, for \$2.25 million.

As the chart below shows, there has been a significant increase in claims filed against DOC since FY 2013. In FY 2015, DOC claims filed jumped by 19 percent to 3,459 claims from 2,909 claims in FY 2014 which could indicate future settlement trends. Therefore, increased payouts for DOC claims are expected to continue for the foreseeable future unless DOC addresses the root causes of these claims.



4. Fire Department of the City of New York

The number of claims filed against the FDNY in FY 2015 (945 claims), as compared to FY 2014 (942 claims), remained flat. However, the payout on settlements and judgments for FDNY claims resolved in FY 2015 was \$46.6 million, a 128 percent increase from the \$20.4 million paid out in FY 2014. The spike in FDNY payouts is attributable to a single claim filed in 1998 alleging EMS failure to treat a claimant; the lawsuit settled in FY 2015 for \$25 million.



E. TORT CLAIM TRENDS BY BOROUGH¹²

The Bronx had the most overall tort claims filed with 7,442 claims, followed by Brooklyn (6,939 claims), Manhattan (5,053 claims), Queens (4,871 claims), and Staten Island (1,389 claims). Consistent with prior years, the largest number of personal injury claims were filed in the Bronx (6,065 claims). The largest number of property damage claims were filed in Queens (2,295 claims).

Chart 17
Number of Claims Filed By Borough FY 2015

Borough	Personal Injury (PI) Claims	Property Damage (PD) Claims
Bronx	6,065	1,377
Brooklyn	4,952	1,987
Manhattan	3,515	1,538
Queens	2,576	2,295
Staten Island	648	741

The Bronx had the highest per capita filing of personal injury claims at 417 claims per 100,000 residents, as compared to Queens, which had the fewest at 110 claims. Staten Island had the greatest number of property damage claims filed per capita with 156 claims per 100,000 residents, while Brooklyn had the fewest with 75 claims.¹³

Chart 18
Claims Filed by Borough Per 100,000 Residents¹⁴
FY 2015

Borough	Total PI and PD Claims Per 100,000 Residents	Total PI Claims Per 100,000 Residents	Total PD Claims Per 100,000 Residents
Bronx	511	417	95
Brooklyn	263	188	75
Manhattan	307	214	94
Queens	208	110	98
Staten Island	293	137	156

Claim settlements and judgments for personal injury and property damage cost each City resident approximately \$68.53 in FY 2015.

Chart 19
Claims Resolved and Amounts Paid by Borough
FY 2015

Borough	Number of PI Claims Resolved	Amount Paid for PI Claims (In Millions)	Number of PD Claims Resolved	Amount Paid for PD Claims (In Millions)	Total PI and PD Claims Resolved	Total PI and PD Claim Payouts (In Millions)
Bronx	2,358	\$175.4	365	\$0.9	2,723	\$176.3
Brooklyn	2,001	\$214.9	854	\$3.8	2,855	\$218.7
Manhattan	1,208	\$84.0	473	\$1.2	1,681	\$85.2
Queens	923	\$53.9	1,130	\$6.7	2,053	\$60.6
Staten Island	296	\$17.5	230	\$0.6	526	\$18.2

V. LAW (NON-TORT) CLAIMS

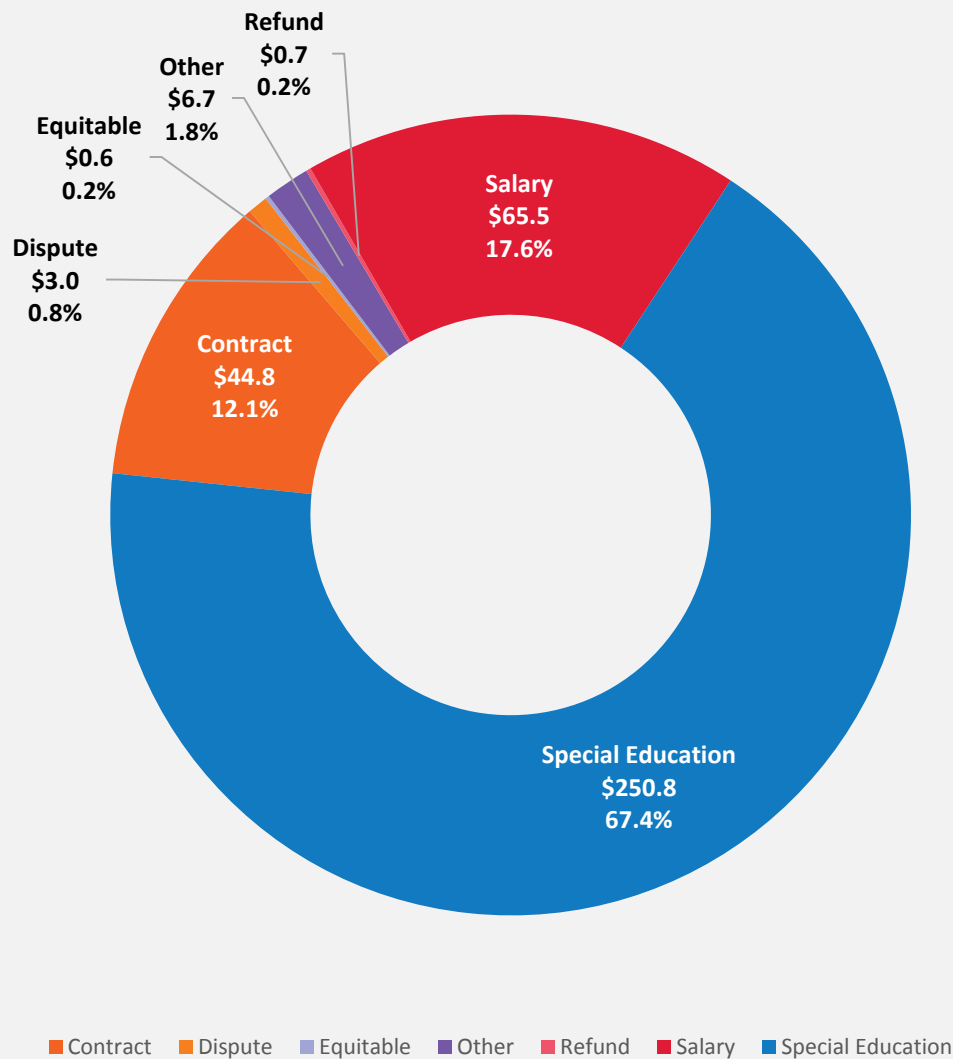
Although all claims are rooted in the law, the Comptroller’s Office characterizes non-tort claims as “law claims”—for operational and record-keeping purposes—such claims and/or disputes arising from City contracts, equitable claims, refund claims, City employee salary disputes, claims involving DOE special education matters, sidewalk assessments, and clean up costs levied on property owners who are in violation of the mental hygiene law. Affirmative claims brought by the City against other parties that do not involve damage to real or personal property are also included in law claims.

Overall Law Claim Trends

The overall number of law claims jumped by 46 percent to 6,165 in FY 2015 from 4,214 in FY 2014. The rise is due primarily to a 73 percent increase in DOE special education claims¹⁵ (special education claims) filed. In FY 2015, there were 4,475 special education claims filed, compared to 2,582 claims filed in FY 2014. This increase comes after the City launched a new “fast track” process in June 2014 for addressing claims for costs and tuition payments from parents of students requiring special education services.

The total number of settlements and judgments for law claims grew 90 percent to 4,484 in FY 2015 from 2,359 in FY 2014. The total amount of settlements and judgments paid out for law claims grew 38 percent to \$372.2 million in FY 2015 from \$269.2 million in FY 2014.¹⁶ This increase is largely attributable to the growth in payouts of special education claims that reached \$250.8 million in FY 2015, a 91 percent increase from \$131.3 million in FY 2014. Payouts of special education claims in FY 2015 represented 67 percent of all law claim payouts.

Chart 20
Law Claims by Type
Amount Paid in Settlements and Judgments (In Millions)
and Percentage of Law Claim Settlements and Judgments Paid



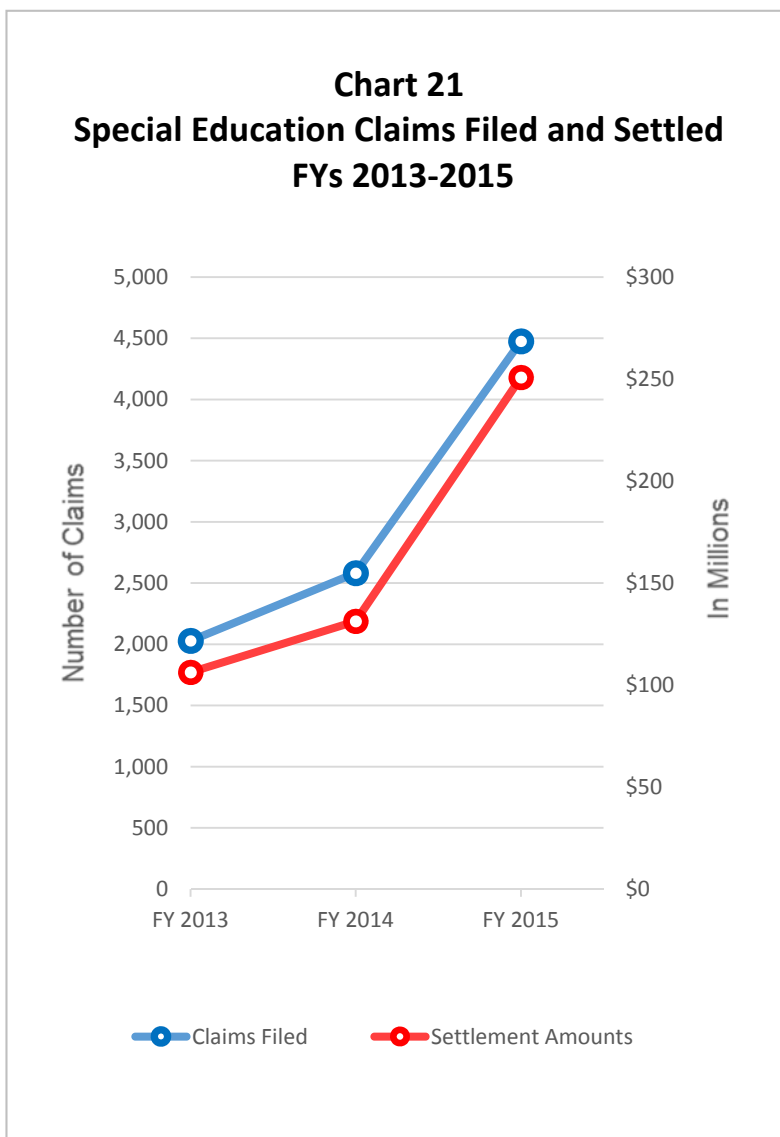
Special Education Claims

Special education claims include two categories of claims: claims on behalf of parents for the reimbursement of special education services costs and tuition,¹⁷ and separate claims for statutory attorneys' fees where an underlying claim for special education reimbursement has been successful.

There has been a sharp rise in the number of special education claims settled and paid out in FY 2015. The number of claims settled has increased 83 percent, growing to 4,070 claims settled in FY 2015 from 2,223 claims settled in FY 2014.

In FY 2015 the number of special education claims filed jumped 73 percent. In FY 2015 there were 4,475 special education claims filed, compared to 2,582 claims in FY 2014 and 2,029 in FY 2013. Overall, the number of special education claims have more than doubled in two years, growing by 2,446—or 121 percent—from FY 2013 to FY 2015.

The amount of settlements paid out for special education claims in the past two years has also climbed sharply. There was a 91 percent increase in settlements paid out on special education claims during FY 2015 (\$250.8 million) as compared to FY 2014 (\$131.3 million), and a 136 percent increase from FY 2013 (\$106.3 million).



While the sharp rise in special education claims and costs are significant, the increase should be viewed in the context of all special education-related claims filed against the DOE. Specifically, the rise in requests for settlement authority submitted by the DOE to the Comptroller's Office is primarily related to the settlement or compromise of claims prior to an Impartial Hearing Officer's (IHO) determination. Tuition or services reimbursement claims only come before the Comptroller's Office when DOE seeks settlement authority. The DOE need not seek Comptroller's Office approval if an IHO rules in favor of the parent or when DOE and the parent mutually agree to a placement or services before a dispute arises.

Contract Delay Claims

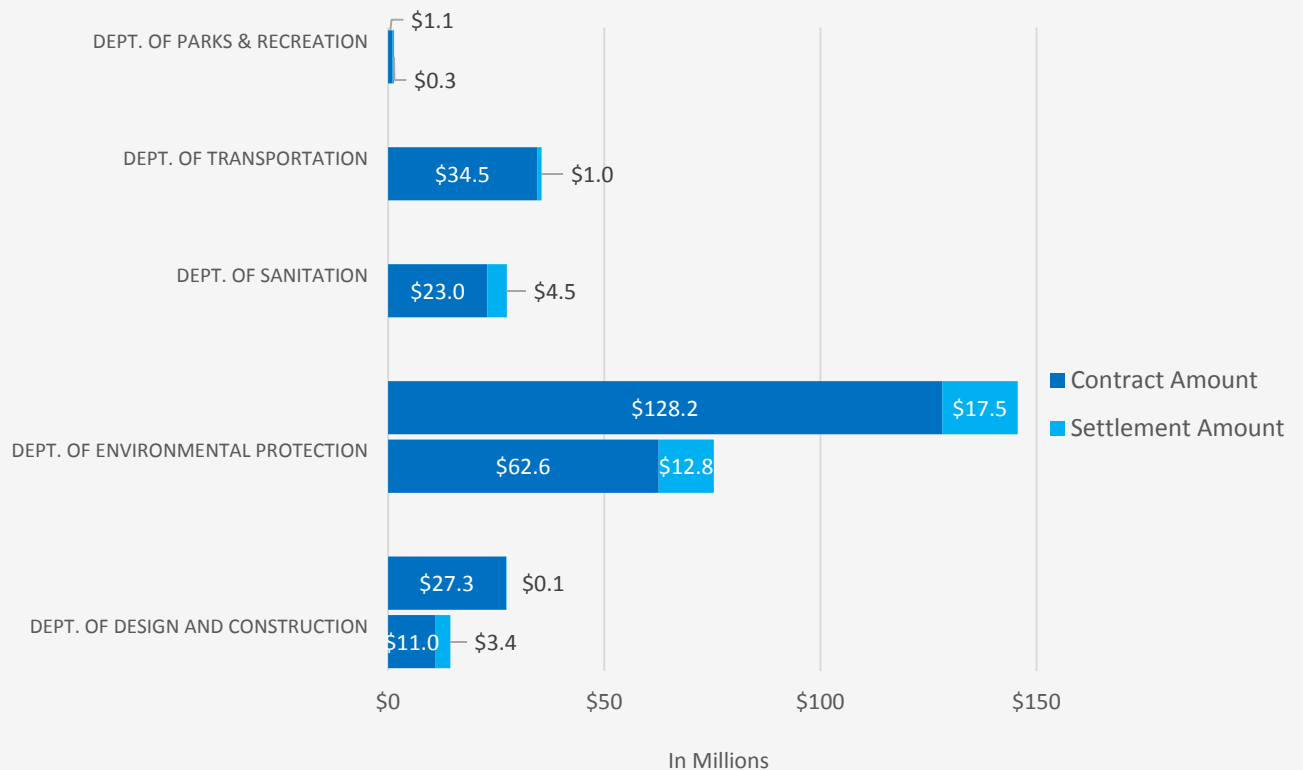
Breach of contract claims include those alleging that a contractor was damaged by delays caused by the actions or inactions of the City on construction projects. Delay claims typically arise on larger construction projects such as those involving bridges and wastewater treatment plants. The analyses of these claims require the expertise of numerous staff members within the Comptroller's Office, including professional engineers, auditors, and attorneys.

In FY 2015, seven delay claims, with claimed damages totaling \$106.8 million, were negotiated and settled for \$39.6 million. This represents a savings of \$67.2 million, or 63 percent, over the original claimed amount.

The delay damages from claims settled in FY 2015 represents increased project costs attributable to agency-caused delays of 14 percent over the original contract prices.

Of the seven delay claims settled in FY 2015, two of those claims arose out of contracts with the Department of Environmental Protection (DEP) for the upgrade of water pollution control plants. These claims alleged damages totaling \$75.5 million; however, the City negotiated and settled these two claims for \$30.3 million. While this represents a savings of 60 percent over the original claimed delay damages, the settlement of these two delay claims on behalf of DEP accounts for 76 percent of the amount paid on all delay claims settled in FY 2015. Damages for delays attributable to DEP on claims settled in FY 2015 increased costs 16 percent over the original contract prices for these projects.

Chart 22
Delay Damage Settlement Cost Increase over Original Contract Bid Price



Alternative Dispute Resolution Claims

Contracts between the City and vendors solicited after September 1990 have included an Alternative Dispute Resolution (ADR) provision designed to provide a speedy alternative to litigation. When disputes arise, contractors may attempt to resolve them directly with the agency involved. If no agreement is reached during that process, a claim can subsequently be filed with the Comptroller's Office. If the claim is denied, the contractor may appeal to the Contract Dispute Resolution Board.

In FY 2015 45 dispute claims were negotiated and settled for a total of \$3 million. While the number of disputes settled increased from 43 dispute claims in FY 2014, the total settlement amount decreased \$3.6 million in FY 2015 from \$6.6 million in FY 2014.

Refund Claims

Refund claims include claims by private individuals seeking refunds for alleged overpayments and unjust fines. In FY 2015 21 refund claims were negotiated and settled for \$699,468 compared to 16 refund claims negotiated and settled for \$118,118 in FY 2014.

Affirmative Claims

Affirmative claims are those brought by the City against individuals, companies, and corporations for torts, breaches of contract, and remedy for violations of civil codes. These claims include, among others, funds due the City for housing/building code violations, actions arising from the sale of unlicensed cigarettes, contract overpayments, and recoupment of Medicaid assistance payments.

In FY 2015 the Comptroller's Office approved settlement of 845 affirmative claims for a benefit to the City of \$17.6 million, as compared to FY 2014, when 684 Affirmative claims were settled for \$62.2 million. The FY 2014 settlements were 254 percent higher than FY 2015 due to a \$50 million payment from a telecommunication contractor for cost overruns caused by the company's delays in its development of software for the City's new 911 call system.

In FY 2015 there were several multi-million dollar settlements of affirmative claims on behalf of the City. The City recovered \$2.6 million arising from a breach of services contract and \$5 million from a company that schemed to evade New York City taxes on cigarettes. Notably, the City was able to recover \$2.6 million and guarantee 10 affordable housing units for low-income New Yorkers for the next 35 years in the settlement of an affirmative claim against a property developer for its failure to adhere to land use restrictions meant to protect low income New Yorkers.

APPENDIX A

Description of Claim Types

Claims that are filed against the City are classified into categories to facilitate analysis by the Comptroller's Office and other interested parties.

Under the present classification structure, claims are categorized initially by the City agency involved and by general category of claim: personal injury, property damage, or law. Each general category has subtypes, and it is at this level that claims are analyzed. For example, personal injury claims may include alleged “slip, trip and fall” accidents on sidewalks (claims alleging a defective sidewalk), or injuries that occurred in school (school claims), or in a City park (recreation claims).

The present coding system classifies claim types as follows:

I. PERSONAL INJURY CLAIMS

A. ADMIRALTY

Admiralty claims include claims by passengers or other persons injured on the water, either on City vessels or ferries, gangplanks, or piers.

B. ROADWAY

Roadway claims include pedestrians, motorists, or others claiming injuries as a result of alleged defects in a street or roadway, such as potholes, cracked, wet or snow-covered roadways, sewer gratings, raised, missing or exploding manhole covers, or roadways under repair.

C. SIDEWALK

Sidewalk claims include pedestrians or others claiming injury because of an allegedly defective sidewalk such as, broken or uneven sidewalks, broken curbstones, protruding bolts, grates, or parking meter or traffic sign stubs, defective boardwalks, and snow and ice claims.

D. TRAFFIC CONTROL DEVICE

Traffic control device claims are filed by pedestrians or motorists injured in accidents allegedly caused by malfunctioning traffic signals, defective or missing traffic devices, or downed or missing traffic signs.

E. POLICE ACTION

Police action claims result from alleged improper police action, such as false arrest or imprisonment, excessive force or assault, or failure to provide police protection.

F. SCHOOL

School claims are those filed against the DOE by students, teachers, other staff, parents, or visitors to DOE facilities.

G. MEDICAL MALPRACTICE

This category of claim derives from medical malpractice in the diagnosis, treatment, or care at a City or HH facility or EMS treatment.

H. HEALTH FACILITY/NON-MEDICAL INCIDENTS

These claims involve non-medical acts involving a City or HH facility or employee, such as injuries sustained by visitors due to wet floors, assaults of patients or visitors, or abuse or assaults of senior citizens by home care workers.

I. MOTOR VEHICLE

Motor vehicle claims involve alleged accidents with City-owned vehicles. Included in this category are cases of pedestrians, motorists, or passengers of other vehicles allegedly struck by a City-owned vehicle, and operators or passengers of City-owned vehicles involved in a collision.

J. UNIFORMED SERVICES EMPLOYEE

Included in this category of claims are those filed by City employees of the uniformed services, such as NYPD, FDNY, DOE teachers, or DSNY employees who are not subject to Workers' Compensation laws and may sue the City for on-the-job personal injuries.

K. PARKS AND RECREATION

Recreation claims are asserted by persons allegedly injured because of defective equipment or negligent maintenance of property under the jurisdiction of the Department of Parks and Recreation. This includes incidents that occur in Parks Department buildings or on playground equipment and grounds, and incidents involving falling trees or limbs, whether on a street, sidewalk, or in a park.

L. CITY PROPERTY

This category includes claims by tenants or others asserting that they were injured by an alleged defect in or the negligent maintenance of City-owned land, or a City-owned or City-administered building or facility.

M. CATASTROPHE

This claim type includes claims filed as a result of natural disasters, such as floods or earthquakes; environmental accidents, such as leaking gas tanks; power failures, such as blackouts; and civil disturbances, such as riots.

N. CIVIL RIGHTS

Civil rights claims involve alleged Federal, State or City statutory or constitutional violations, such as discrimination based on sex, race, religion, disability, sexual orientation, or age.

O. CORRECTION FACILITY

Correction claims involve claims by inmates, or employees of City correction institutions or facilities who were allegedly injured by the actions of City employees or inmates.

II. PROPERTY DAMAGE CLAIMS

A. ADMIRALTY

These claims are for alleged property damaged on the water, either on City vessels, ferries, gangplanks, or piers.

B. SEWER OVERFLOW

Sewer overflow claims include alleged flooding or water damage to real or personal property caused by inadequate sewer repairs or clogged/obstructed City sewers.

C. WATER MAIN BREAK

Water main break claims include alleged water damage to real or personal property as a result of leaking or broken water mains or fire hydrants.

D. ROADWAY

This claim type includes claims for vehicles that are damaged by allegedly defective roadways, or from objects that have fallen from bridges or overpasses. Also included are claims made by pedestrians who sustained damage to personal property as a result of an alleged fall on a defective roadway.

E. SIDEWALK

Sidewalk claims are made by individuals who sustain damage to personal property as a result of an allegedly defective sidewalk.

F. TRAFFIC DEVICE

This claim type includes vehicles or other personal property damaged in accidents allegedly caused by defective, obstructed, or missing traffic lights or stop signs.

G. POLICE ACTION

Police action claims relate to vehicles or other personal property that is allegedly stolen, damaged, sold, or destroyed while in police custody.

H. SCHOOL

School claims include allegations for lost, stolen, or damaged personal property that belongs to students, teachers, or DOE staff while on DOE property.

I. HEALTH FACILITY

These claims include the personal property of patients or others that has allegedly been lost, stolen, or damaged while on HH or City hospital property.

J. MOTOR VEHICLE

Motor vehicle claims include vehicles or other personal property that is allegedly damaged in accidents with City-owned vehicles. Included are parked cars allegedly hit by City-owned vehicles and vehicles damaged while being towed.

K. UNIFORMED SERVICES/CITY EMPLOYEES

This claim type includes claims for personal property that is allegedly lost, damaged, or stolen from City employees while at work.

L. PARKS AND RECREATION

Claims in this category include personal property that is allegedly lost, stolen, or damaged in the City's parks. Damage occurs from vandalism, poor maintenance, or unmarked fresh paint, and from accidents involving grounds and equipment.

M. PUBLIC BUILDINGS AND PROPERTY

This claim type includes claims for personal property allegedly damaged or stolen as a result of a defect or negligence in maintaining City-owned land, buildings or facilities.

N. CATASTROPHE

These claims include property damage allegedly caused by the City's response to a natural disaster (such as a flood or earthquake), an environmental accident (such as a leaking gas tank), power failures (blackouts), or civil disturbances (such as riots).

O. DAMAGE CITY ACTION/PERSONNEL

These claims include property damaged allegedly caused by City-owned vehicles or equipment, such as a City-owned vehicle damaging a homeowner's fence or other property, or damage caused by a traffic light falling onto a vehicle.

P. CORRECTION FACILITY

Correction facility claims include claims by prisoners, inmates, or detainees whose personal property is lost, stolen, or damaged while in a correction institution.

III. LAW CLAIMS

A. CONTRACT/LEASE

Claims in this category arise from disputes between the City and private contractors (construction or non-construction) and in instances where the City is a lessee or lessor of property.

B. ALTERNATIVE DISPUTE RESOLUTION

Contracts between the City and vendors solicited after September 1990 include an Alternative Dispute Resolution (ADR) provision designed to provide a speedy alternative to litigation. When disputes arise, contractors may attempt to resolve them directly with the City agency involved. If no agreement is reached, a claim can then be filed with the Comptroller's Office. If the claim is denied, the contractor may appeal to the Contract Dispute Resolution Board.

C. ILLEGAL BUT EQUITABLE

These claims typically allege that work was performed at the direction of the City and/or the City accepted services, but the necessary contract and other approval were not obtained. These claims, though invalid at law, may be recognized as equitable and proper if it can be determined that the City received a benefit and that the public interest would be served by payment or compromise.

D. EMPLOYMENT

Employment claims are those by prospective, current, or former City employees alleging employment related disputes. These disputes include claims for discrimination, out-of-title work, pay differential, annual leave, and suspension.

E. REFUND

Refund claims include claims by private individuals seeking refunds for alleged overpayments and unjust fines.

F. CHANGE OF GRADE

These claims are made by commercial or residential property owners or lessees. The claims arise from changes in grade to a sidewalk that impair access to property and drainage. Claims typically are made for loss of business due to walkway or driveway repairs.

G. SPECIAL EDUCATION-RELATED

These claims include claims on behalf of parents for the reimbursement of special education services costs and tuition and separate claims for statutory attorneys' fees where an underlying claim for special education reimbursement has been successful.

APPENDIX B

Legal Background

I. MUNICIPAL LIABILITY

The decision of the New York Court of Appeals in *Bernadine v. New York City*, issued in 1945, exposed the City for the first time to liability for torts committed by the City's officers, agents, and employees.¹⁸

In *Bernadine*, the Court held that "the civil divisions of the State are answerable equally with individuals and private corporations for wrongs of officers and employees—even if no separate statute sanctions that enlarged liability in a given instance."¹⁹ The Court, in effect, abolished the doctrine of sovereign immunity for municipalities, but did not provide municipalities any of the protections accorded to the State by the Court of Claims Act.²⁰ In particular, claimants seeking to recover from municipalities for their agents' negligent and wrongful acts are entitled to a jury trial.

Municipal liability is also governed by local law. Under their home rule authority, municipalities can limit liability to some extent through limitations on the right to sue. An example is New York City's prior notice law, enacted in 1979 in an effort to limit the City's liability in "slip, trip and fall" cases on City sidewalks and streets.

II. CLAIMS PROCESS

To commence an action against the City, a claimant typically must first notify the City by filing a Notice of Claim with the Comptroller's Office.²¹ However, in the case of claims against the HH, claims must be filed directly with HH. In most instances, the notice of a personal injury or property damage claim must be filed within 90 days of an alleged injury or wrong.²² The City Charter grants the Comptroller the power to settle and adjust all claims in favor of or against the City.²³

The Comptroller has the power to investigate claims, evaluate liability and damages, and reach a settlement prior to litigation.²⁴ If the Comptroller denies liability or is unable to arrive at a settlement with a claimant, the claimant may commence suit. Actions regarding tort claims must generally be filed within a year and 90 days after the loss.²⁵ The Office of the Corporation Counsel, under the direction of the Corporation Counsel, defends the City in most actions. (HH defends its medical malpractice actions.) No litigation can be settled without the approval of the Comptroller.²⁶

APPENDIX C

Top Nine Tort Claims Adjudicated in FY 2015

1. Claimant, a then 12-year-old female, alleged that in 1998, FDNY emergency services failed to properly treat her at the scene which resulted in severe and irreversible brain damage. After a jury verdict favoring plaintiff, the parties reached a settlement. Settlement: \$25 million.
2. In 2009, claimant was shot by an NYPD officer. Claimant sustained a spinal cord injury, which resulted in paraplegia, requiring claimant to use a wheelchair to ambulate. After a plaintiff's verdict, the parties reached a settlement. Settlement: \$13.8 million.
3. In 1994, claimant was arrested and subsequently convicted of murder. Claimant was incarcerated for more than 16 years. He alleged wrongful conviction. Settlement: \$10 million.
4. Claimant, a 28-year-old female, fell and was transported to Kings County Hospital by EMS in 2011. She alleged that the facility committed medical malpractice in failing to timely diagnose a spinal cord injury resulting in permanent paralysis. Settlement: \$9.35 million.
5. In 2011, a 15-year-old male student, was assaulted in a New York City school by a fellow student with a pair of scissors. As a result of the incident, infant claimant sustained traumatic brain injury. Settlement: \$9 million.
6. In 2006, claimant, a 42-year-old police officer was in an automobile accident while riding in an NYPD vehicle responding to a call. Claimant sustained injuries and was granted LODI disability. After a jury verdict favorable to plaintiff, the parties settled. Settlement: \$8.75 million.
7. In 1987, claimant was arrested for murder and subsequently convicted. Claimant was incarcerated for more than 27 years before his conviction was vacated. Claimant alleged wrongful conviction and incarceration. Settlement: \$7.15 million.
8. In 1989, claimant was arrested and subsequently convicted of murder. He was incarcerated for more than 24 years. Claimant alleged wrongful conviction and incarceration. Settlement: \$6.25 million.
9. Claimant was convicted for a 1985 murder and served over 19 years in prison. Claimant alleged wrongful conviction and incarceration. Settlement: \$6 million.

APPENDIX D

Chart Index

CHART	TITLE	PAGE
1	Total Personal Injury Tort Claim Payouts for Legacy Claims FYs 2013-2015	4
2	Number and Percentage of Tort Claims Filed by Category FY 2015	5
3	Percentage of Total Personal Injury Expenditures Recorded by Claim Type FY 2015	6
4	Percentage of Total Property Damage Expenditures Recorded by Claim Type FY 2015	7
5	Expenditures Paid (In Millions) for Personal Injury Claims by Claim Type FY 2015	8
6	Medical Malpractice (PI) Claims Filed & Settled FYs 2006-2015	9
7	Police Action (PI) Claims Filed and Settled FYs 2006-2015	10
8	Civil Rights Claims Filed and Settled FYs 2006-2015	11
9	Motor Vehicle (PI) Claims Filed and Settled FYs 2006-2015	12
10	Sidewalk (PI) Claims Filed and Settled FYs 2006-2015	13
11	Percentage of Tort Claims Filed by Agency FY 2015	14
12	Percentage and Number of NYPD Claims Filed By Claim Type FY 2015	15
13	NYPD Claims Filed and Settled FYs 2006-2015	16
14	HH Medical Malpractice Claims Filed and Settled FYs 2014-2015	17
15	Department of Correction Claims Filed and Settled FYs 2006-2015	18
16	Fire Department Claims Filed and Settled FYs 2006-2015	19
17	Number of Claims Filed by Borough FY 2015	20
18	Claims Filed by Borough Per 100,000 Residents FY 2015	20
19	Claims Resolved and Amounts Paid by Borough FY 2015	21
20	Law Claims by Type: Amount Paid in Settlements and Judgments (In Millions) and Percentage of Law Claim Settlements and Judgments Paid	22
21	Special Education Claims Filed and Settled FYs 2013-2015	23
22	Delay Damage Settlement Cost Increases Over Original Contract Bid Price	25

APPENDIX E Detailed Tables

Table I – Number of Tort Claims Filed by Claim Type FYs 2006-2015

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Personal Injury										
Sidewalk	2,717	2,520	2,375	2,548	2,278	2,503	2,014	2,041	2,528	2,558
Police Action	2,203	2,445	2,867	3,359	3,956	4,515	5,532	5,581	5,641	4,919
School	1,226	1,257	1,169	1,141	1,023	1,078	1,060	929	965	927
Motor Vehicle	1,308	1,310	1,440	1,285	1,344	1,306	1,379	1,189	1,255	1,161
Roadway	1,164	1,111	1,106	1,144	1,051	1,115	947	882	1,001	964
City Property	1,341	4,680	825	627	9,172	1,106	562	534	683	651
Correction Facility	845	989	1,060	1,043	1,188	1,183	1,595	1,655	2,241	2,792
Civil Rights	1,842	1,553	1,769	1,953	2,674	3,078	2,783	2,725	2,900	2,684
Medical Malpractice	699	655	701	684	651	610	623	605	587	628
Traffic Control Device	138	167	116	103	109	76	108	126	76	77
Parks & Recreation	212	246	237	261	226	273	286	270	277	297
Uniformed Services Employee	502	183	163	140	164	163	150	150	161	157
Other	664	782	723	747	738	886	768	784	883	843
Total	14,861	17,898	14,551	15,035	24,574	17,892	17,807	17,471	19,198	18,658
Property Damage										
Motor Vehicle	3,825	3,856	3,752	3,631	3,969	4,724	3,186	3,323	3,682	3,434
City Property	138	101	237	152	131	135	90	300	260	201
Correction Facility	204	211	274	297	442	309	397	263	318	355
Damage by City Personnel	1,125	1,130	1,167	1,166	1,309	1,734	1,349	1,345	960	1,043
Roadway	1,461	1,121	1,518	1,275	2,333	2,806	1,218	1,036	2,844	2,240
Health Facility	133	122	160	132	126	103	96	120	140	123
Police Action	321	321	384	299	309	378	366	362	341	302
School	230	236	201	189	179	182	144	107	128	89
Sewer Overflow	237	282	1,503	192	188	205	668	602	613	472
Water Main	131	211	159	158	194	153	238	108	240	134
Other	198	240	513	312	242	273	262	272	244	270
Total	8,003	7,831	9,868	7,803	9,422	11,002	8,014	7,838	9,770	8,663
Grand Total	22,864	25,729	24,419	22,838	33,996	28,894	25,821	25,309	28,968	27,321

**Table II – Number of Tort Claims Filed by Agency
FYs 2006-2015**

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Department of Transportation	5,820	5,136	5,402	5,127	5,997	6,337	4,669	4,446	6,295	5,628
Police Department	5,878	5,610	6,224	6,666	8,028	8,798	9,437	9,399	9,485	8,411
Department of Sanitation	1,903	1,766	1,646	1,767	2,123	3,455	1,306	1,691	2,411	2,299
Department of Education	1,648	1,732	1,697	1,628	1,833	1,604	1,566	1,416	1,420	1,400
NYC Health + Hospitals	971	908	1,003	932	908	858	845	924	867	905
Department of Environmental Protection	759	761	2,314	737	700	737	1,357	996	1,123	883
Department of Correction	1,271	1,463	1,609	1,596	1,949	1,797	2,348	2,186	2,909	3,459
Department of Parks and Recreation	852	1,026	1,029	1,019	1,101	1,405	1,095	1,047	868	884
Fire Department	960	909	963	992	920	1,041	891	930	942	945
Department of Housing Preservation and Development	150	103	82	75	82	71	68	74	66	50
NYC Human Resources Administration	77	44	54	52	57	63	76	87	73	73
Department of Buildings	38	43	230	149	955	75	82	61	52	77
Other	2,537	6,228	2,166	2,098	9,343	2,653	2,081	2,052	2,457	2,307
Total	22,864	25,729	24,419	22,838	33,996	28,894	25,821	25,309	28,968	27,321

**Table III - Dollar Amount of Tort Claim Settlements and Judgments by Claim Type
FYs 2006-2015**

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Personal Injury										
Sidewalk	55,932,717	71,511,708	54,870,423	39,760,227	34,904,412	38,426,098	39,528,306	36,752,110	33,768,430	39,572,496
Police Action	25,032,499	25,533,667	34,616,512	48,413,383	56,788,953	60,237,524	54,334,625	62,885,691	71,890,587	119,198,941
School	33,166,639	41,205,083	53,581,040	54,328,099	35,071,262	42,970,746	25,777,081	24,074,498	24,814,187	32,305,557
Motor Vehicle	67,290,551	55,038,680	56,724,117	79,750,916	63,433,038	83,896,291	70,560,942	85,274,416	88,512,529	67,347,114
Roadway	19,471,292	19,122,676	36,165,533	24,622,949	27,742,588	19,453,578	25,717,847	33,134,170	13,710,874	15,369,410
City Property	14,657,965	34,130,604	26,011,521	30,444,952	14,176,063	18,841,199	8,395,091	5,465,500	21,797,000	4,931,000
Correction Facility	4,238,997	8,857,503	8,199,183	5,938,403	5,025,429	8,504,000	7,833,193	7,319,801	7,323,835	13,185,550
Civil Rights	58,030,359	54,148,433	42,242,687	47,062,984	80,940,455	83,998,422	78,200,352	56,023,108	106,921,361	91,562,971
Medical Malpractice	159,287,643	155,727,867	152,739,578	127,288,634	131,236,136	131,816,744	108,943,419	130,290,406	118,479,990	144,912,305
Traffic Control Device	1,967,398	3,027,925	3,319,500	1,120,750	2,883,300	3,206,350	2,396,000	1,292,315	7,589,500	604,000
Parks & Recreation	4,169,650	12,755,261	7,881,426	5,714,315	7,965,906	7,102,606	12,069,875	20,328,830	13,997,709	6,172,700
Uniformed Services Employee	25,691,763	33,551,471	38,389,850	30,096,000	41,971,283	31,039,500	20,404,000	17,450,382	27,998,500	33,439,000
Other	16,182,277	20,705,877	15,902,378	53,665,446	10,979,970	9,228,394	21,677,145	6,460,359	13,522,259	3,553,394
Total	485,119,751	535,316,755	530,643,748	548,207,058	513,118,795	538,721,451	475,837,876	486,751,585	550,326,759	572,154,438
Property Damage										
Motor Vehicle	7,282,310	5,634,961	5,691,702	5,470,334	5,877,547	8,180,319	6,038,833	5,586,990	7,403,408	5,148,792
City Property	120,054	198,888	515,162	15,863	8,569	2,815,834	162,524	375,969	67,962	16,554
Correction Facility	1,210	2,801	1,919	14,960	1,551	18,195	18,225	13,061	2,220	665
Damage by City Personnel	981,484	1,450,981	3,303,527	579,380	873,332	1,171,735	959,898	970,468	1,494,155	731,826
Roadway	323,129	274,973	820,666	271,099	295,277	423,961	215,726	140,124	192,379	215,029
Health Facility	8,522	2,866	21,559	18,071	19,648	13,037	13,191	18,376	27,144	6,299
Police Action	195,695	188,699	160,451	120,248	513,676	140,899	170,059	388,101	102,697	71,487
School	2,549	7,589	7,604	11,627	24,157	12,454	10,063	4,581	10,110	9,014
Sewer Overflow	852,955	307,720	1,915,311	272,679	383,619	792,808	775,242	546,357	712,861	7,224,105
Water Main	1,318,991	639,425	1,823,962	664,587	2,142,514	1,577,070	3,183,273	314,365	294,175	344,127
Other	16,708	13,365	42,005	2,192,880	7,320	97,826	12,118	9,483	25,425	9,390
Total	11,103,608	8,722,268	14,303,868	9,631,728	10,147,209	15,244,137	11,559,152	8,367,875	10,332,536	13,777,288
Grand Total	496,223,359	544,039,023	544,947,616	557,838,786	523,266,004	553,965,587	487,397,028	495,119,460	560,659,295	585,931,726

**Table IV – Dollar Amount of Tort Claim Settlements and Judgments by Agency
FYs 2006-2015**

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Department of Transportation	90,634,124	91,729,912	92,500,409	69,697,287	68,204,956	64,147,699	61,924,384	72,253,571	70,786,516	51,994,042
Police Department	107,470,895	89,773,980	104,935,819	134,569,242	137,579,753	186,305,883	152,803,932	138,507,141	222,283,769	222,735,672
Department of Sanitation	19,111,177	35,877,754	27,241,773	32,886,946	38,020,148	28,858,968	36,815,516	30,436,682	37,886,076	29,811,845
Department of Education	33,688,246	41,959,592	53,134,679	55,880,463	36,927,943	52,985,332	28,577,646	34,354,477	27,483,049	35,541,285
NYC Health + Hospitals	162,578,617	158,745,210	153,881,559	134,946,576	135,593,099	133,616,195	108,642,285	132,318,695	124,887,221	121,305,522
Department of Environmental Protection	5,386,767	3,786,706	8,478,133	8,109,061	7,857,296	8,071,431	5,628,320	3,371,620	13,182,950	18,795,525
Department of Correction	10,595,826	16,971,195	21,390,722	16,258,404	43,580,956	15,403,868	20,308,756	11,775,021	11,035,616	27,124,858
Department of Parks and Recreation	7,968,822	15,817,606	12,138,161	9,415,871	16,104,444	17,673,228	18,971,285	29,564,344	18,318,234	13,876,287
Fire Department	21,247,464	22,562,845	18,602,877	16,318,205	20,007,262	16,231,360	28,494,774	19,665,971	20,426,695	46,625,766
Department of Housing Preservation and Development	11,357,744	18,179,508	21,283,261	15,727,510	5,126,366	5,057,356	2,154,067	555,452	2,705,221	1,964,125
NYC Human Resources Administration	1,198,679	4,840,071	866,534	1,482,725	387,636	1,278,134	1,580,241	1,035,063	985,692	970,799
Department of Buildings	1,714,946	854,544	1,413,458	380,236	112,152	2,941,818	218,006	377,908	157,901	268,913
Other	23,270,052	42,940,100	29,080,231	62,166,260	13,763,993	21,394,315	21,277,816	20,903,515	10,520,355	14,917,087
Grand Total	496,223,359	544,039,023	544,947,616	557,838,786	523,266,004	553,965,587	487,397,028	495,119,460	560,659,295	585,931,726

**Table V – Number of Tort Claim Settlements and Judgments by Claim Type
FYs 2006-2015**

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Personal Injury										
Sidewalk	1,708	1,489	1,317	1,041	922	866	857	685	657	663
Police Action	576	715	980	1,144	1,300	1,539	1,751	2,106	2,248	2,279
School	982	978	1,067	847	823	904	728	664	536	483
Motor Vehicle	972	965	1,041	909	895	824	833	724	667	586
Roadway	730	713	750	559	512	547	511	417	367	333
City Property	157	162	170	138	107	113	93	61	70	38
Correction Facility	160	144	159	227	195	266	309	256	378	451
Civil Rights	1,330	4,428	938	1,141	1,281	1,656	1,687	1,558	2,049	1,677
Medical Malpractice	325	300	311	292	315	265	260	267	204	246
Traffic Control Device	101	95	73	55	38	32	28	22	29	20
Parks & Recreation	196	176	188	153	137	155	175	164	149	138
Uniformed Services Employee	117	105	123	90	117	84	106	75	95	121
Other	94	99	76	109	86	78	81	62	69	51
Total	7,448	10,369	7,193	6,705	6,728	7,329	7,419	7,061	7,518	7,086
Property Damage										
Motor Vehicle	3,391	2,703	2,513	2,342	2,495	3,216	2,254	2,135	2,379	1,892
City Property	18	27	17	10	10	16	20	19	39	6
Correction Facility	3	9	9	6	5	21	11	12	5	3
Damage by City Personnel	311	351	332	262	352	329	374	352	408	284
Roadway	270	244	300	275	306	437	208	117	197	287
Health Facility	21	19	44	36	33	25	23	22	40	17
Police Action	76	55	52	62	45	45	48	48	35	26
School	22	53	42	39	83	55	47	26	35	35
Sewer Overflow	75	57	55	60	50	88	60	115	144	650
Water Main	100	76	97	88	77	94	62	51	51	38
Other	11	13	18	14	16	8	7	6	10	6
Total	4,298	3,607	3,479	3,194	3,472	4,334	3,114	2,903	3,343	3,244
Grand Total	11,746	13,976	10,672	9,899	10,200	11,663	10,533	9,964	10,861	10,330

**Table VI – Number of Tort Claim Settlements and Judgments by Agency
FYs 2006-2015**

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Department of Transportation	2,834	2,565	2,437	1,962	1,868	1,935	1,689	1,363	1,393	1,379
Police Department	3,182	2,671	2,962	3,160	3,572	4,117	4,359	4,520	5,052	4,437
Department of Sanitation	1,919	1,499	1,312	1,254	1,376	2,103	1,302	1,045	1,426	1,132
Department of Education	1,038	1,055	1,135	942	961	997	812	736	620	562
NYC Health + Hospitals	429	398	434	413	419	345	337	335	315	315
Department of Environmental Protection	345	297	333	303	284	373	283	299	292	794
Department of Correction	306	3,531	313	388	365	441	464	388	533	600
Department of Parks and Recreation	474	417	436	355	375	391	430	428	389	355
Fire Department	590	578	652	624	642	596	509	586	585	510
Department of Housing Preservation and Development	99	97	92	55	30	35	26	17	14	11
NYC Human Resources Administration	26	30	31	17	21	13	19	20	16	20
Department of Buildings	23	25	25	13	16	20	25	17	17	12
Other	481	813	510	413	271	297	278	210	209	203
Total	11,746	13,976	10,672	9,899	10,200	11,663	10,533	9,964	10,861	10,330

ENDNOTES

- 1 City Charter Chapter 5, § 93(i).
- 2 New York City's tort claim costs are paid from the Judgments and Claims account established annually in the City's General Fund, except NYC Health + Hospitals assumes financial responsibility for its settlements.
- 3 The Comptroller's Office records claims data in its Omnibus Automated Image Storage and Information System (OAISIS). This report is based on data available as of May 11, 2016 in OAISIS. Since OAISIS is a dynamic system that is updated constantly, data in this report does not reflect values for matters that have occurred but have not yet been reported in OAISIS.
- 4 For the purpose of this report "settlement and judgment costs," "liabilities," "expenditures," "amounts paid," or "payouts" will be used interchangeably with "recorded settlements and judgments."
- 5 These numbers include both claims by parents for reimbursement of special education services costs and tuition and claims for statutory attorneys' fees where an underlying claim for special education reimbursement has been successful.
- 6 Executive Law § 632-a(1)(a), (b).
- 7 Change in FY 2014 figure from FYs 2013-14 Claims Report reflects accounting adjustment made in FY 2015.
- 8 For the purposes of the Claims Report, "filed" describes those claims in which a notice of claim was timely filed with the Comptroller's Office; "settled" means any claim or lawsuit that was resolved and resulted in the City paying out money to claimant.
- 9 See Appendix A for a description of claim types.
- 10 NYC Health+Hospitals operates 11 acute care hospitals.
- 11 In FY 2015 the remaining 100 medical malpractice claims filed were against NYC long-term care centers, correction facilities, family care centers, emergency medical services, or unidentified health care facilities.
- 12 Personal injury and property damage claims are analyzed by borough based on location of incident. Some notices of claim are filed without borough specific information or allege incidents that occurred outside the five boroughs. Law claims are not tracked by borough. Population statistics do not take into account commuters or tourists.
- 13 The United States Census Bureau estimated as of July 1, 2015 the total population for New York City was 8,550,405 residents. In order of population the boroughs are: Brooklyn (2,636,735 or 31 percent of the total population); Queens (2,339,150 or 27 percent of the total population); Manhattan (1,644,518 or 19 percent of the total population); Bronx (1,455,444 or 17 percent of the total population); and Staten Island (474,558 or 6 percent of the total population). Statistics do not take into account commuters and tourists.
- 14 Rounded to the nearest whole claim.
- 15 These numbers include both claims by parents for reimbursement of special education costs and separate claims for attorneys' fees where an underlying claim for special education reimbursement has been successful.
- 16 Law claim settlement and judgment figures do not include affirmative claims, wherein the City is to receive payment.
- 17 Claims for special education services costs and reimbursement submitted by the DOE for settlement at the administrative level are for claims of \$25,000 or more. Under a 1998 Memorandum of Understanding (MOU) between the Comptroller's Office and the DOE, the DOE is authorized to make annual tuition payments up to \$25,000 without Comptroller approval. The Comptroller may rescind this MOU at any time. Requests for settlement authority submitted by the Office of the Corporation Counsel for special education reimbursement claims that have proceeded to litigation are not subject to this MOU and are for claims in any amount.
- 18 Bernadine v. City of New York, 294 N.Y. 361, 365 (1945).
- 19 Id.
- 20 Court of Claims Act of 1920, L. 1920, ch. 922, and L. 1929, ch. 467, § 1.
- 21 General Municipal Law, Article § 50-e. Effective September 2010, claimants can file personal injury and property damage claims electronically through the Comptroller's website (<http://www.comptroller.nyc.gov/bureaus/bla/>).
- 22 General Municipal Law, Article 4, § 50-e. One notable exception is a claim under 42 U.S.C. § 1983, the Federal Civil Rights Act; a § 1983 action can be filed directly in court without filing a notice of claim if no state cause of action is asserted.
- 23 City Charter, Chapter 5, § 93(i).
- 24 BLA investigates claims filed against the City; obtains and evaluates accident reports and other documents provided by agencies; conducts field visits, interviews witnesses, and conducts hearings; evaluates liability and damages; and attempts to settle appropriate cases. The Comptroller's Office Bureau of Engineering investigates construction contract claims and negotiates claim settlements, together with BLA and, if litigation is pending, the Office of the Corporation Counsel.
- 25 General Municipal Law, Article 4, § 50-i. A significant exception to this requirement is in the area of medical malpractice, in particular, claims for injuries to newborn infants.
- 26 City Charter, Chapter 17, § 394(c).





New York City Comptroller
Scott M. Stringer