



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Press Release

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For Immediate Release

**CITY AND PLAINTIFFS AGREE TO SETTLE
REPUBLICAN NATIONAL CONVENTION LITIGATION**

***CITY PREVAILED ON CHALLENGES TO CONSTITUTIONALITY OF KEY POLICE POLICIES;
SETTLEMENT RESOLVES OUTSTANDING CLAIMS BY OVER 1,600 PLAINTIFFS***

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New York, N.Y., January 15, 2014 – Law Department officials and plaintiffs today announced their agreement to settle nearly all remaining lawsuits brought by people arrested during the 2004 Republican National Convention (RNC). The proposed settlement concludes a pending class action involving approximately 1,200 plaintiffs, as well as individual lawsuits by 430 additional plaintiffs. The settlement is subject to final approval by the U.S. District Court.

"It was vitally important to defend the City in this litigation, and we are proud of the major victories we achieved," said Celeste Koeleveld, Executive Assistant Corporation Counsel for Public Safety. "Among other successes, the constitutionality of key police policies used during the RNC was upheld, and an effort to restrict the NYPD's ability to police large-scale events was rejected. That said, as the City and the plaintiffs acknowledged in our joint statement, it is in the best interest of those involved in this longstanding litigation to settle the remaining claims."

Details on the Settlement

Upon final approval, the settlement announced today will extinguish the claims of over 1,600 plaintiffs who were arrested during RNC related demonstrations. The average payout per plaintiff is about \$6,400. In total, the plaintiffs will be paid up to \$10.3 million, and their attorneys will receive \$7.6 million. The total number of plaintiffs includes approximately 1,200 people who were part of a class action and 430 people who brought individual claims.

The settlement follows the City's vigorous defense of these cases where it achieved substantial legal victories during the course of the litigation. Some of these successes include:

- Defeating the plaintiffs' request for an injunction that would have restricted the Police Department's future actions by requiring the City to adopt guidelines on mass arrests and precluding it from adopting a "no summons" policy.
- Affirming police officers' authority to make large group arrests in demonstration settings.
- Upholding the constitutionality of the Police Department's "no summons" policy and fingerprinting policy under the highest level of legal scrutiny applicable to constitutional claims under the First Amendment: strict scrutiny.
- Winning summary judgment (and having the win affirmed by the Second Circuit Court of Appeals) in an RNC-related case that upheld the constitutionality of the no-standing zone around Madison Square Garden used during the RNC and of the demonstration zone on

Eighth Avenue (finding that it was an adequate alternative means for demonstrators to communicate).

- Successfully keeping sensitive and confidential intelligence documents from being disclosed. In doing this, the City established the leading precedent for the law enforcement privilege in the Second Circuit Court of Appeals.
- Underscoring the importance of the intelligence gathered leading up to the RNC, which was pivotal in shaping the policies adopted during the event.

Collectively, these successes underscore what the City has maintained all along: that the NYPD met its overall goal during the RNC of facilitating First Amendment activity to the greatest extent possible while keeping the City safe and secure. The District Court did find, however, that no probable cause existed to arrest individuals at one unpermitted march at Fulton Street in Lower Manhattan, exposing the City to liability. With respect to another location, at 16th Street in Manhattan, the District Court found that, while the group there was clearly engaged in unlawful activity, a question remained as to whether officers took sufficient steps to sort out any potential non-law breakers in the group.

At this stage of this long-running litigation, now that the plaintiffs' systemic challenges to the NYPD's policing efforts have been rejected, it makes sense to resolve plaintiffs' fact-specific disputes about the 16th Street location and dozens of other locations. The settlement will also resolve additional claims regarding post-arrest detention of both individual and class-action plaintiffs. While the City continues to dispute these claims, resolving them now significantly reduces the City's potential exposure.

Additional Legal Background

Approximately 1,800 arrests were made during and after the 2004 RNC, primarily at sites where large-scale demonstrations occurred. The arrests were spread over dozens of locations and varied in size, date, and defendants involved. The overwhelming majority of arrests, however, were "mass arrests" where large numbers of individuals were arrested at one time.

Following these events, arrestees filed dozens of lawsuits in federal court. One lawsuit (*MacNamara, et al. v. City of New York, et al*) became a certified class action. The plaintiffs sought both money damages and injunctive relief, including the adoption of guidelines regarding mass arrests and future prohibition of the "no summons policy" employed during the RNC.

Prior to today's announcement, 142 individual plaintiffs had settled their claims with the City. The bulk of those settlements occurred in 2007. The total amount paid to these plaintiffs, including attorneys fees, totals about \$1.8 million (an average of close to \$12,800 per plaintiff).

The settlement was negotiated with guidance by Hon. James C. Francis, IV, U.S. Magistrate Judge for the Southern District of New York. The case is assigned to U.S. District Court Judge for the Southern District of New York Richard J. Sullivan.

The City's legal team was led by Senior Counsel Peter Farrell of the Law Department's Special Federal Litigation Division and was overseen by Executive Assistant Corporation Counsel for Public Safety Celeste Koeleveld. It currently includes Curt Beck, Odile Farrell, Michael Gertzler, Alexis Leist, Cheryl Shammas, Raju Sundaran and Blair Wasserman, and paralegal Natalia Malina.

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