



# Department of Investigation

## *Press Release*

### Release

**MAYOR GIULIANI DETAILS CITY'S TORT REFORM PROPOSAL**  
**LEGISLATION WOULD RESULT IN MILLIONS IN SAVINGS TO CITY TAXPAYERS**  
***Mayor Promises Continued Vigilance Against Fraudulent Suits***

Mayor Rudolph W. Giuliani, joined by Corporation Counsel Michael Hess and Department of Investigation Commissioner Edward Kuriensky, announced today that passage of the City's Tort Reform package, currently pending before the State Legislature, would result in at least \$70 million in savings for New York City taxpayers. The Mayor also noted that the City's Department of Investigation would continue to be vigorous in investigating allegations of fraudulent lawsuits.

"Each year the City spends almost \$400 million on judgements and claims as a result of thousands of lawsuits," said Mayor Giuliani. "New York City's current legislative tort reform package would provide the City, State and all other local governments with significant saving at no cost to the State. The proposal would enable the City to continue to compensate injured parties reasonably while preventing tort costs from escalating uncontrollably. I want to thank Governor Pataki for making tort reform a priority in his upcoming legislative agenda, and I look forward to reviewing it further when it is released later this month."

There are two key components of the Mayor's tort reform proposal.

- **Cap On Pain and Suffering:** Establish a reasonable cap of \$250,000 on pain and suffering - allowing the City to fairly compensate truly injured parties without jeopardizing the City's financial plan.
- **Medical Expense Threshold:** Establish a medical expense threshold of \$5,000 that plaintiffs must meet before being awarded damages for non-economic loss. This would prevent the City from paying substantial damage awards to claimants with only minor injuries.

The proposal also includes other reform initiatives including:

- **Abolish Joint and Several Liability for Economic Damages:** Joint and several liability should be abolished for economic damages recoverable against a public entity. Currently, in a personal injury claim, a defendant with liability up to 50% is only held responsible for the claimant's injuries to the extent of its proportionate fault. A defendant whose liability does not exceed 50%,

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- therefore is only severally liable for a plaintiff's non-economic losses. The proposal would allow public entities to be only proportionately liable for economic as well as non-economic damages.
- Bar Recovery Where Comparative Negligence Exceeds 50%: Comparative negligence should be modified to bar recovery of damages where a claimant is assigned at least 50% culpability or was incurred while the claimant was committing a felonious act.
- In Rem Grace Period: There should be a 2 year in rem grace period that would bar tort suits against municipal corporations based upon unsafe conditions in any in rem building for the first two years after title has vested to give the Department of Housing Preservation and Development time to discover and repair problems with the building.
- Limit Interest on Judgement: The City further proposes that the rate of interest on judgements and claims paid by municipal corporations be lowered from the statutory rate of 9%. By linking the statutory interest rate to the 52- week United States Treasury Bill while maintaining a 9% cap, municipalities will not be required to pay an interest rate higher than the market rate.
- Provide For Affirmative Litigation: This would give public entities the same right to recover consequential damages resulting from wrongful conduct as private parties. Providing public entities with the ability to recover damages will provide substantial savings when there is an act of gross negligence or willful misconduct.

"By proposing to move these cases to the Court of Claims -- where cases are decided by judges -- the Mayor's proposal will address the problem of disproportionate damages awarded by sympathetic jurors who fail to realize that New York City taxpayers must bear the cost of their judgements," said Corporation Counsel Mike Hess.

The Mayor also noted that DOI would remain vigilant in investigating those who bring fraudulent lawsuits against the City of New York. He congratulated Commissioner Kuriansky on the arrest today of Michael Alma, who was charged with attempting to defraud the City of New York of \$5 million by filing a fraudulent lawsuit.

Mr. Alma claimed that the City was negligent in maintaining a sidewalk, causing him to fall and fracture his hand. DOI's investigation revealed that Alma did, in fact, break his wrist, however, the injury was sustained when he threw a punch at his 14-year old cousin -- missed and hit a wooden door, instead. The case is currently being prosecuted by the Office of the Manhattan District Attorney.

Department of Investigation Commissioner Edward Kuriansky said, "People who think that suing the City is a better bet than winning the lottery have to learn that our legal system cannot be fraudulently manipulated for personal gain. This kind of rank abuse not only cheats the City but tarnishes the claims of people with real grievances."

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Mr. Hess added, "Over the last several years, the Law Department has referred a significant number of matters involving the fraudulent prosecution of personal injury lawsuits the Department of Investigation and the City's District Attorneys. Each year more than

10,000 lawsuits are filed against the City, and we estimate that 10 percent of these turn out to be fraudulent lawsuits."