



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

April 2019



Claims Report:

Fiscal Year 2018





THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER

SCOTT M. STRINGER
COMPTROLLER

April 15, 2019

Dear Fellow New Yorkers:

I am pleased to share the Office of the New York City Comptroller's (Comptroller's Office) Claims Report for fiscal year (FY) 2018, covering July 1, 2017 through June 30, 2018. This report, the fifth in my administration, examines claims filed against and on behalf of the City of New York, outlining trends by claim type across City agencies. In FY 2018, personal injury and property damage claim (collectively, tort claims) payouts cost the City \$608.5 million, nearly a 19 percent decrease from the \$750.6 million paid in FY 2017. I urge all City agencies to review this report and perform their own risk analysis in order to further drive down the number of claims filed.

The decrease in overall settlements paid out is encouraging because the City has not experienced a decline in tort claim payouts since FY 2010. The decline can be largely attributed to a 32 percent drop in FY 2018 in the New York City Police Department (NYPD) tort claim settlements and judgments paid out. In FY 2018, the City paid \$229.8 million to settle claims and lawsuits against the NYPD, compared to FY 2017 when the City spent \$335.5 million. In addition, the number of claims filed against the NYPD continued to decline in FY 2018 down to 6,472 from 6,546 in FY 2017. This reduction marks the fourth consecutive year that claims filed against the NYPD have decreased.

Continuing to clear the backlog of high-exposure legacy tort claims that have been in litigation for a decade or more, the City paid out \$65.0 million, constituting 11 percent of the \$608.5 million settlements paid out in FY 2018. On the civil rights front, in FY 2018, to avoid such costly and drawn out litigation for current and future New Yorkers, my office settled pre-

litigation civil rights claims redressing the wrongful convictions of Clifford Jones and Paul Gatling.

Despite the over-all downward trend of total tort settlement and judgment costs, payouts for Department of Sanitation settlements and judgments have increased from \$57.7 million in FY 2017 to \$74.9 million in FY 2018, a 30 percent increase.

In FY 2018, the City settled non-tort claims, such as contract claims, equitable claims, refund claims, and Department of Education special education claims, for a total of \$400.1 million, which represents a 16 percent increase from FY 2017 when settlements totaled \$343.9 million. More than 75 percent of all non-tort claim settlement payments were related to claims for reimbursement of special education services. The amount of settlements paid out for special education claims in FY 2018 increased by eight percent with \$303.0 million paid out on special education claims, compared to \$279.7 million in FY 2017.

Looking to the City's future fiscal health, my administration was at the forefront in sharing comprehensive, real-time claims data to help improve risk management at City agencies. We continue to work closely with the NYPD, Department of Correction, Department of Sanitation, and Department of Citywide Services to adopt best risk management practices to prevent claims from arising in the first place. We are currently developing partnerships with additional City agencies so that we can further expand the use of data-driven processes to implement the best risk management tools City-wide. Reducing costs related to resolving claims against the City will increase available resources to provide better public transit, additional low-income housing, a better school system, and a safer New York City for all.

Sincerely,



Scott M. Stringer

New York City Comptroller



Claims Report: Fiscal Year 2018

SCOTT M. STRINGER
Comptroller

First Deputy Comptroller
Alaina Gilligo

General Counsel / Deputy Comptroller for Legal Affairs
Kathryn E. Diaz

Assistant Comptroller, Bureau of Law & Adjustment
Seunghwan Kim

Chief of Staff, Bureau of Law & Adjustment
Lauren B. Jacobson

Directors, Bureau of Law & Adjustment
Lynell Canagata
Adam S. Karp
Katherine Reilly

Deputy Director for Litigation, Bureau of Law & Adjustment
Rohit Mallick

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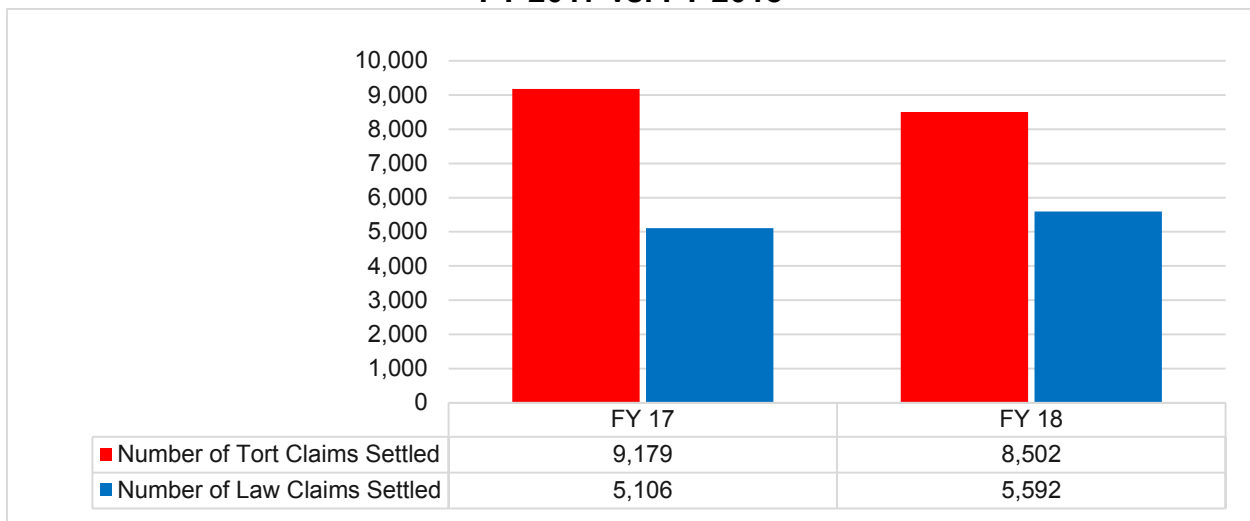


I. EXECUTIVE SUMMARY

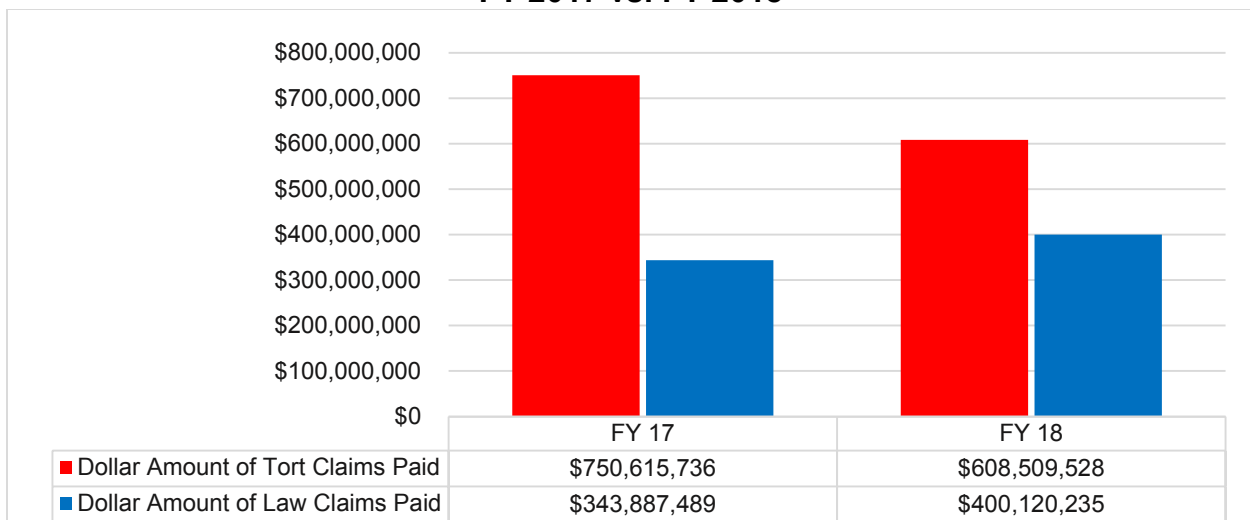
Under the New York City Charter, the Comptroller has the power to settle or adjust all claims in favor of or against the City.¹ This work is performed by the Comptroller’s Office Bureau of Law and Adjustment (BLA), which, under the direction of the Comptroller, the General Counsel/Deputy Comptroller for Legal Affairs, and the Assistant Comptroller for Law and Adjustment, comprises attorneys, claims professionals, engineers, and administrative staff.

In FY 2018, 14,094 claims and lawsuits against New York City were resolved for \$1.0 billion compared to 14,285 claims and lawsuits resolved for \$1.1 billion in FY 2017.² Important decreases are reflected in these composite bar graphs, summarized below the graphs, and then discussed in the report.

**Total Number of Claim Settlements & Judgments
FY 2017 vs. FY 2018**



**Total Amount of Claim Settlements & Judgments Paid
FY 2017 vs. FY 2018**



TORT CLAIMS

There has been a dramatic decrease in the City's payouts on personal injury and property damage claims (collectively, tort claims), which include allegations of slip/trip and falls, medical malpractice, police action, and motor vehicle property damage claims. While the number of tort claims filed in FY 2018 increased slightly by one percent, the amount paid out in settlements and judgments in FY 2018 decreased by 19 percent. Yet New Yorkers continue to pay for claims that were filed more than a decade ago (legacy claims).

- In FY 2018, the City paid out \$608.5 million in tort claims, \$142.1 million less than the \$750.6³ million paid out in FY 2017.⁴
- In FY 2018, the City paid out \$65.0 million for tort claims that were filed prior to FY 2009 (legacy claims).
- Excluding payments on legacy tort claims, payouts declined from \$640.8 million in FY 2017 to \$543.5 million in FY 2018.

Medical Malpractice Claims

Since FY 2009—when 686 claims were filed—the number of medical malpractice claims filed has steadily declined over the past 10 years. Regardless, we anticipate that the City will continue to pay out costly settlements and judgments as a result of the large number of medical malpractice claims filed in years past.

- In FY 2018 there were 474 medical malpractice claims filed, down 11 percent from the 534 medical malpractice claims filed in FY 2017.
- Medical malpractice claim settlements and judgments in FY 2018 declined to \$68.8 million from \$103.3 million in FY 2017.

NYPD Claims

As was the case in FY 2017, a small number of New York Police Department (NYPD) claims disproportionately accounted for the total dollar amount paid out on NYPD claims in FY 2018.

- NYPD tort claim settlements and judgments shrunk dramatically from \$335.5 million in FY 2017 to 229.8 million in FY 18, a 32 percent decrease.
- In FY 2018, five wrongful conviction claims, representing less than one percent of the 3,745 NYPD tort claims resolved during FY 2018, settled for a total of \$33.3 million, which accounted for 14 percent of the total \$229.8 million in NYPD payouts.

- NYPD tort claims accounted for 38 percent of the total overall cost of resolved tort claims in FY 2018.
- The number of tort claims filed against the NYPD dropped to 6,472 in FY 18 from 6,546 in FY 2017.

Department of Sanitation Claims

- In FY 2018, Department of Sanitation (DSNY) paid out \$74.9 million for tort settlement payouts, \$17.2 million more than \$57.7 million paid out in FY 2017.
- This increase continues a general upward trend in DSNY tort claim payouts since FY 2015. This trend can be attributed to litigations involving severe injuries associated with accidents related DSNY heavy equipment and trucks.

LAW CLAIMS

Law claims include disputes arising from City contracts, equitable claims, refund claims, City employee salary disputes, claims involving Department of Education (DOE) special education matters, sidewalk assessments, cleanup costs levied on property owners who are in violation of the Mental Hygiene Law, and affirmative claims that are brought by the City against individuals, companies, corporations, and other entities for torts, breaches of contract, and as remedies for violations of civil codes.

- In FY 2018, the City paid out \$400.1 million in non-tort claims, or “law claims,” a 16 percent increase from the \$343.9 million paid out in FY 2017.
- More than 75 percent of all non-tort claim payments were related to claims for reimbursement of the cost of special education services.

Special Education Claims

- The total settlement amount paid out for special education claims in FY 2017 increased by eight percent—\$303.0 million was paid out on special education claims during FY 2018, compared to \$279.7 million paid out in FY 2017.
- Special education claim payouts in FY 2018 were 185 percent greater than those in FY 2013 and 132 percent greater than those in FY 2014.

Contract Claims

- Contract claims filed in FY 2018 decreased 42 percent since FY 2017, from 153 claims filed in FY 2017 to 89 claims filed in FY 2018.
- The number of settlements of contract claims has decreased 19 percent to 26 contract claim settled in FY 2018 from 32 contract claims settled in FY 2017.
- There has been a 32 percent increase in the settlement amount paid out for contract claims to \$61.3 million in FY 2018 from \$46.4 million in FY 2017.
- A subcategory of contract claims—those in which a contractor alleges the City was responsible for a delay—saw the amount paid out in settlements decrease 34 percent to \$26.6 million in FY 2018 from \$40.1 million in FY 2017 for the same number of claims.

Affirmative Claims

- In FY 2018, the Comptroller’s Office approved settlement of 871 affirmative claims for a benefit to the City of \$19.7 million, as compared to FY 2017, when 986 affirmative claims were settled for \$11 million. The FY 2018 amounts recovered were \$8.7 million or 79 percent greater than in FY 2017.
- In FY 2018, the City recovered civil penalties in the amount of \$4.0 million on 531 claims, up from \$1.6 million recovered in civil penalties on 337 claims in FY 2017.

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

ClaimStat Update and Inter-Agency Partnerships

In 2014 the Comptroller's Office introduced ClaimStat, a data-driven analysis of claims filed against the City. ClaimStat was conceived as a way for City agencies to review claims data in real time, identify claim filing trends that are costly to the City, and implement policies and best practices to mitigate risk or avoid filing of claims altogether. ClaimStat has proven to be a useful tool in the effort to reduce the number of claims filed against the City and, in turn, limit the City's financial exposure.

In addition to the real-time data exchange, BLA participates in regularly-scheduled conference calls with several City agencies to discuss claims, help find ways to better manage risk, and implement best practices. The NYPD was the first City agency to partner with the Comptroller's Office and began to share data in 2014. In addition to the successful partnership with the NYPD, other City agencies entered into agreements with the Comptroller's Office to share data to improve risk management. In January 2017, the Comptroller's Office entered a Memorandum of Understanding (MOU) with the Department of Sanitation (DSNY) to share real-time data. The Comptroller's Office expanded ClaimStat later that year to the Department of Correction (DOC). Most recently, in 2018, the Comptroller's Office entered into a new agreement to share real-time data with the Department of Citywide Administrative Services (DCAS) in an effort to manage risk involving City fleet vehicles.

During its conference calls with these City agencies, BLA discusses with those who are responsible for analyzing agency risk claim-filing trends and suggests policies that may prevent the filing of similar claims in the future. For example, each week BLA and NYPD's Police Action Litigation Section (PALS) confer about claims and relevant NYPD policies related to risk management. In addition, the exchange of data and candid communication between the BLA and PALS plays a critical role in the ability of the BLA to investigate and evaluate NYPD claims early on in the claim process. The Comptroller's Office seeks to expand ClaimStat to other City agencies to help mitigate agency risk and implement best practices, resulting in cost savings for taxpayers.

Recovery Program Update

The Comptroller's Office partners with the Human Resources Administration—particularly with the Office of Child Support Enforcement (OCSE)—to collect reimbursements for public assistance and Medicaid benefits, as well as child support obligations, from claimants who receive settlement payouts from the City. In 2018, the Comptroller's Office and the OCSE successfully enhanced the automated process with daily information exchanges to ensure that outstanding payments are processed and collected in a proper and timely manner. The

Comptroller's Office also works with the New York City Department of Finance to collect offsets, including unpaid parking tickets, against claimants who reach a settlement with the City. In FY 2018, the Comptroller's Office collected \$7.1 million from claimants with outstanding obligations to the City including \$4.3 million in Medicare/Medicaid liens, \$2.4 million in child support arrears, and \$370,000 in parking violation bureau judgments.

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

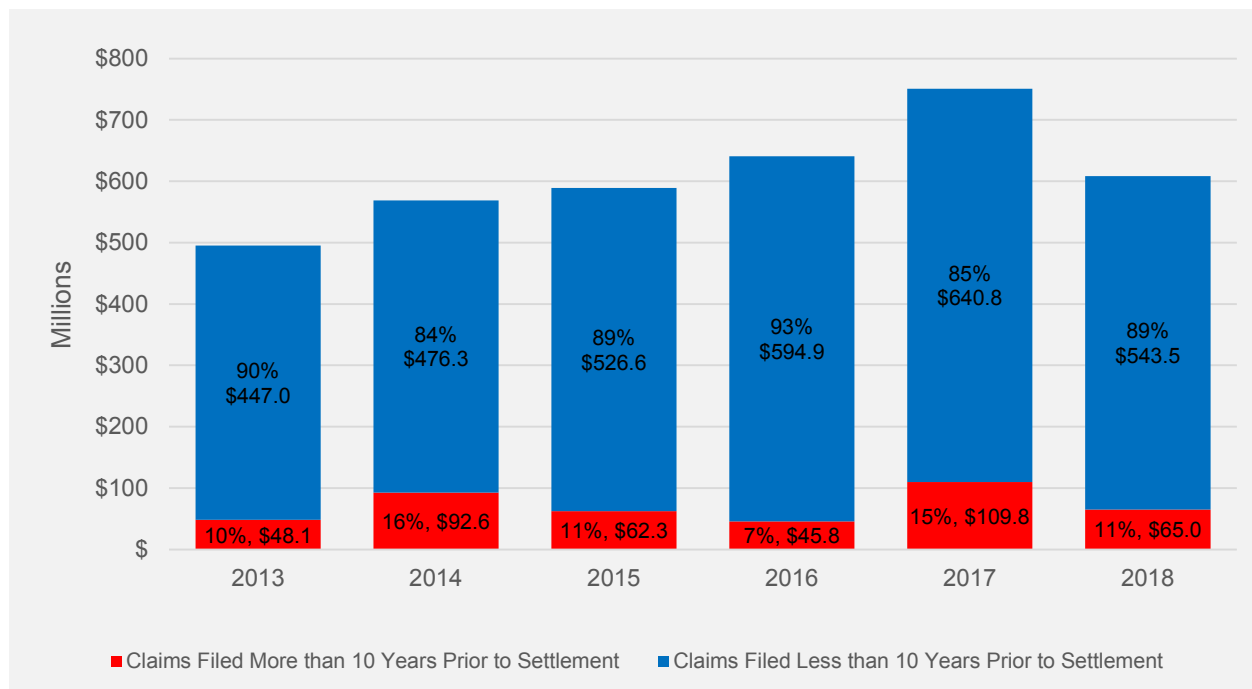
The New York State Son of Sam Law permits a crime victim to commence a civil action to recover money damages for “profits from a crime” or the “funds of a convicted person.”⁵ Under the law, the Comptroller's Office must report to the New York State Office of Victim Services (Victim Services) any City settlement obligation to a convicted person that exceeds \$10,000. BLA automated its process to identify claims that should be reported and works closely with Victim Services and the New York State Attorney General's Office to identify settlements awarded to convicted persons from whom victims can recover money. In FY 2018, the City collected \$339,000 from convicted plaintiffs who recovered settlement monies from the City. In compliance with the Son of Sam Law, these funds were distributed to victims of the crimes committed by these plaintiffs. Since FY 2011, the City has paid out \$997,000 to crime victims under the Son of Sam Law.

III. LEGACY CLAIMS

Payments for Personal Injury Tort Claims Filed Before FY 2009

New Yorkers continue to pay for claims that were filed more than a decade ago. In FY 2018, the City paid out \$65.0 million for tort claims that were filed before FY 2009.

Chart 1
Personal Injury Tort Claim Settlements for Legacy Claims
FYs 2013–2018

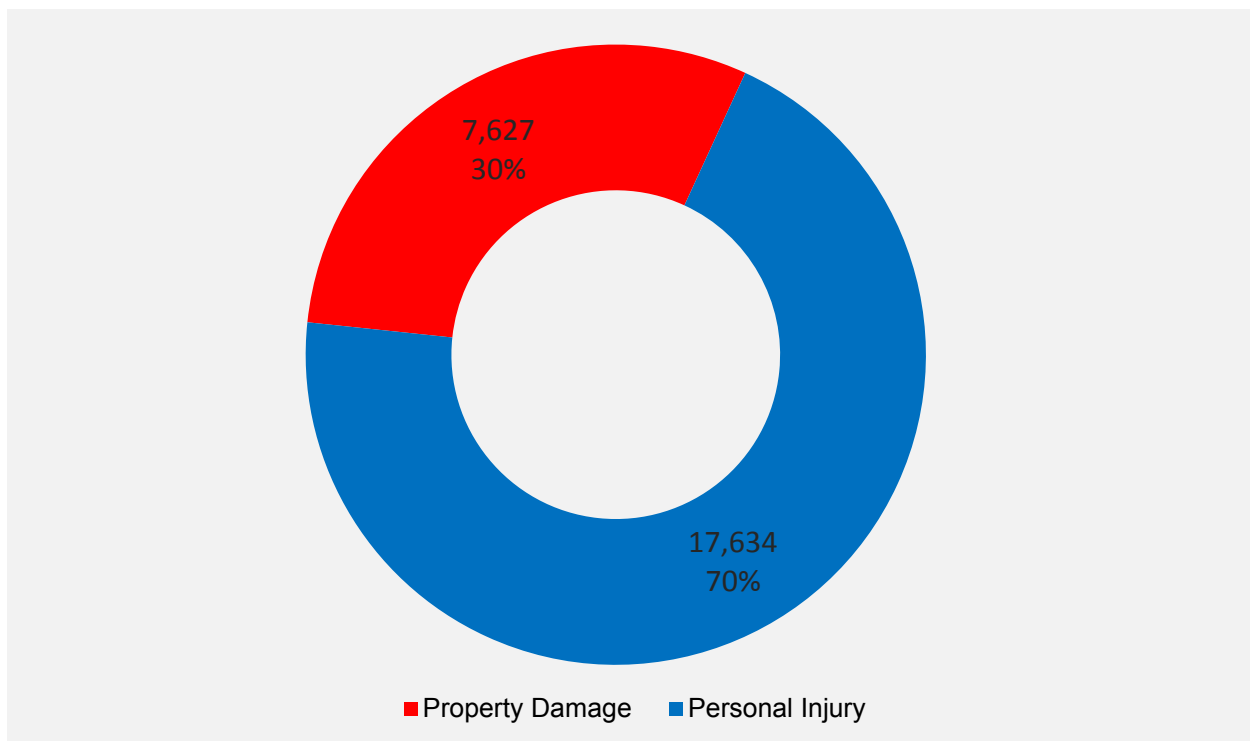


In FY 2018, the City continued its efforts to clear the back-log of old claims that were filed more than 10 years ago. While zealous litigation is required to defend the City’s core policies and to fight meritless claims, the City should not unnecessarily engage in scorched earth litigation. An analysis of the results of prolonged and drawn out litigation—so-called “legacy claims”—shows that engaging in decades-long litigation is not the best use of the City’s legal resources and, at times, even increases the City’s exposure to unreasonable verdicts and judgments. As Chart 1 shows, New Yorkers paid millions in FY 2018 for claims that were filed more than 10 years ago. The Comptroller’s Office will continue to work closely with the New York City’s Corporation Counsel’s Office to ensure that claims and lawsuits are resolved in a timely, cost effective, and prudent manner to ease the fiscal burden of future New Yorkers.

IV. TORT CLAIMS

Tort claims consist of personal injury and property damage claims. While the number of tort claims filed in FY 2018 increased slightly—one percent—the amount paid out in tort claim settlements in FY 2018 decreased.⁶ In FY 2018, 25,261 personal injury and property damage claims were filed compared to 24,976 tort claims filed in FY 2017.⁷

Chart 2
Comparison of Tort Claims Filed:
Property Damage vs. Personal Injury
FY 2018



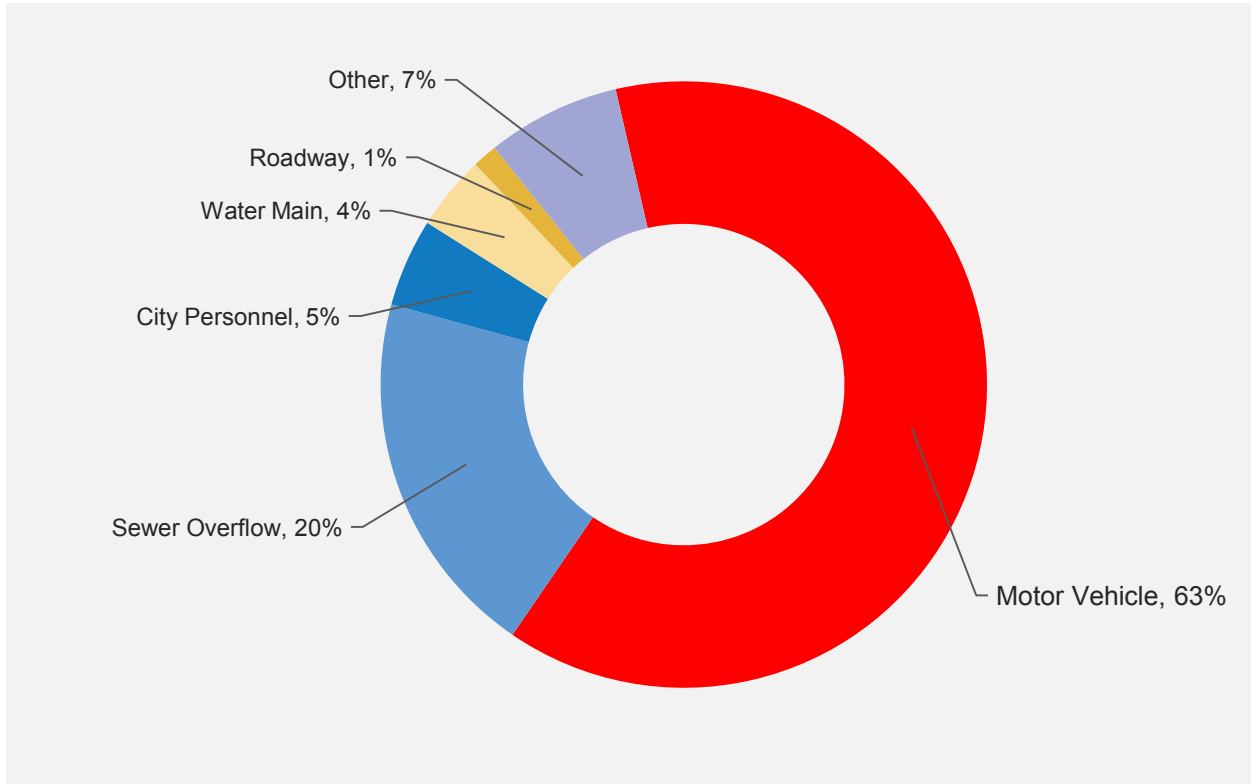
In FY 2018, tort claim settlements cost the City \$608.5 million, nearly a 19 percent decrease from the \$750.6 million paid out in FY 2017. Settlements and judgments for personal injury and property damage claims cost each City resident approximately \$70.57 in FY 2018.

A. PROPERTY DAMAGE CLAIMS

Property damage claims consist of damage or loss to personal property as a result of the City's alleged negligence, including, but not limited to, motor vehicle accidents, roadway conditions, water main breaks, and sewer overflows. In FY 2018, property damage claims represented one percent of the City's total tort claim payouts. Property damage claims filed in FY 2018 rose to 7,627, a one percent increase, over the 7,570 claims filed in FY 2017. Property

damage settlement and judgment payouts decreased by 28 percent in FY 2018 to \$7.6 million from \$10.6 million in FY 2017.

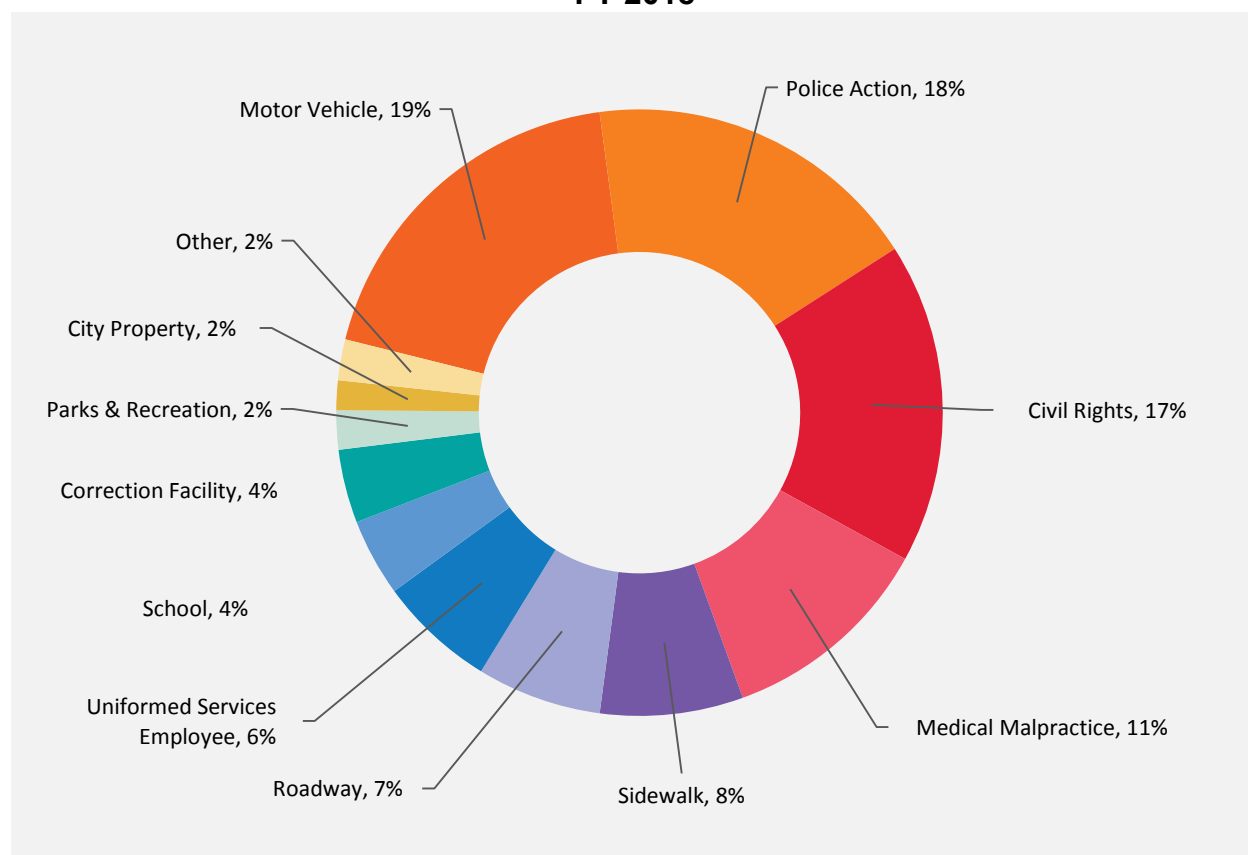
Chart 3
Percentage of Property Damage Claim Settlements & Judgments Recorded by Claim Type
FY 2018



B. PERSONAL INJURY CLAIMS

Personal injury claims are the most frequently filed and the most costly claims to resolve. These claims include, but are not limited to, allegations of medical malpractice, civil rights violations, injuries occurring in DOE schools, motor vehicle accidents involving City-owned vehicles, defective sidewalks, or unlawful actions of the police or uniformed services employees. In FY 2018, personal injury claims accounted for \$600.9 million, or 99 percent, of the \$608.5 million paid out on settled tort claims. The average settlement and judgment cost for personal injury claims in FY 2018 was \$93,710, 13 percent lower than the average of \$107,997 in FY 2017.

Chart 4
Percentage of Personal Injury Claim Settlements Recorded by Claim Type
FY 2018

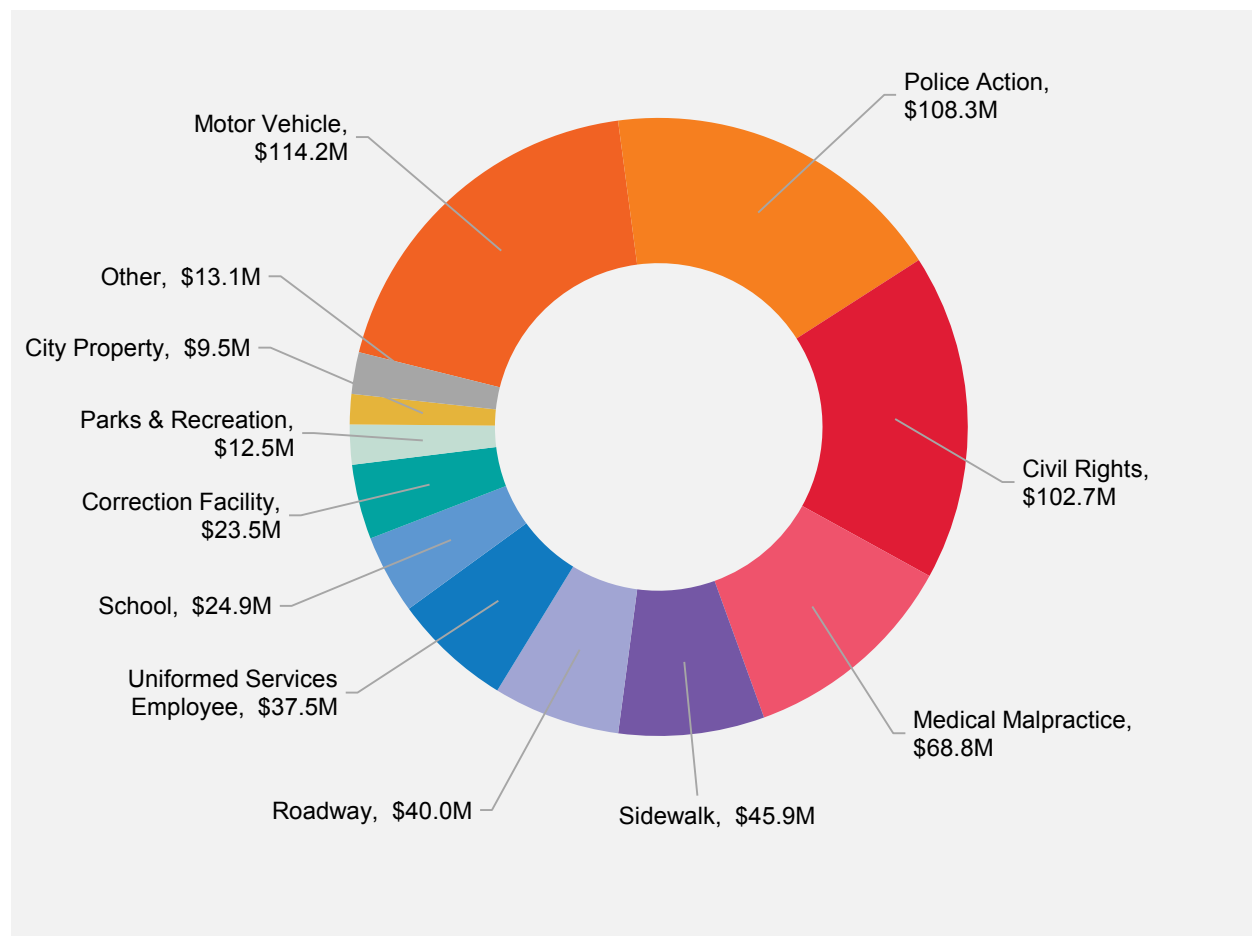


C. PERSONAL INJURY CLAIM TRENDS BY CLAIM TYPE

In FY 2018, the five costliest personal injury claim settlements by claim type were motor vehicle claims (\$114.2 million), police action claims (\$108.3 million), civil rights claims (\$102.7 million), medical malpractice claims (\$68.8 million), and sidewalk claims (\$45.9 million). Together, in FY 2018, these five claim types cost \$439.9 million in payouts and accounted for 73 percent of all personal injury settlements and judgments paid out.

Out of the 6,412 personal injury settlements and judgments, there were 105 personal injury claim payouts for \$1 million or more in FY 2018, totaling \$257.6 million. These 105 claims represent 42 percent of the total personal injury claim payouts for FY 2018. Payouts on civil rights claims (\$65.7 million), motor vehicle claims (\$63.4 million), medical malpractice claims (\$36.4 million), roadway claims (\$21.4 million), and uniformed services employee claims (\$18.9 million) represent 80 percent of the total \$257.6 million paid out on personal injury claim settlements exceeding \$1 million.

Chart 5
Total Amount Paid for Personal Injury Claim Settlements Recorded by Claim Type
FY 2018

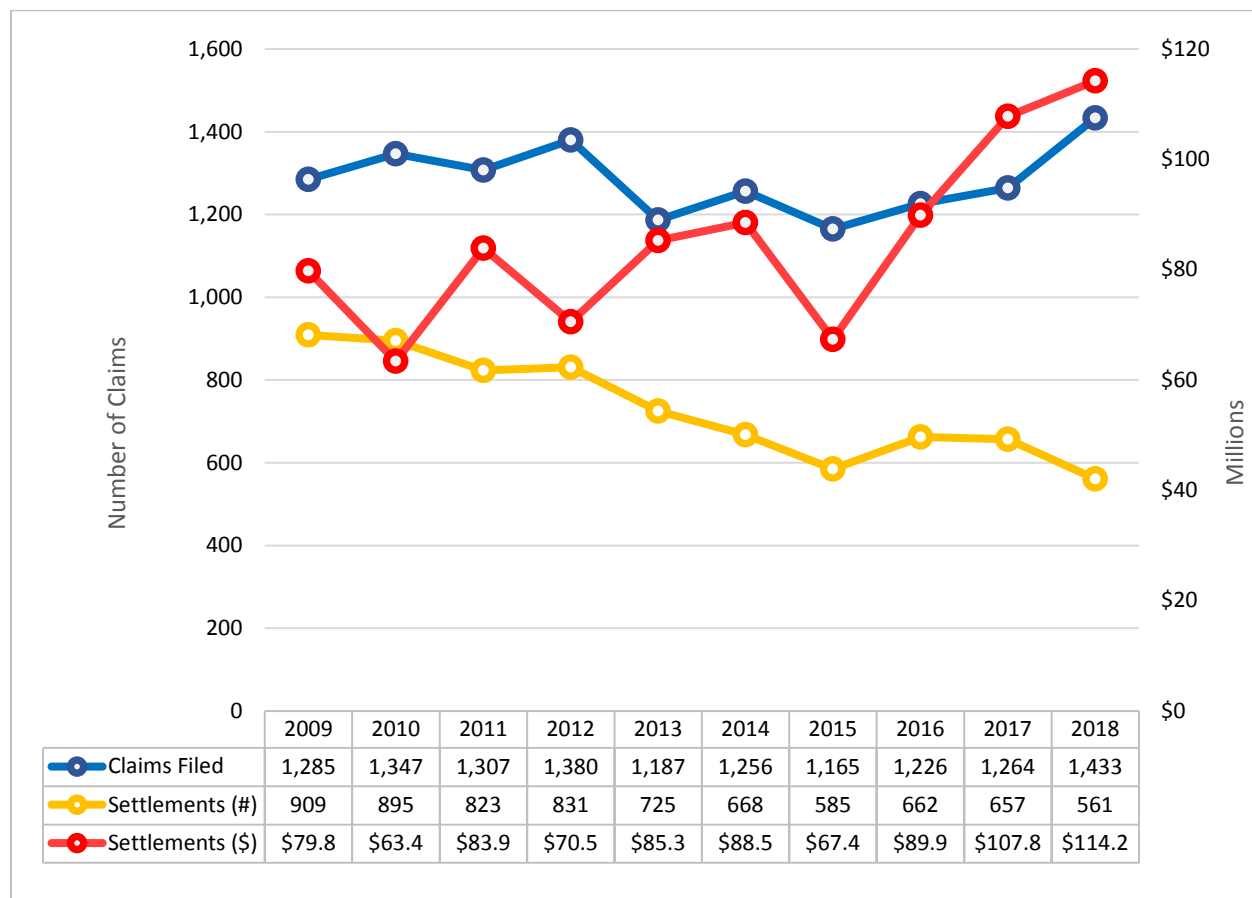


1. Motor Vehicle Claims

Personal injury motor vehicle claims involve alleged accidents with City-owned vehicles. There were 1,433 personal injury motor vehicle claims filed in FY 2018, up 13 percent from FY 2017 when 1,264 claims were filed. In FY 2018, the number of personal injury motor vehicle claim settlements decreased from 657 in FY 2017 to 561 in FY 2018, a 15 percent decrease. In FY 2018, personal injury motor vehicle claim settlements and judgments cost \$114.2 million, a six percent increase, compared to \$107.8 million in FY 2017. In FY 2018, 34 of the 105 personal injury tort claims resolved for \$1 million or more were motor vehicle claim payouts, totaling \$63.4 million. The amount paid out in FY 2018 on these 34 personal injury motor vehicle claims represents 56 percent of the overall settlement payments for all personal injury motor vehicle claims.

Personal injury motor vehicle claim settlements increased by six percent. The cost of personal injury motor vehicle claim settlements and judgments has steadily increased from the \$67.4 million in FY 2015 to \$114.2 million in FY 2018.

Chart 6
Personal Injury Motor Vehicle Claims Filed and Settled
FYs 2009–2018

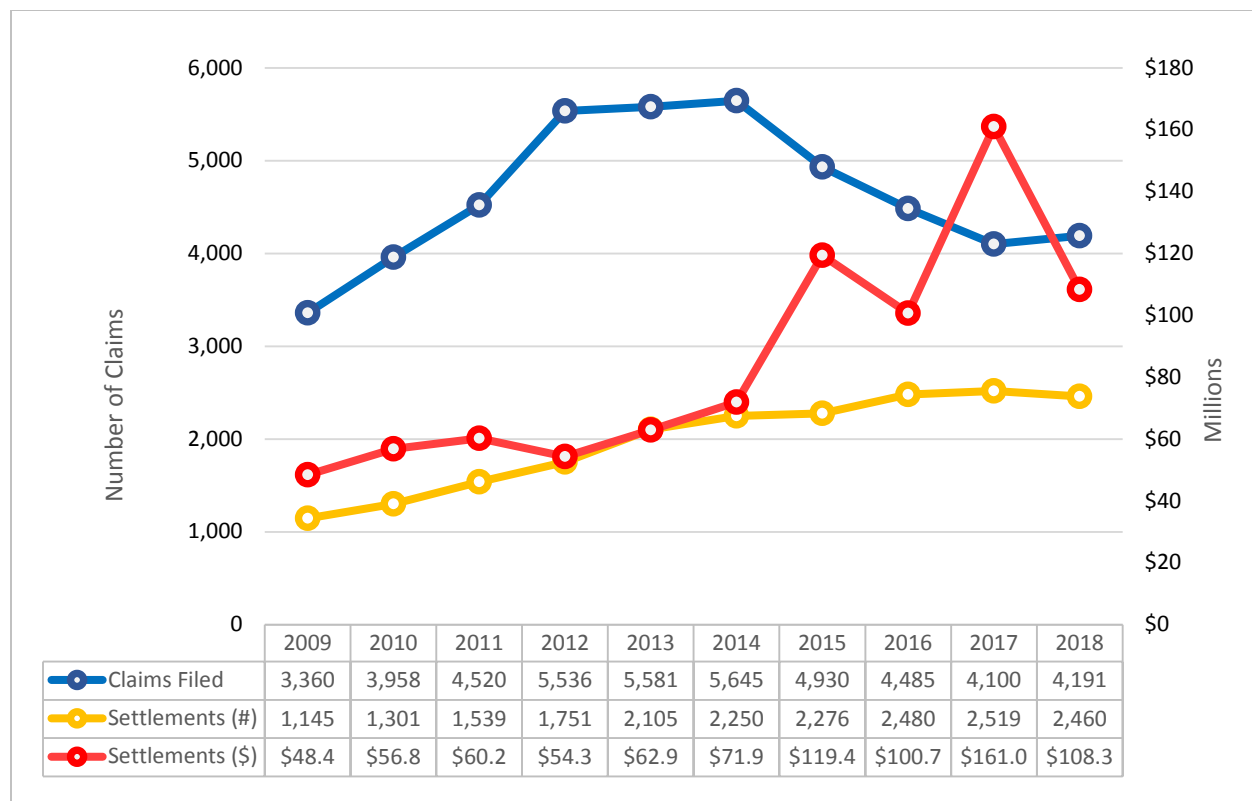


2. Police Action Claims

Police action claims result from allegations of improper police conduct, such as false arrest or excessive force under New York State law litigated in New York State courts. Police action claims were the most frequently filed personal injury claim and accounted for the highest claim-type payout in FY 2018.

Police action claim filings remained stable, as 4,191 claims were filed in FY 2018 compared to 4,100 claims in FY 2017. Settlements over the same time period remained similarly stable—in FY 2018 2,460 police action claims were settled or adjudicated compared to 2,519 claims settled or adjudicated in FY 2017. Despite effectively the same number of claims filed and resolved, however, the cost of police action claims settled in FY 2018 decreased 33 percent to \$108.3 million compared to \$161.0 million in FY 2017. Notably, BLA settled 1,350 pre-litigation police action claims, or 55 percent, of all police action claims resolved in FY 2018.

Chart 7
Police Action Claims Filed and Settled
FYs 2009–2018



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 such as false arrest, malicious prosecution, excessive force, or wrongful conviction claims under 42 U.S.C. § 1983.

There were 1,507 civil rights claims filed in FY 2018, compared to 1,712 claims filed in FY 2017, a 12 percent drop. In FY 2018 the cost of civil rights claim payouts decreased to \$102.7 million from \$155.0 million in FY 2017, a 34 percent decrease. Ten of the 105 personal injury tort claims that resolved for \$1 million or more in FY 2018 were for civil rights claim payouts, totaling \$65.7 million or 64 percent of the total paid out on civil rights claims.

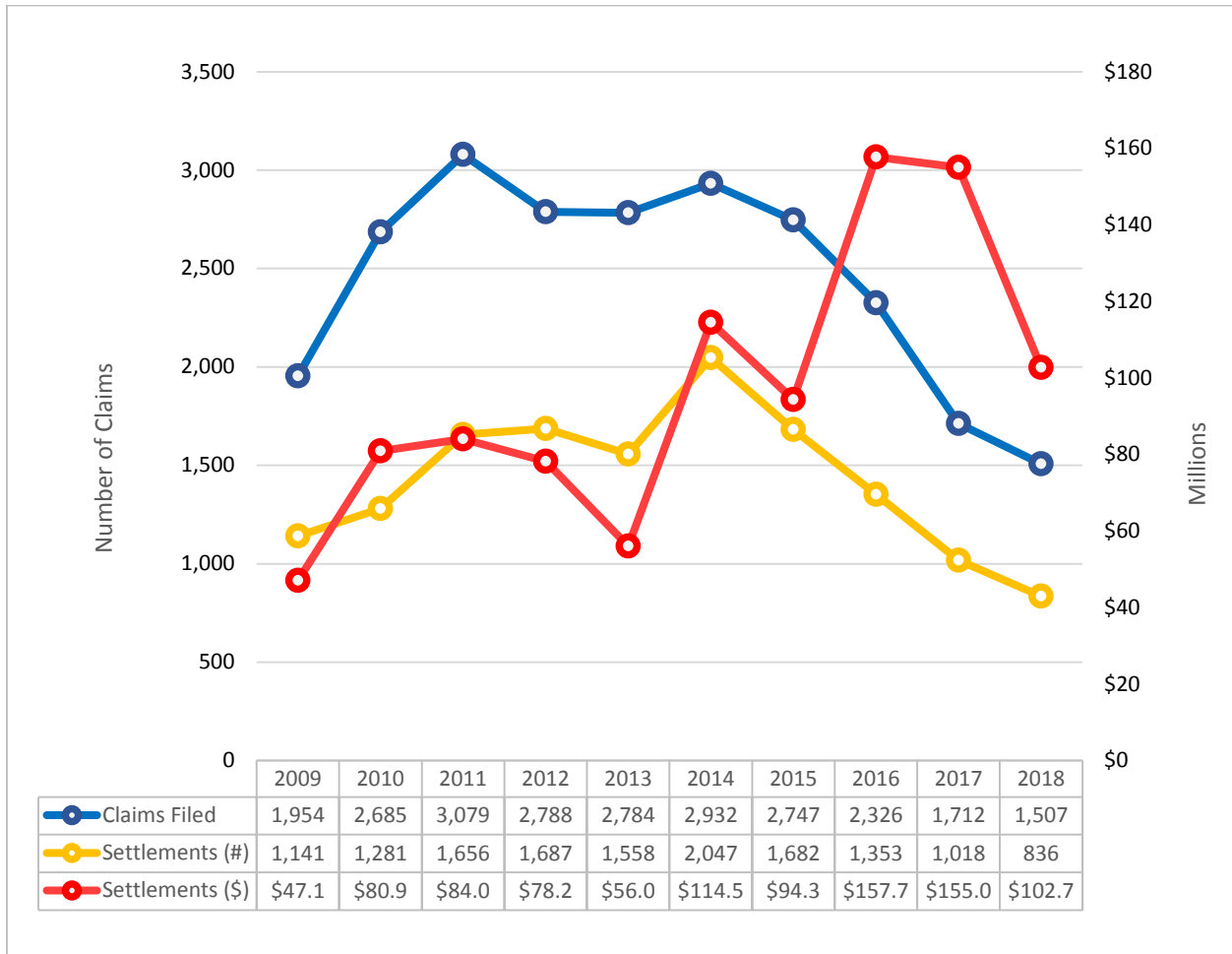
In FY 2018, the Comptroller's Office settled the wrongful conviction claims of Clifford Jones (\$7.5 million) and Paul Gatling (\$1.5 million) pre-litigation⁸ to avoid lengthy legal proceedings that are costly for the City and claimants alike. Mr. Jones served 29 years in prison before being exonerated by newly-tested DNA evidence that was previously unavailable. Mr. Gatling served 10 years in prison before his 30 year sentence was commuted; he was exonerated in 2016.

Three wrongful conviction claims that were actively being litigated were resolved during FY 2018, those of Andre Hatchett, Ruddy Quezada, and Joel Fowler. Mr. Hatchett was convicted of murder in 1991 and served 25 years in prison before his conviction was vacated in March 2016. Mr. Hatchett settled his lawsuit against the City for \$12.25 million. Mr. Quezada was convicted of murder in 1991 and served 24 years in prison. In August 2015, the Appellate Division, Second Department vacated Mr. Quezada's conviction. Mr. Quezada settled his lawsuit against the City for \$9.5 million. Mr. Fowler was convicted of a 2007 murder and served over seven years before his conviction was vacated in August 2015. Thereafter, Mr. Fowler settled his lawsuit against the City for \$2.5 million.

In FY 2018, the City also resolved the *Stinson* class action lawsuit that was filed in 2010 and alleged that an NYPD quota system resulted in improperly issued summonses to a class of nearly one million potential claimants. The City paid out \$25.4 million to fully resolve the class claims, associated attorneys' fees, and administrator costs. Notably, the City was able to recover over \$500,000 in child support arrears from the class of claimants, and redirected that sum to parents owed child support payments.

Remarkably, the above five wrongful conviction settlements and the *Stinson* class action settlement account for \$58.7 million or 57 percent of the civil rights claim payouts in FY 2018.

Chart 8
Civil Rights Claims Filed and Settled
FYs 2009-2018

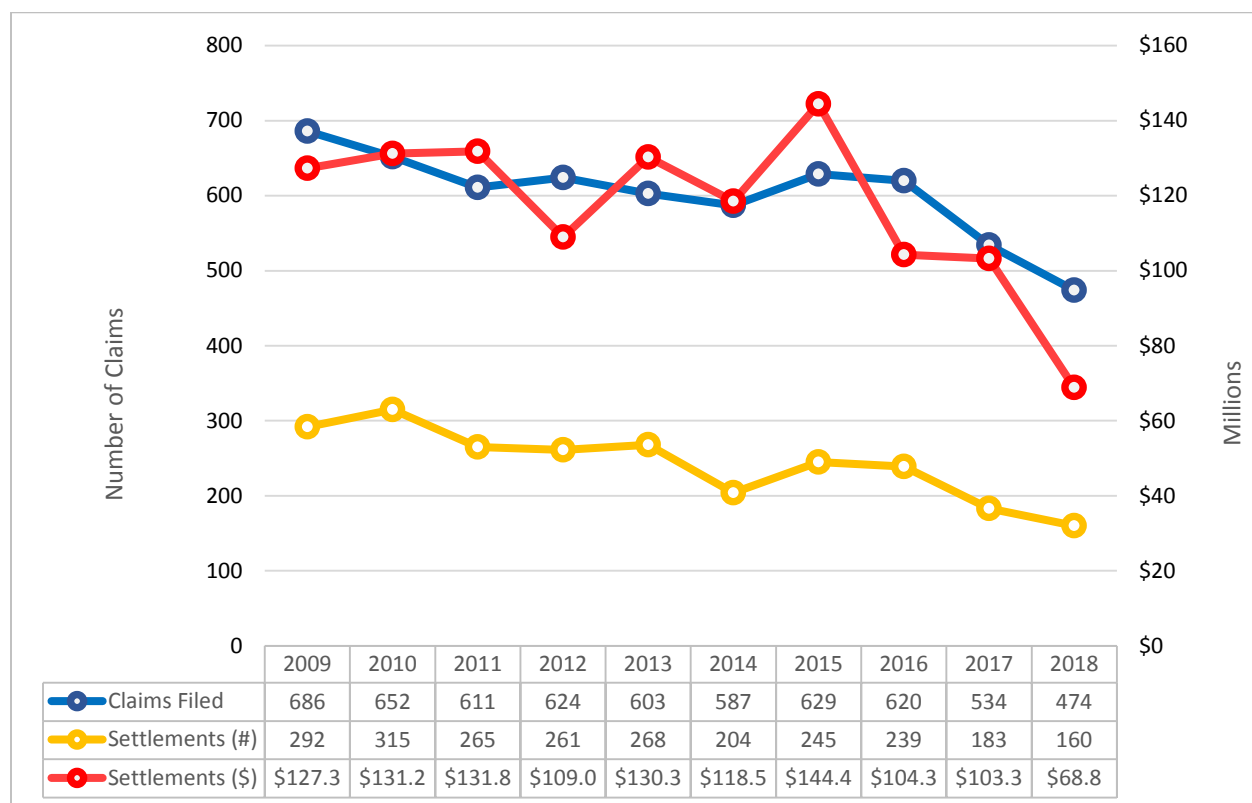


4. Medical Malpractice Claims

Medical malpractice claims result from alleged improper diagnosis, treatment, or care and are mostly filed against NYC Health + Hospital (H+H) facilities. Settlements of and judgments on medical malpractice claims accounted for 11 percent of the total \$600.9 million paid out for personal injury claims resolved in FY 2018. The 160 medical malpractice claims resolved in FY 2018 cost the City \$68.8 million in settlement and judgment payouts, compared to \$103.3 million paid out for 183 medical malpractice claims settled in FY 2017. In FY 2018, 16 of the 105 personal injury tort claims resolved for \$1 million or more were medical malpractice claim payouts, totaling \$36.4 million.

Since medical malpractice claims are complex, the cases often take five to ten years to resolve. The *number* of claims filed is therefore a better indicator of medical malpractice claims activity than the dollar amount paid out in any single year. In FY 2018, there were 474 medical malpractice claims filed, down 11 percent from the 534 medical malpractice claims filed in FY 2017. Medical malpractice claims appear to be stabilizing after reaching a high in FY 2009, but we anticipate that the City will continue to pay out costly settlements as a result of the large number of medical malpractice claims filed in years past.

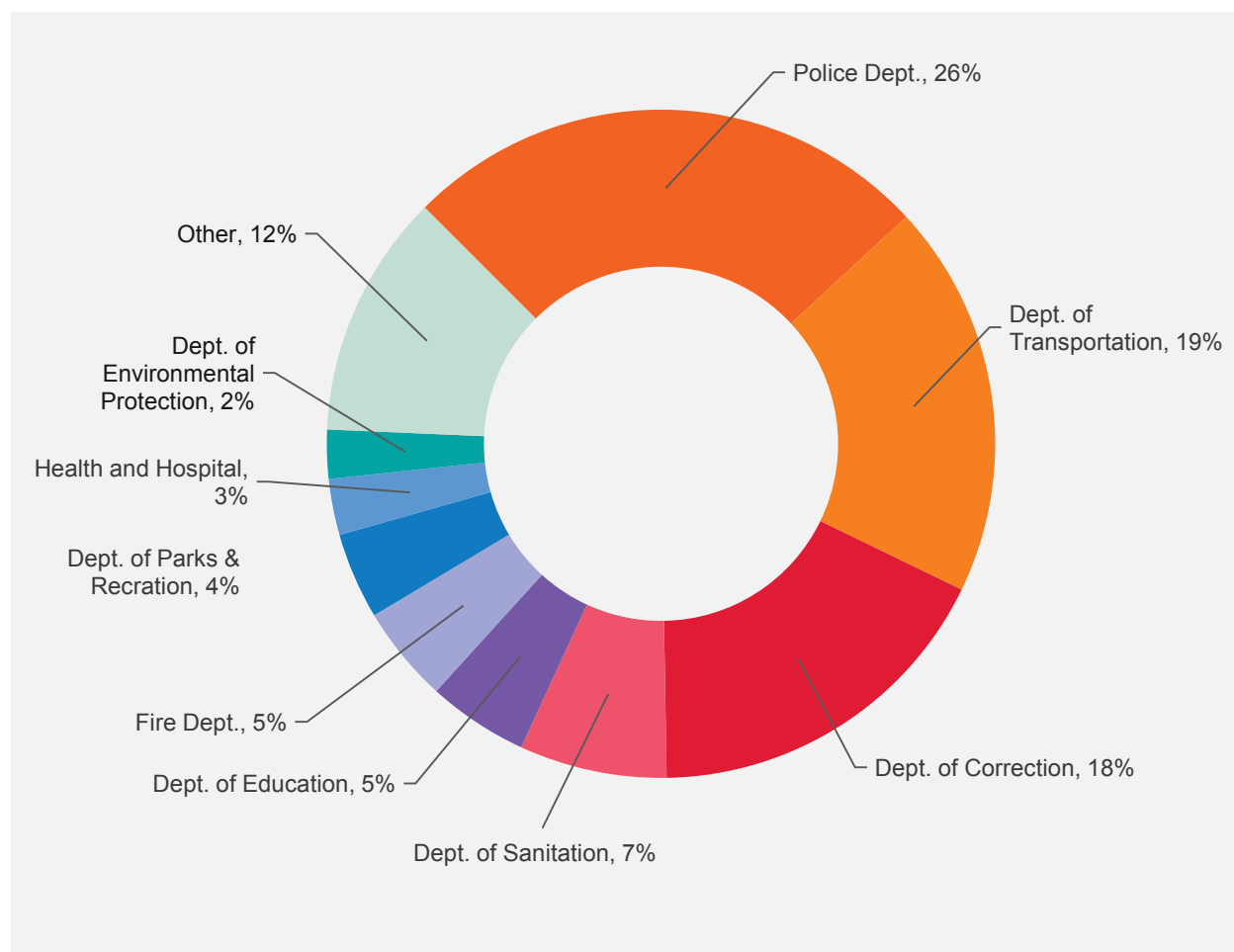
Chart 9
Medical Malpractice Claims Filed and Settled
FYs 2009–2018



D. TORT CLAIM TRENDS BY AGENCY

In FY 2018, the five agencies that experienced the largest number of tort claims filed were the NYPD (6,472 claims), Department of Transportation (DOT) (4,818 claims), DOC (4,430 claims), DSNY (1,803 claims), and DOE (1,230 claims). Of these five agencies, only DOT experienced an increase in tort claims filed during FY 2018—a minimal increase of one percent from FY 2017.

Chart 10
Percentage of Tort Claims Filed by Agency
FY 2018

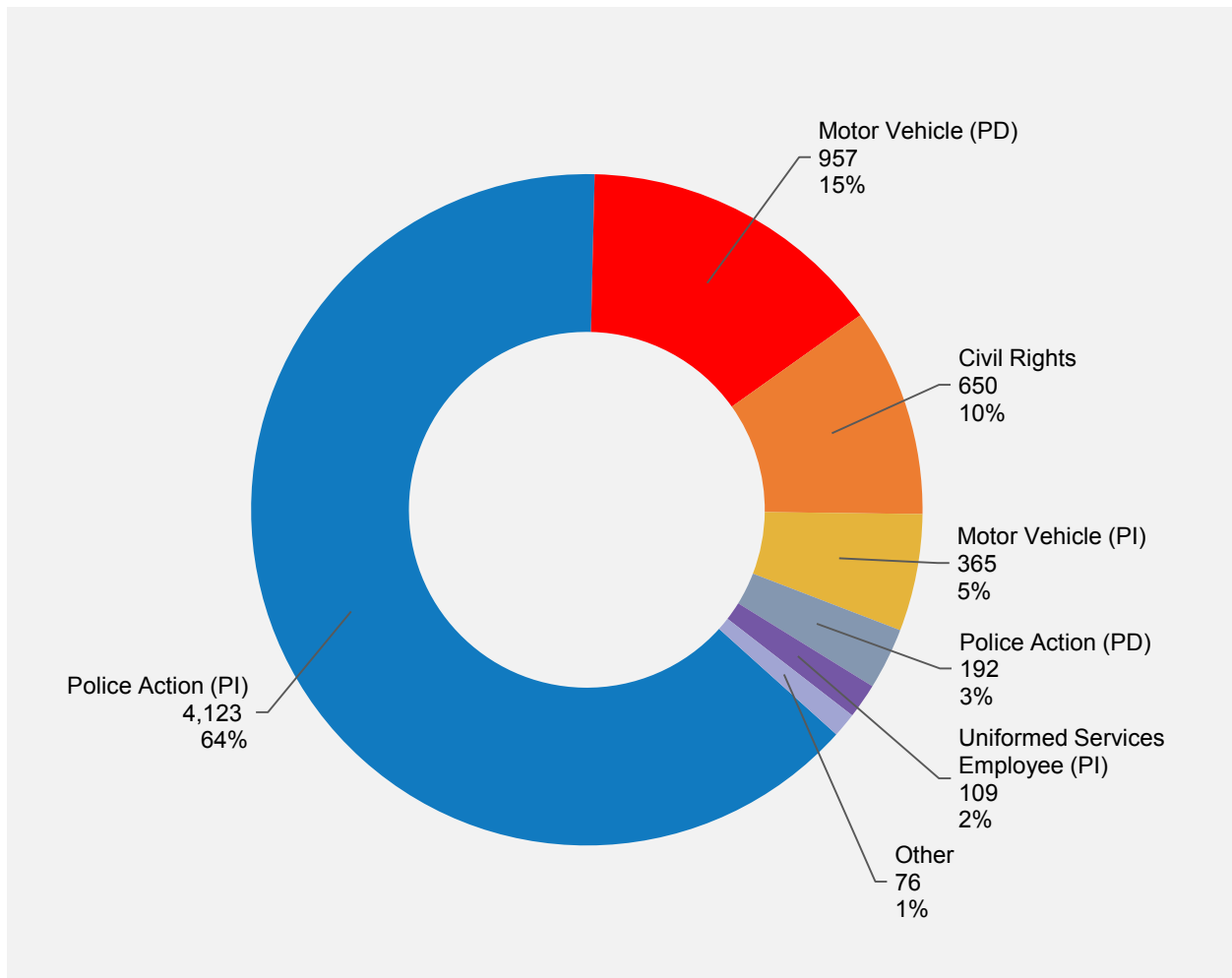


The five agencies with the highest tort claim settlement and judgment costs in FY 2018 were the NYPD (\$229.8 million), DOT (\$89.6 million), DSNY (\$74.9 million), H+H (\$70.0 million), and DOC (\$31.5 million).

1. New York City Police Department

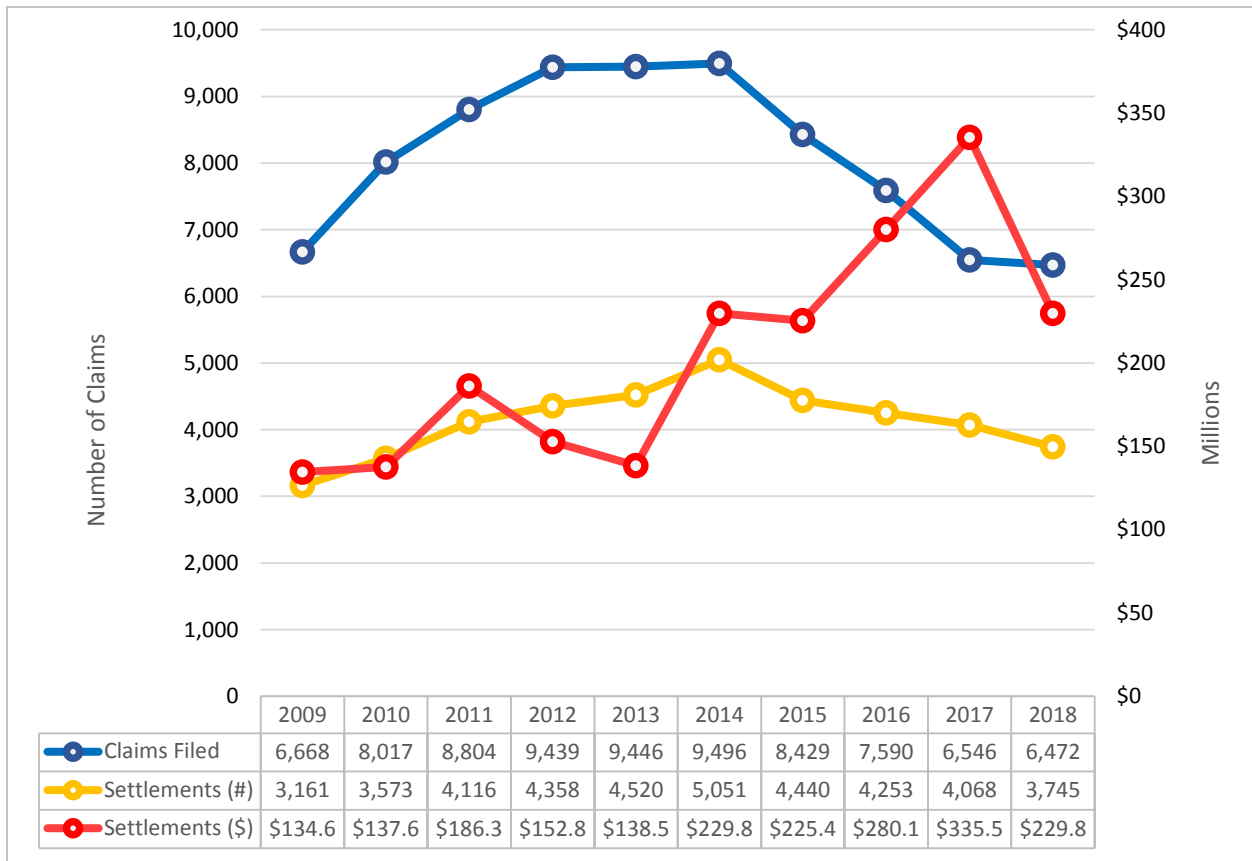
Tort claims against the NYPD include, but are not limited to, allegations of excessive force, civil rights violations, and personal injury or property damage claims arising out of motor vehicle accidents involving police vehicles. In FY 2018, the number of tort claims filed against the NYPD dropped to 6,472 from 6,546 claims filed in FY 2017, which represents a one percent decrease.

Chart 11
Number and Percentage of NYPD Tort Claims Filed by Claim Type
FY 2018



Tort claims against the NYPD that were resolved in FY 2018 cost the City \$229.8 million, compared to \$335.5 million in FY 2017, a 32 percent decrease. As tort claims filed against NYPD peaked in FY 2014, protracted litigation resulted in an increase in total NYPD payouts through FY 2017, despite a general decline in tort claims filed against the NYPD. Nevertheless, NYPD tort claims still accounted for 38 percent of the total overall cost of settled personal injury and property damage claims in FY 2018.

Chart 12
NYPD Tort Claims Filed and Settled
FYs 2009–2018



Despite the substantial decrease in total NYPD tort claim settlements in FY 2018, a substantial number of pending wrongful conviction claims filed against the City could result in an increase in future NYPD payouts. Recent history of NYPD claim payouts indicate that wrongful conviction claims will continue to be a large percentage of NYPD settlement figures.

Wrongful conviction claims have increased because the District Attorney Offices in Kings, New York, and Bronx Counties continue to review past convictions for misconduct. The five wrongful conviction claims in FY 2018 represent less than one percent of all NYPD tort claims resolved in that year, but the combined settlements totaled \$33.3 million, or 14 percent of the total NYPD tort claim payouts over the same period. This continues a year-over-year trend of a small number of high-value wrongful conviction claims representing a disproportionately high percentage of total NYPD claim payouts. In FY 2017, 14 wrongful conviction settlements consisted of less than one half of a percent of all NYPD tort claim settlements, but totaled \$100.0 million, or 30 percent of the NYPD tort claim payouts. Similarly, in FY 2016, nine wrongful conviction settlements, amounting to less than one quarter of a percent of all NYPD claims, totaled \$64.3 million, or 23 percent of the NYPD claim payouts.

Table 1
Wrongful Conviction Settlements

FY 2018

Name	Years Incarcerated	Settlement	County of Conviction
Andre Hatchett	25 years (1991 – 2016)	\$12.3 million	Kings
Ruddy Quezada	24 years (1991 – 2015)	\$9.5 million	Kings
Clifford Jones*	29 years (1981 – 2010)	\$7.5 million	New York
Joel Fowler	8 years (2008 – 2015)	\$2.5 million	Kings
Paul Gatling*	10 years (1964 – 1974)	\$1.5 million	Kings

*Settled pre-litigation

FY 2017

Name	Years Incarcerated	Settlement	County of Conviction
Antonio Yarbough	22 years (1992 – 2015)	\$13 million	Kings
Abdul Sharrif Wilson	22 years (1992 – 2015)	\$13 million	Kings
Everton Wagstaffe	23 years (1992 – 2014)	\$11.4 million	Kings
Amaury Villalobos*	32 years (1980 – 2012)	\$9.7 million	Kings
William Vasquez*	32 years (1980 – 2012)	\$9.7 million	Kings
William Lopez	23 years (1990 – 2013)	\$8.3 million	Kings
Reginald Connor	16 years (1992 – 2008)	\$8 million	Kings
Fernando Bermudez	18 years (1991 – 2009)	\$7 million	New York
Derrick Deacon	23 years (1990 – 2013)	\$6 million	Kings
David McCallum	29 years (1986 – 2015)	\$5.5 million	Kings
William Stuckey	16 years (1986 – 2001)	\$3 million	Kings
Vanessa Gathers*	10 years (1997 – 2007)	\$2.4 million	Kings
Martin Nnodimele	4 years (2007 – 2011)	\$2 million	New York
Raymond Mora*	8 years (1981 – 1989)	\$1 million	Kings

*Settled pre-litigation

FY 2016

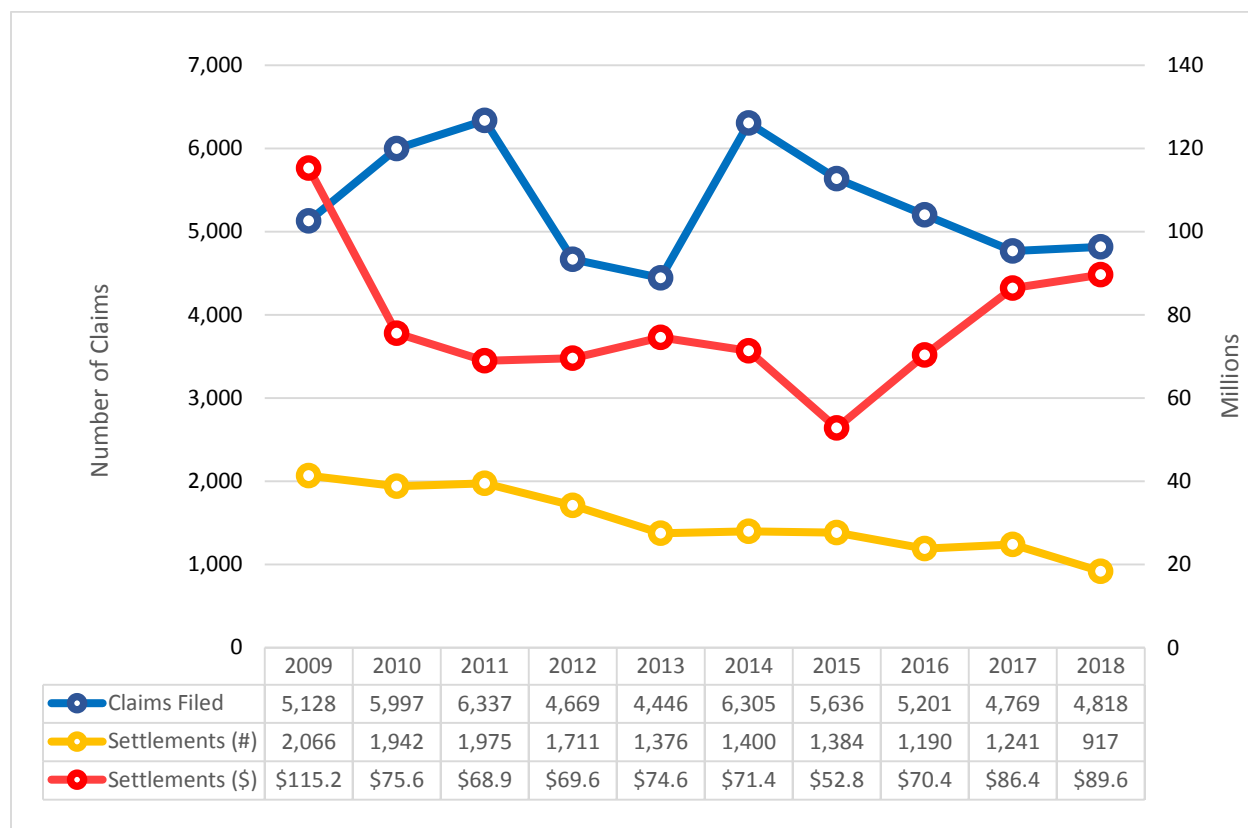
Name	Years Incarcerated	Settlement	County of Conviction
Alan Newton	22 years (1984 – 2006)	\$12 million	Bronx
Devon Ayers	18 years (1995 – 2013)	\$8 million	Bronx
Michael Cosme	18 years (1995 – 2013)	\$8 million	Bronx
Eric Field	18 years (1995 – 2013)	\$8 million	Bronx
Carlos Perez	18 years (1995 – 2013)	\$8 million	Bronx
Cathy Watkins	18 years (1995 – 2013)	\$8 million	Bronx
Roger Logan*	17 years (1997 – 2013)	\$3.8 million	Kings
Shabaka Shakur*	27 years (1988 – 2015)	\$3.6 million	Kings
Marcus Poventud	9 years (1997 – 2006)	\$2.8 million	Bronx

*Settled pre-litigation

2. Department of Transportation

Claims against the DOT generally involve, but are not limited to, allegations of improper roadway maintenance and design or motor vehicle accidents involving DOT vehicles. In FY 2018, 4,818 tort claims were filed against DOT, compared to 4,769 in FY 2017, representing a one percent increase. The number of tort claim settlements, however, dropped from 1,241 in FY 2017 to 917 in FY 2018, a 26 percent decrease. Meanwhile, the total DOT payouts in FY 2018 increased to \$89.6 million, compared to \$86.4 million in FY 2017, or a four percent increase. In FY 2017, after the jury returned a verdict in favor of plaintiff, the City settled a 2004 roadway design case where a 12-year-old was struck while riding his bicycle after dark in Brooklyn for \$21.6 million. Excluding this DOT legacy claim settlement for the purposes of analysis only, DOT settlement payouts would have increased by 38 percent from FY 2017 to FY 2018. Considering the decline in DOT tort claim settlements and the increase in tort claim settlement payouts, the cost of resolving a DOT tort claim has substantially increased over recent years.

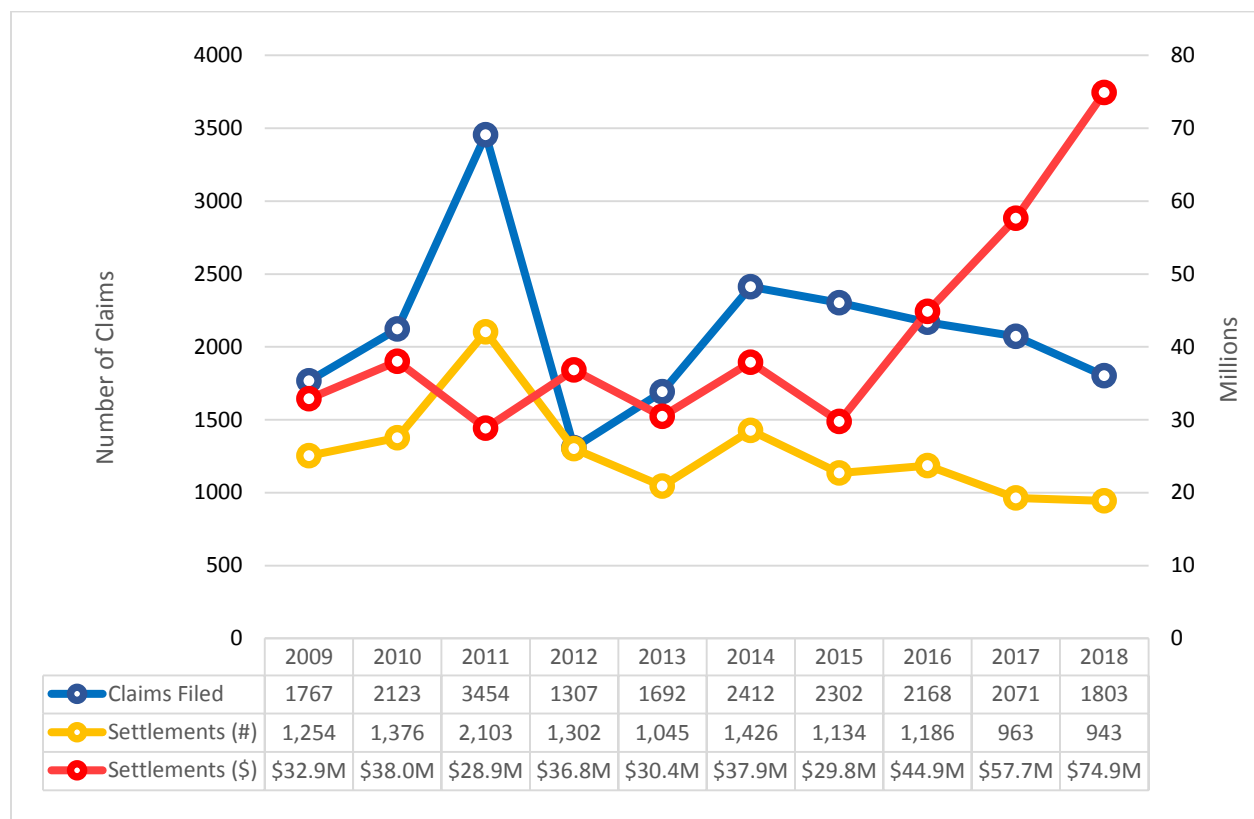
Chart 13
DOT Tort Claims Filed and Settled
FYs 2009-2018



3. Department of Sanitation

Claims against DSNY include, but are not limited to, motor vehicle accidents involving DSNY vehicles and employee workplace accident claims. While the number of tort claims filed against DSNY has decreased from 2,071 in FY 2017 to 1,803 in FY 2018—a 13 percent decrease—the DSNY tort claim payouts have increased from \$57.7 million in FY 2017 to \$74.9 million in FY 2018, a 30 percent increase. This continues a general upward trend in DSNY tort claim payouts since FY 2015, revealing that the cost of resolving a DSNY tort claim is steadily increasing. The upward trend can likely be attributed to City liability for severe injuries associated with accidents involving DSNY heavy equipment and trucks as well as the economic damages associated with loss of income claims by DSNY workers injured while working.⁹

Chart 14
DSNY Tort Claims Filed and Settled
FYs 2009–2018

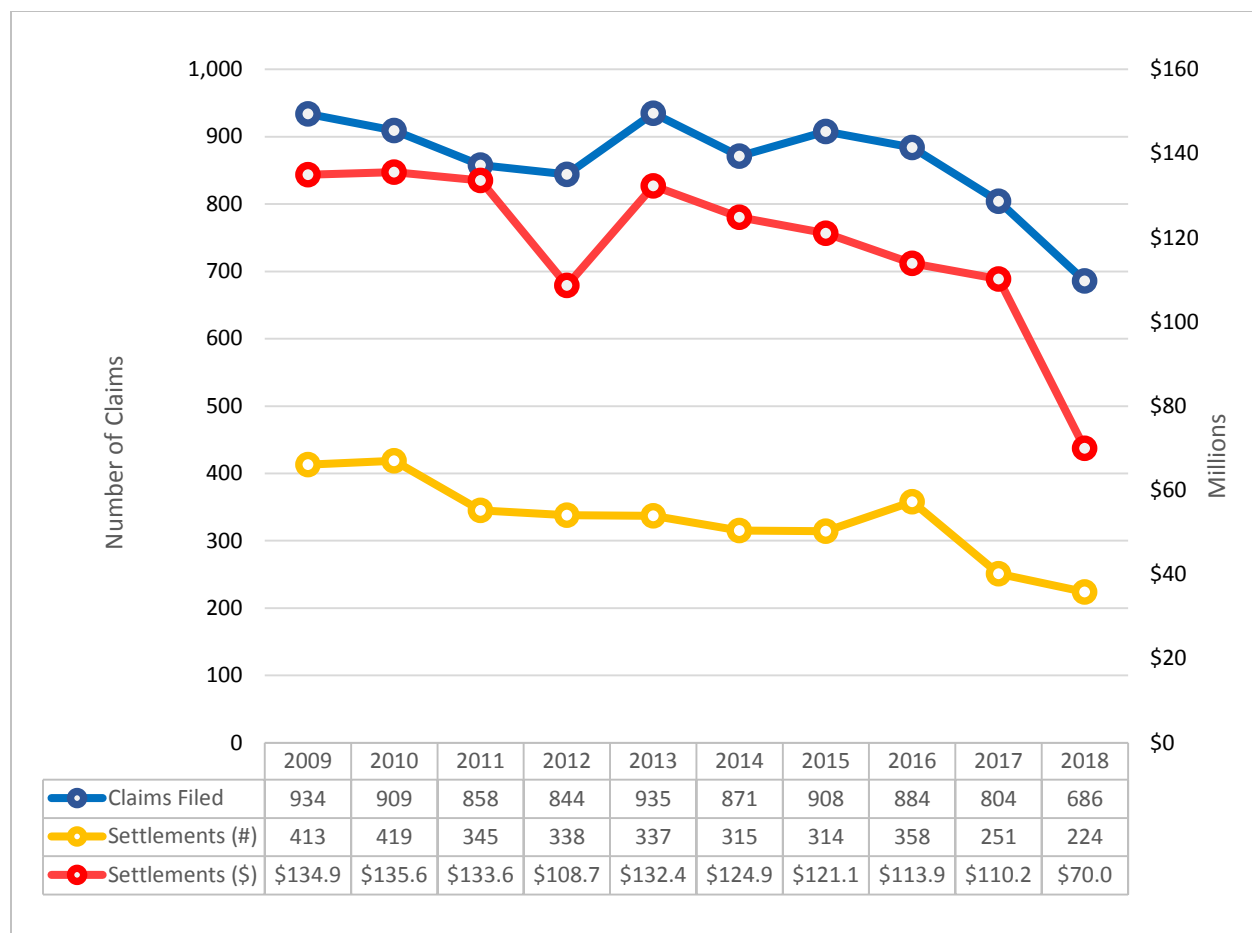


4. NYC Health + Hospitals

Claims against H+H encompass claims for personal injuries including alleged medical malpractice, slip/trip and fall accidents on hospital property, and property damage sustained on hospital property. 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 H+H in a given year is a better indicator of current hospital claim trends than the amount paid out in any one year.

Of the 686 claims filed against H+H in FY 2018, there were 456 medical malpractice claims filed, accounting for 66 percent of all H+H claims. H+H claims constituted three percent of the total number of tort claims resolved in FY 2018, but accounted for the fourth highest tort expenditure at \$70.0 million, or 11 percent of the total amount paid for settled tort claims in FY 2018.

Chart 15
H+H Tort Claims Filed and Settled
FYs 2009–2018



Notably, the number of medical malpractice claims filed against H+H's acute care hospitals¹⁰ decreased by 50 claims to 417 claims in FY 2018 from 467 claims filed in FY 2017, or a decrease of 11 percent.

Table 2
H+H Medical Malpractice Claims Filed and Settled
FYs 2017-2018

HH Acute Care Hospital	Claims Settled FY 2018	Settlement Paid (Millions)	Number of Claims Filed FY 2018	Number of Claims Filed FY 2017	Increase/ (Decrease) Claims Filed FY 2017 to FY 2018
Bellevue	20	\$4.0	62	68	(6)
Coney Island	15	\$3.9	38	47	(9)
Elmhurst	21	\$8.2	38	44	(6)
Harlem	11	\$10.2	31	31	0
Jacobi / Bronx Municipal	19	\$4.8	55	53	2
Kings County	20	\$15.8	69	69	0
Lincoln	19	\$7.1	44	64	(20)
Metropolitan	7	\$1.2	19	20	(1)
North Central Bronx			10	17	(7)
Queens Hospital Center	11	\$6.5	11	21	(10)
Woodhull	11	\$2.4	40	33	7
Total	154	\$64.1	417	467	(50)

E. TORT CLAIM TRENDS BY BOROUGH¹¹

The Bronx had the most overall tort claims filed, with 7,204 claims, followed by Brooklyn (6,129 claims), Manhattan (4,588 claims), Queens (4,259 claims), and Staten Island (1,099 claims). Consistent with the prior four fiscal years, the Bronx had the most personal injury claims filed (6,039 claims).

Table 3
Number of Tort Claims Filed By Borough
FY 2018

Borough	Personal Injury (PI) Claims	Property Damage (PD) Claims
Bronx	6,039	1,165
Brooklyn	4,332	1,797
Manhattan	3,272	1,316
Queens	2,306	1,953
Staten Island	524	575

The Bronx had the highest per capita filing of personal injury claims at 410 claims per 100,000 residents, as compared to Queens, which had the fewest at 98 claims. Staten Island had the greatest number of property damage claims filed per capita, with 120 claims per 100,000 residents, while Brooklyn had the fewest with 68 claims.¹²

Table 4
Tort Claims Filed by Borough Per 100,000 Residents¹³
FY 2018

Borough	Total Tort Claims Per 100,000 Residents	Total PI Claims Per 100,000 Residents	Total PD Claims Per 100,000 Residents
Bronx	489	410	79
Brooklyn	232	164	68
Manhattan	276	197	79
Queens	181	98	83
Staten Island	229	109	120

Table 5
Tort Claims Resolved and Amounts Paid by Borough
FY 2018

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 Tort Claims Resolved	Total Tort Claim Payouts (In Millions)
Bronx	2,427	\$155.2	281	\$0.7	2,708	\$155.9
Brooklyn	1,595	\$188.1	541	\$2.4	2,136	\$190.6
Manhattan	1,092	\$118.4	405	\$1.5	1,497	\$120.0
Queens	819	\$74.5	489	\$1.8	1,308	\$76.3
Staten Island	182	\$15.3	153	\$0.5	335	\$15.8

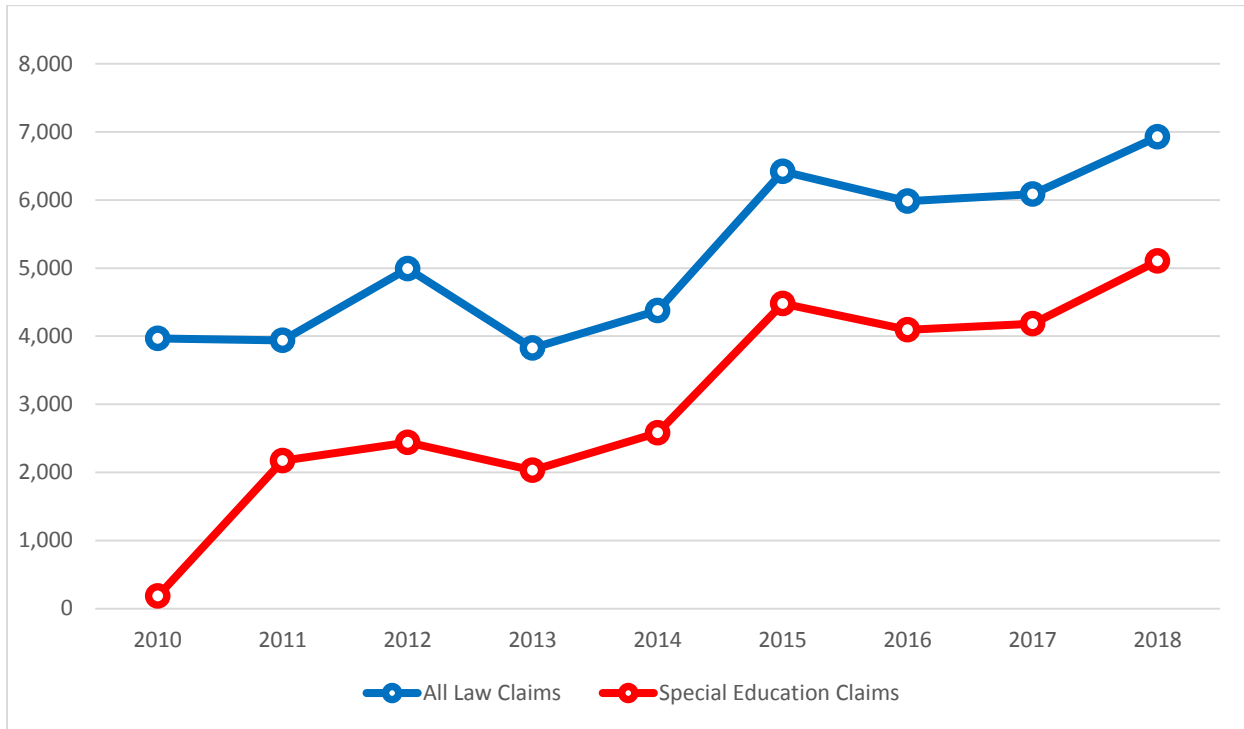
V. LAW (NON-TORT) CLAIMS

Law (non-tort) claims arise from City contracts, equitable claims, refund claims, City employee salary disputes, claims involving DOE special education matters, sidewalk assessments, and cleanup costs levied on property owners who are in violation of the Mental Hygiene Law, as well as affirmative claims brought by the City against other parties.

A. OVERALL LAW CLAIM TRENDS

The overall number of law claims filed increased 14 percent to 6,928 in FY 2018 from 6,084 in FY 2017. This increase in the number of law claims filed is primarily due to a 22 percent increase in the number of special education claims filed. This increased number of special education claims filed continues the escalation in filings since FY 2013, reflecting an overall increase of 152 percent in the number of claims filed between FY 2013 and FY 2018. The increase in special education claim filings followed the City’s launch of a new “fast track” process in June 2014 to address claims for costs and tuition payments from parents of students requiring special education services. Special education claims now account for 74 percent of law claims filed.

Chart 16
Comparison of Special Education Claims Filed to All Law Claims Filed
FYs 2010–2018

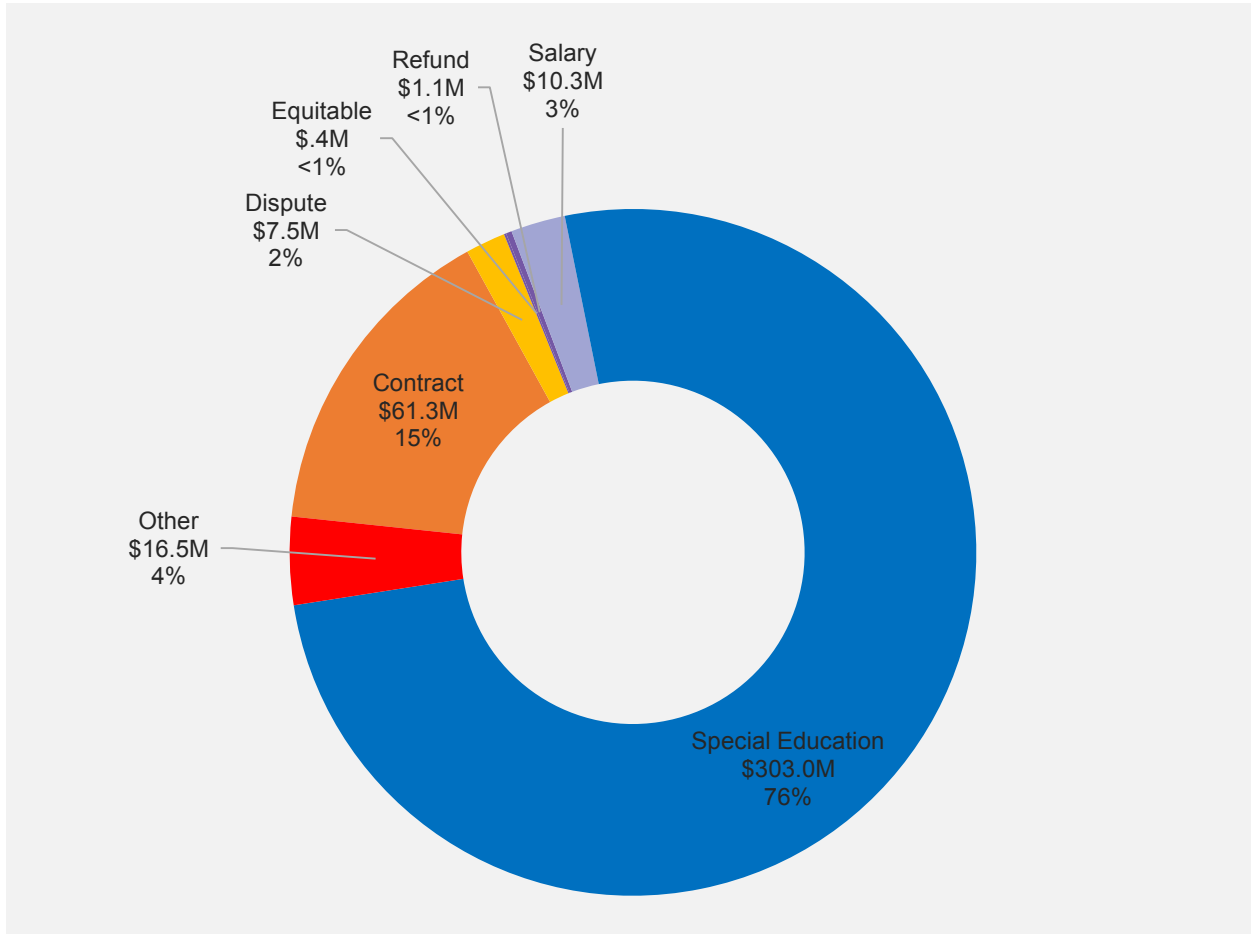


The total number of law claims settled in FY 2018 increased ten percent to 5,592 claims from 5,106 claims settled in FY 2017. The total cost of settlements paid out for law claims increased 16 percent to \$400.1 million in FY 2018 from \$343.9 million in FY 2017.¹⁴

The number of special education claims settled represented 82 percent of all law claims settled and the costs of special education claim settlements constituted 76 percent of all law claim payouts in FY 2018.

In FY 2018, contract claims accounted for the second largest payout of law claims at \$61.3 million, representing 15 percent of all law claim payouts, despite the total number of contract claim settlements making up less than half of a percent of the total number of law claim settlements.

Chart 17
Law Claims by Type
Amount Paid in Settlements and Judgments (Millions)
and Percentage of Law Claim Settlements and Judgments Paid
FY 2018



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, and claims for statutory attorneys’ fees¹⁵ where an underlying claim for special education reimbursement has been successful.

In June 2014, the City launched the “fast track” process to address claims for costs and tuition payments from parents of students requiring special education services. Following the launch of the “fast track” process, the Comptroller’s Office noted a sharp rise in the number of special education claims filed and settled in FY 2015. The number of special education claims filed and settled in FY 2018 continues to increase over pre-“fast track” levels. In FY 2018, there

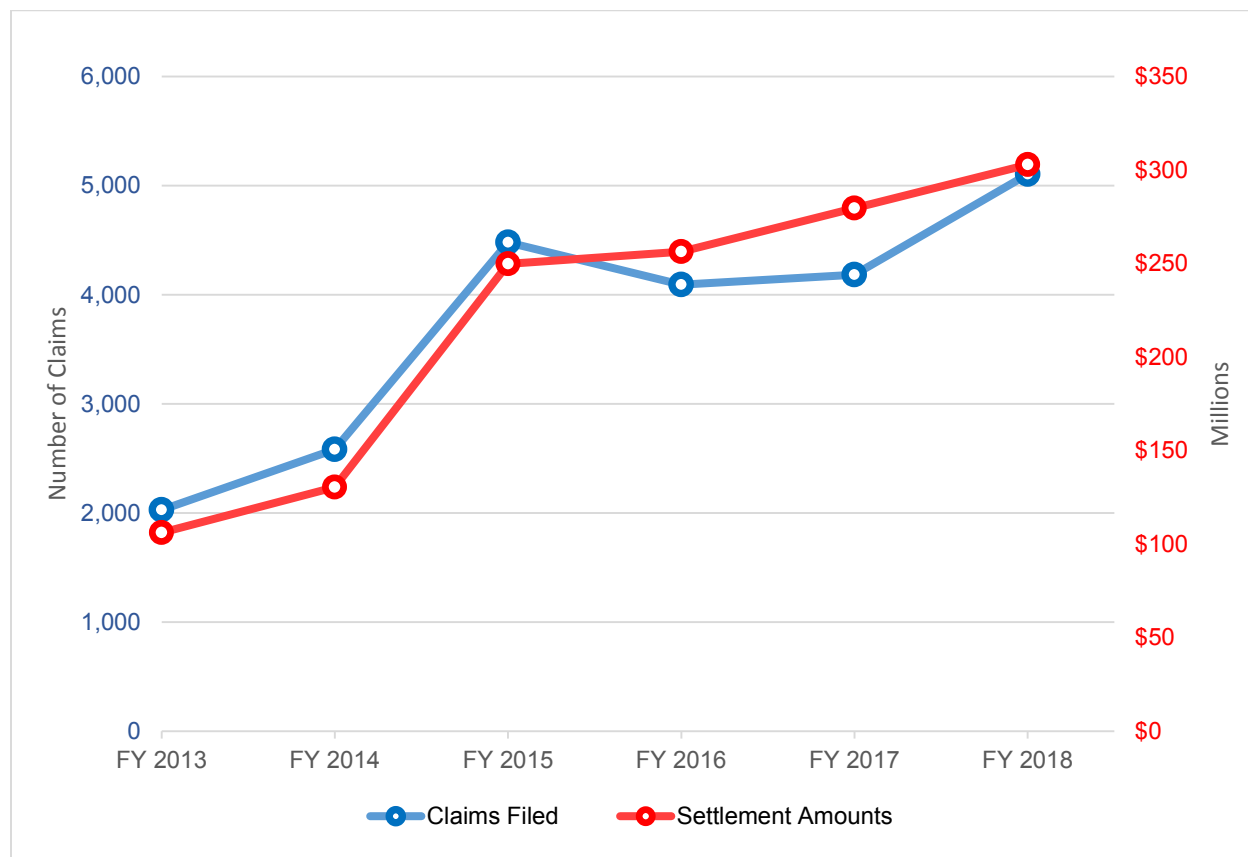
were 5,104 special education claims filed, compared to 4,184 claims filed in FY 2017—an increase of 22 percent.

An analysis of the number of special education claims filed since the introduction of the “fast track” process revealed that special education claims filed in FY 2018 represents a 152 percent increase over the 2,029 special education claims filed in FY 2013 and a 98 percent increase over the 2,528 claims filed in FY 2014.

The total number of special education claims settled in FY 2018 increased by 15 percent to 4,565 from the 3,970 claims settled in FY 2017. Here, too, these special education claim settlements represent a 148 percent increase over the 1,841 special education claims settled in FY 2013 and 105 percent increase over the 2,223 claims settled in FY 2014.

Finally, the amount of settlements paid out for special education claims increased by eight percent, with \$303.0 million paid out on special education claims during FY 2018 as compared to \$279.7 million paid out in FY 2017. The special education claim settlement payouts in FY 2018 were 185 percent greater than the \$106.2 million paid out on special education claims in FY 2013 and 132 percent greater than the \$130.5 million claim settlement payouts in FY 2014.

Chart 18
Special Education Claims Filed and Settled
FYs 2013–2018



Contract Claims

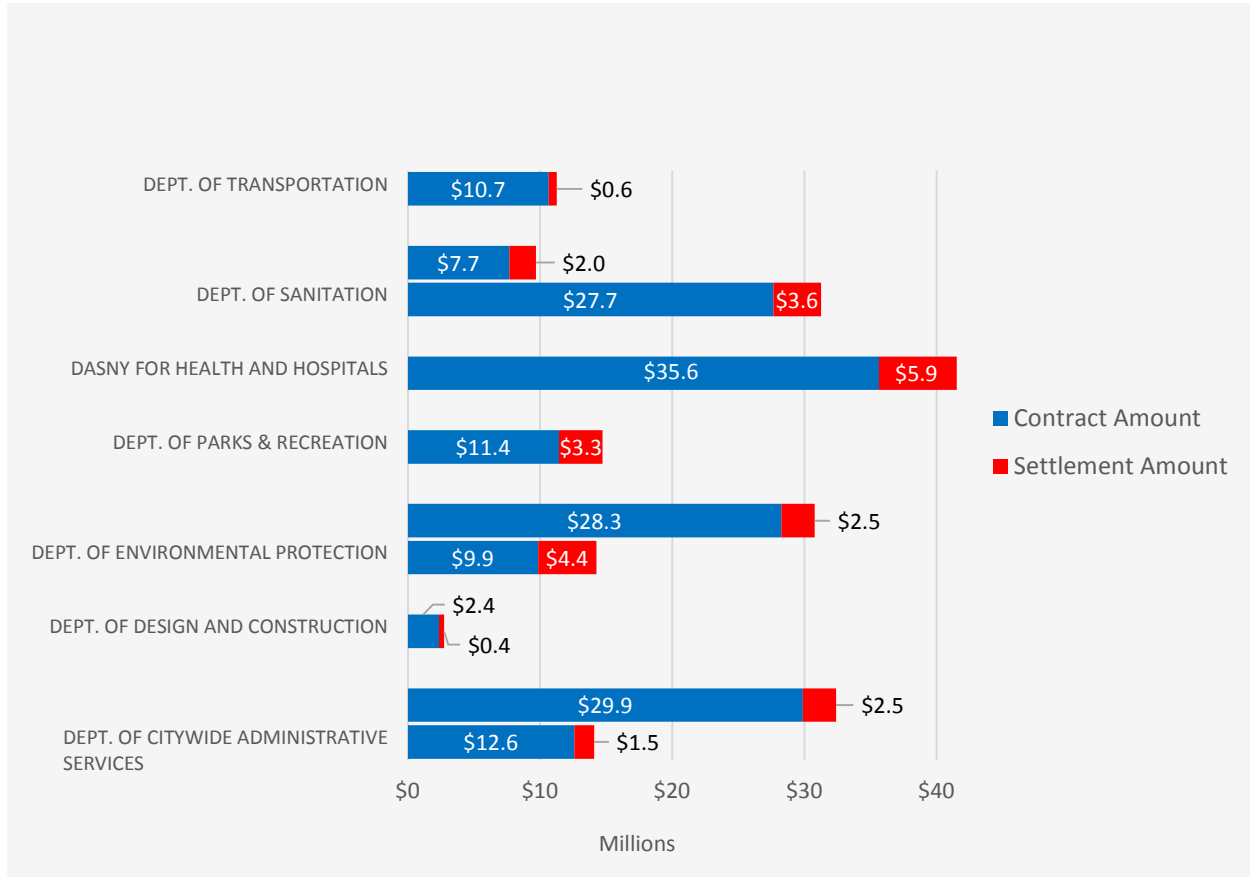
Contract claims arise when there is a disagreement between the City and private contractors (construction or non-construction) and where the City is a lessee or lessor of property. The number of contract claims filed in FY 2018 decreased 42 percent to 89 claims filed from 153 claims filed in FY 2017.

While the number of settlements of contract claims has decreased 19 percent from 32 contract claims settled in FY 2017 to 26 contract claim settled in FY 2018, there has been a 32 percent increase in the settlement amount paid out for contract claims from \$46.4 million in FY 2017 to \$61.3¹⁶ million in FY 2018.

Contract claims include a subcategory of claims called delay claims, meaning a contractor alleges that it was damaged by delays caused by the actions or inactions of the City on a construction project. Delay claims typically arise from large construction projects such as those involving construction or renovation of public buildings and infrastructure like bridges, sewers, and wastewater treatment plants. The analysis of these claims require the expertise of numerous staff members within the Comptroller's Office, including professional engineers, auditors, and attorneys.

Ten delay claims settled in FY 2018, accounting for 38 percent of the 26 contract claims settled. The \$26.6 million paid out on these 10 delay claim settlements make up 43 percent of the \$61.3 million settlements paid out for all contract claims in FY 2018. While the same number of delay claims settled in FY 2017 and FY 2018, the settlement amount decreased in FY 2018 by 34 percent from \$40.1 million in FY 2017. This drop in payouts is largely due to a decrease in the value of the delay claims, with the amounts claimed by plaintiffs dropping from \$184.3 million in FY 2017 to \$78.7 million in FY 2018. In FY 2018, settlements of claims for damages attributable to agency-caused delays increased the overall cost of these projects to the City by more than 15 percent over the original contract prices.

Chart 19
Delay Damage Claim Settlements:
Cost Increase Above
Original Contract Bid Price
FY 2018



Alternative Dispute Resolution Claims

Contracts between the City and vendors solicited after September 1990 have an Alternative Dispute Resolution (ADR) provision designed to provide a speedy alternative to litigation. When a dispute arises, a contractor may attempt to resolve it directly with the City agency involved. If no agreement is reached between the contractor and agency, the contractor can file a claim with the Comptroller’s Office. If the claim is not resolved by the Comptroller’s Office, the contractor may appeal to the Contract Dispute Resolution Board.

In FY 2018, 37 dispute claims were negotiated and settled for a total of \$7.5 million. This represents a 43 percent increase in the amount paid out on dispute claims from the \$5.3 million paid out on 37 dispute claims settled in FY 2017.¹⁷

Affirmative Claims

Affirmative claims are those brought by the City against individuals, companies, corporations, and other entities for torts, breaches of contract, and as remedies for violations of civil codes. These claims include, funds due to the City for housing or building code violations, actions arising from the sale of unlicensed cigarettes and other public nuisances, contract overpayments, and recoupment of Medicaid assistance payments.

In FY 2018, the Comptroller's Office approved settlement of 871 affirmative claims for a benefit to the City of \$19.7 million, as compared to FY 2017, when 986 affirmative claims were settled for \$11 million. The FY 2018 amounts recovered were \$8.7 million or 79 percent greater than FY 2017. In part, this increase is due to a 144 percent increase in the recovery of civil penalties. Civil penalty claims are a subcategory of affirmative claims wherein the City seeks monetary penalties for violations of civil code violations such as housing or building code violations, the sale of untaxed cigarettes, and the creation of other public nuisances. In FY 2018, the City recovered civil penalties in the amount of \$4.0 million on 531 claims, up from \$1.6 million recovered in civil penalties on 337 claims in FY 2017.

Notably, in FY 2018 the City recovered \$12.8 million on an affirmative claim relating to the construction of the new DNA lab building at the Bellevue Hospital site.

Other Claims

Various other types of law claims are evaluated and resolved by the Comptroller's Office, including equitable claims, refund claims, and change of grade claims.

In FY 2018, 11 claims arising from the revocation of tax abatements to residential properties where the owners failed to market the apartments as rent stabilized after having received a conditional tax benefit were settled. These 11 settlements resulted in a monetary benefit to the City, in the form of penalties, totaling \$713,315. Moreover, the City was able to guarantee New Yorkers additional affordable housing by negotiating settlements keeping three buildings rent stabilized for the next 25 years and the other eight buildings rent stabilized for the next 15 years.

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 designated as personal injury, property damage, or law. Additionally, claims are categorized by the City agency involved and by the claim type based on the allegations in the notice of claim, as defined below:

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 caused by allegedly 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 alleged medical malpractice in the diagnosis, treatment, or care at a City or H+H facility or from EMS treatment.

H. HEALTH FACILITY/NON-MEDICAL INCIDENTS

These claims involve non-medical acts involving a City or H+H facility or employee, such as alleged injuries sustained by visitors due to wet floors, assaults of patients or visitors, loss of sepulcher, or abuse or assault of a senior citizen by a home care worker.

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 injury.

K. PARKS AND RECREATION

These claims are asserted by persons injured because of allegedly 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, employees of and visitors to City correction institutions or facilities who were allegedly injured by the actions of City employees or inmates.

P. AFFIRMATIVE CLAIMS

Claims brought by the City against individuals, companies, and corporations for damages to City property.

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 H+H 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, unmarked fresh paint, or 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, detainees, or visitors whose personal property is lost, stolen, or damaged while in a correction institution.

III. LAW CLAIMS

A. CONTRACT

Claims in this category arise from disputes between the City and private contractors (construction or non-construction) and 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 provision designed to provide a speedy alternative to litigation. This process is also embodied in Section 4-09 of the City's Procurement Policy Board Rules. 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. SALARY

Salary claims are those claims for back pay and/or attorneys' fees 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; excluded from this claim type are those claims that seek damages for personal injury.

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

These claims include claims on behalf of parents for the 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.

H. AFFIRMATIVE CLAIMS

Claims brought by the City against individuals, companies, and corporations for torts, breaches of contract, and remedy for violations of civil code.

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 and 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 an agent’s alleged negligent and wrongful acts are entitled to a jury trial.

Municipal liability is also governed by local law. Under 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 claims 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, claims against H+H, must be filed directly with H+H. In most instances, the notice of claim for personal injury or property damage claims must be filed within 90 days of the occurrence 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 one year and 90 days after the date of loss.²⁵ The New York City Office of the Corporation Counsel defends the City in most actions (H+H defends its medical malpractice actions). No litigation can be settled without the approval of the Comptroller.²⁶

APPENDIX C

Top Tort Claims Adjudicated in FY 2018

Plaintiff, as representative of a class of nearly one million potential claimants, sued the City in 2010 alleging that the NYPD improperly issued summonses. Settlement of \$25.4 million.

Plaintiffs were arrested and convicted of kidnapping and murdering a 16 year old female on New Year's Day in 1992. After serving 23 and 16 years, respectively, DNA and other evidence exonerated them of the crime. Their convictions were vacated in 2014 and each sued the City for wrongful conviction and incarceration. Settlement of \$19.4 million.

Plaintiff was arrested and convicted of murder in February 1991. After serving 25 years in prison, plaintiff's conviction was vacated in March 2016 and he sued the City for wrongful conviction and incarceration. Settlement of \$12.3 million.

Plaintiff was arrested and convicted of murder in October 1991. After serving 24 years, the Appellate Division, Second Department vacated plaintiff's conviction in August 2015. Plaintiff sued the City and alleged wrongful conviction and incarceration. Settlement of \$9.5 million.

After a car accident, plaintiff was removed to Harlem Hospital to treat a leg crush injury. Plaintiff sued alleging malpractice for his leg amputation. Settlement of \$7.9 million.

Plaintiff was arrested and convicted of raping a woman and murdering a man in June 1980. After serving 29 years in prison and over six years on parole, plaintiff's conviction was vacated in September 2015. Plaintiff filed a claim alleging wrongful conviction and incarceration. Settlement of \$7.5 million.

Plaintiff, a passenger in a vehicle struck by a Department of Sanitation truck in Brooklyn, suffered serious injuries, which required multiple surgeries. After a jury verdict in favor of plaintiff, the parties reached a settlement. Settlement of \$6.0 million.

Plaintiff's motorcycle struck a pothole on the Belt Parkway, and as a result he was rendered a paraplegic. Settlement of \$4.5 million.

A Court granted summary judgment on liability to plaintiff, a passenger in a livery cab that was rear-ended by a Department of Sanitation truck with a snow plow, who sustained serious injuries and underwent surgery. Settlement of \$4.2 million.

APPENDIX D Chart and Table Index

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**APPENDIX E
Detailed Tables**

Table I – Number of Tort Claims Filed by Claim Type FYs 2009–2018

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Personal Injury										
Sidewalk	2,549	2,278	2,502	2,013	2,041	2,529	2,560	2,386	2,343	2,300
Police Action	3,360	3,958	4,520	5,536	5,581	5,645	4,930	4,485	4,100	4,191
School	1,141	1,023	1,078	1,061	928	965	926	960	859	780
Motor Vehicle	1,285	1,347	1,307	1,380	1,187	1,256	1,165	1,226	1,264	1,433
Roadway	1,144	1,051	1,115	947	882	1,003	964	1,044	943	930
City Property	627	9,172	1,106	562	534	683	652	708	567	747
Correction Facility	1,044	1,188	1,183	1,595	1,657	2,241	2,797	3,662	3,836	3,894
Civil Rights	1,954	2,685	3,079	2,788	2,784	2,932	2,747	2,326	1,712	1,507
Medical Malpractice	686	652	611	624	603	587	629	620	534	474
Traffic Control Device	103	109	76	108	126	77	79	62	41	64
Parks & Recreation	261	226	273	286	270	278	298	306	259	233
Uniformed Services Employee	140	164	163	150	151	162	158	167	165	186
Other	746	739	887	766	785	884	846	776	783	895
Total	15,040	24,592	17,900	17,816	17,529	19,242	18,751	18,728	17,406	17,634
Property Damage										
City Property	152	131	135	90	310	260	201	162	138	133
Motor Vehicle	3,631	3,969	4,723	3,188	3,322	3,682	3,432	3,894	3,583	3,621
Correction Facility	297	442	309	397	263	318	354	286	301	245
City Personnel	1,166	1,309	1,734	1,349	1,346	962	1,045	1,264	1,152	1,168
Roadway	1,275	2,333	2,806	1,218	1,036	2,844	2,240	1,585	1,333	1,398
Health Facility	132	126	103	96	120	140	122	108	150	85
Police Action	299	309	378	365	362	341	302	226	228	202
School	189	179	182	144	107	128	89	100	119	94
Sewer Overflow	192	188	205	668	602	613	452	110	140	153
Water Main	158	194	153	238	108	240	156	111	140	194
Other	312	242	273	261	272	244	270	302	286	334
Total	7,803	9,422	11,001	8,014	7,848	9,772	8,663	8,148	7,570	7,627
Grand Total	22,843	34,014	28,901	25,830	25,377	29,014	27,414	26,876	24,976	25,261

**Table II – Number of Tort Claims Filed by Agency
FYs 2009–2018**

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Department of Transportation	5,128	5,997	6,337	4,669	4,446	6,305	5,636	5,201	4,769	4,818
Police Department	6,668	8,017	8,804	9,439	9,446	9,496	8,429	7,590	6,546	6,472
Department of Sanitation	1,767	2,123	3,454	1,307	1,692	2,412	2,302	2,168	2,071	1,803
Department of Education	1,628	1,833	1,604	1,567	1,416	1,420	1,415	1,434	1,359	1,230
NYC Health + Hospitals	934	909	858	844	935	871	908	884	804	686
Department of Environmental Protection	737	700	738	1,357	996	1,123	885	511	539	598
Department of Correction	1,597	1,949	1,798	2,351	2,188	2,910	3,471	4,330	4,433	4,430
Department of Parks & Recreation	1,019	1,101	1,405	1,095	1,048	872	885	1,057	950	1,056
Fire Department	991	921	1,041	891	931	943	950	1,011	1,008	1,183
Department of Housing Preservation and Development	75	82	71	68	74	66	51	64	60	56
NYC Human Resources Administration	61	78	68	88	99	82	81	81	66	88
Department of Buildings	149	955	75	82	61	52	77	57	55	77
Other	2,089	9,349	2,648	2,072	2,045	2,462	2,324	2,488	2,316	2,764
Total	22,843	34,014	28,901	25,830	25,377	29,014	27,414	26,876	24,976	25,261

**Table III - Dollar Amount of Tort Claim Settlements & Judgments by Claim Type
FYs 2009–2018**

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Personal Injury										
Sidewalk	39,760,227	34,904,412	38,426,098	39,473,806	36,752,110	34,463,430	39,562,496	32,077,333	52,219,980	45,852,716
Police Action	48,423,383	56,798,953	60,237,524	54,334,625	62,875,691	71,948,087	119,398,941	100,705,173	160,968,447	108,292,090
School	54,311,099	35,066,262	42,942,426	25,781,181	24,003,498	24,662,187	32,701,557	28,613,695	31,068,436	24,873,611
Motor Vehicle	79,750,916	63,433,038	83,878,791	70,526,942	85,309,416	88,515,029	67,373,114	89,881,694	107,807,405	114,218,484
Roadway	24,622,949	27,742,588	19,453,578	25,717,847	33,134,170	13,710,874	15,371,910	31,478,003	39,059,615	39,965,351
City Property	30,444,952	14,176,063	18,841,199	8,395,091	5,465,500	21,797,000	4,931,000	21,504,554	9,905,950	9,483,507
Correction Facility	5,938,403	5,025,429	8,504,000	7,833,193	7,312,301	7,323,835	13,185,550	15,680,251	16,853,929	23,524,351
Civil Rights	47,062,984	80,940,455	83,998,422	78,200,352	56,023,108	114,503,798	94,339,034	157,742,824	155,009,772	102,685,164
Medical Malpractice	127,288,634	131,238,636	131,818,033	108,993,419	130,298,906	118,479,990	144,438,243	104,286,575	103,253,232	68,836,180
Traffic Control Device	1,120,750	2,883,300	3,206,350	2,396,000	1,292,315	7,589,500	604,000	2,459,000	376,500	4,274,250
Parks & Recreation	5,714,315	7,965,906	7,102,606	12,062,375	20,328,830	14,032,709	6,175,524	8,509,633	5,779,220	12,541,952
Uniformed Services Employee	30,096,000	41,971,283	31,039,500	20,404,000	17,452,882	27,998,500	33,439,000	26,117,500	50,820,225	37,496,000
Other	53,665,445	10,979,970	9,228,394	21,677,145	6,460,359	13,522,259	3,569,893	12,165,985	6,870,507	8,825,343
Total	548,200,058	513,126,296	538,676,920	475,795,976	486,709,085	558,547,196	575,090,263	631,222,220	739,993,217	600,868,999
Property Damage										
Motor Vehicle	5,470,334	5,877,567	8,180,339	6,038,833	5,586,990	7,403,408	5,162,942	5,207,672	5,742,582	4,826,259
City Property	15,863	8,569	2,815,834	162,524	375,969	67,962	16,554	90,069	50,440	156,406
Correction Facility	14,960	1,551	18,301	18,225	13,061	2,220	665	8,475	4,426	7,757
City Personnel	579,380	873,332	1,171,735	959,898	971,018	1,494,155	731,826	404,378	363,011	358,641
Roadway	271,099	288,777	423,961	215,726	140,124	192,379	215,029	537,552	137,114	101,307
Health Facility	18,071	19,648	13,037	13,191	18,376	27,144	6,299	13,370	12,303	12,247
Police Action	120,248	513,676	140,899	170,059	388,101	102,697	71,487	56,155	32,139	38,643
School	11,627	24,157	12,454	10,063	4,581	10,110	9,014	4,083	4,758	3,319
Sewer Overflow	272,679	383,619	792,808	775,242	546,357	712,861	7,224,105	1,650,663	1,562,963	1,505,856
Water Main	664,588	2,142,514	1,577,070	3,183,273	314,365	294,175	344,127	1,437,349	553,610	304,180
Other	2,192,879	13,819	97,826	12,118	9,483	25,425	9,390	23,843	2,159,173	325,913
Total	9,631,728	10,147,229	15,244,263	11,559,151	8,368,424	10,332,536	13,791,438	9,433,608	10,622,519	7,640,528
Grand Total	557,831,786	523,273,524	553,921,183	487,355,128	495,077,510	568,879,733	588,881,701	640,655,828	750,615,736	608,509,528

**Table IV – Dollar Amount of Tort Claim Settlements & Judgments by Agency
FYs 2009–2018**

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Department of Transportation	115,243,770	75,615,727	68,928,149	69,589,115	74,591,194	71,353,861	52,787,842	70,369,071	86,431,468	89,643,897
Police Department	134,579,242	137,589,773	186,288,403	152,778,932	138,499,641	229,846,207	225,444,487	280,106,261	335,454,319	229,750,520
Department of Sanitation	32,886,946	38,020,148	28,858,968	36,815,516	30,446,682	37,886,076	29,772,440	44,859,303	57,656,461	74,901,592
Department of Education	55,863,463	36,922,943	52,957,012	28,581,746	34,305,477	27,331,049	35,947,285	34,136,281	33,523,593	27,467,732
NYC Health + Hospitals	134,946,576	135,595,599	133,617,485	108,692,285	132,352,195	124,887,221	121,087,960	113,910,458	110,174,495	69,967,579
Department of Environmental Protection	8,109,061	7,857,296	8,071,431	5,628,320	3,372,170	13,182,950	18,795,525	7,281,361	8,439,698	10,626,493
Department of Correction	16,258,404	43,580,956	15,403,975	20,308,756	11,767,521	11,103,116	27,144,858	32,903,230	35,429,041	31,518,806
Department of Parks & Recreation	9,415,871	16,104,444	17,673,228	18,963,785	29,564,344	18,365,734	13,880,277	11,740,274	16,094,394	18,972,440
Fire Department	16,318,205	20,007,262	16,231,360	28,485,774	19,665,971	20,426,695	46,684,903	16,428,652	45,207,732	24,376,486
Department of Housing Preservation and Development	15,727,510	5,126,366	5,057,356	2,154,067	555,452	2,705,221	1,964,125	10,855,842	808,106	5,101,331
NYC Human Resources Administration	1,482,725	411,481	1,308,134	1,582,741	1,050,063	1,008,192	970,799	1,756,131	620,453	1,046,699
Department of Buildings	380,236	112,152	2,941,818	218,006	377,908	157,901	268,913	2,966,514	1,386,120	77,225
Other	16,619,779	6,329,377	16,583,865	13,556,083	18,528,893	10,625,510	14,132,287	13,342,448	19,389,858	25,058,728
Total	557,831,786	523,273,524	553,921,183	487,355,128	495,077,510	568,879,733	588,881,701	640,655,828	750,615,736	608,509,528

**Table V – Number of Tort Claim Settlements & Judgments by Claim Type
FYs 2009–2018**

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Personal Injury										
Sidewalk	1,041	922	866	855	685	658	662	663	751	514
Police Action	1,145	1,301	1,539	1,751	2,105	2,250	2,276	2,480	2,519	2,460
School	848	822	901	725	657	528	478	552	285	246
Motor Vehicle	909	895	823	831	725	668	585	662	657	561
Roadway	559	512	547	511	417	367	334	369	312	268
City Property	138	107	113	93	61	70	38	88	64	48
Correction Facility	227	195	266	309	255	378	451	637	804	1,038
Civil Rights	1,141	1,281	1,656	1,687	1,558	2,047	1,682	1,353	1,018	836
Medical Malpractice	292	315	265	261	268	204	245	239	183	160
Traffic Control Device	55	38	32	28	22	29	20	14	11	13
Parks & Recreation	153	137	155	174	164	151	136	173	81	85
Uniformed Services Employee	90	117	84	106	76	95	121	111	116	106
Other	109	86	78	81	62	69	51	65	51	77
Total	6,707	6,728	7,325	7,412	7,055	7,514	7,079	7,406	6,852	6,412
Property Damage										
Motor Vehicle	2,342	2,495	3,216	2,254	2,135	2,379	1,897	1,917	1,761	1,678
City Property	10	10	16	20	19	39	6	62	13	8
Correction Facility	6	5	21	11	12	5	3	5	5	8
City Personnel	262	352	329	374	353	408	284	163	146	167
Roadway	275	306	437	208	117	197	287	88	112	72
Health Facility	36	33	25	23	22	40	17	16	14	22
Police Action	62	45	45	48	48	35	26	18	14	11
School	39	83	55	47	26	35	35	15	16	13
Sewer Overflow	60	50	88	60	115	144	650	104	47	47
Water Main	88	77	94	62	51	51	38	68	42	46
Other	14	16	8	7	6	10	6	7	157	18
Total	3,194	3,472	4,334	3,114	2,904	3,343	3,249	2,463	2,327	2,090
Grand Total	9,901	10,200	11,659	10,526	9,959	10,857	10,328	9,869	9,179	8,502

**Table VI – Number of Tort Claim Settlements & Judgments by Agency
FYs 2009–2018**

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Department of Transportation	2,066	1,942	1,975	1,711	1,376	1,400	1,384	1,190	1,241	917
Police Department	3,161	3,573	4,116	4,358	4,520	5,051	4,440	4,253	4,068	3,745
Department of Sanitation	1,254	1,376	2,103	1,302	1,045	1,426	1,134	1,186	963	943
Department of Education	943	960	994	809	730	612	558	606	346	294
NYC Health + Hospitals	413	419	345	338	337	315	314	358	251	224
Department of Environmental Protection	303	284	373	283	300	292	794	284	321	219
Department of Correction	388	365	441	464	387	534	601	841	955	1,184
Department of Parks & Recreation	355	375	391	429	428	392	354	356	282	247
Fire Department	624	642	596	508	586	585	508	490	503	479
Department of Housing Preservation and Development	55	30	35	26	17	14	11	22	13	14
NYC Human Resources Administration	17	24	14	20	21	18	20	28	20	21
Department of Buildings	13	16	20	25	17	17	12	11	21	8
Other	309	194	256	253	195	201	198	244	195	207
Total	9,901	10,200	11,659	10,526	9,959	10,857	10,328	9,869	9,179	8,502

**Table VII – Number of Law Claims Filed by Claim Type
FYs 2010-2018***

	2010	2011	2012	2013	2014	2015	2016	2017	2018
Affirmative	669	857	769	876	914	1,128	1,048	1,131	1,054
Contract	149	184	179	217	133	152	152	153	89
Disputes	96	100	141	157	177	117	172	120	88
Equitable	17	18	7	10	6	4	11	13	12
Refund	138	168	768	168	223	182	157	132	135
Salary	83	86	347	86	90	94	96	69	75
Special Education	185	2,172	2,439	2,029	2,582	4,480	4,094	4,184	5,104
Other	2,632	355	342	281	249	264	253	282	371
Total	3,969	3,940	4,992	3,824	4,374	6,421	5,983	6,084	6,928

*Historically, law claims have not been tracked in a uniform manner, so only data from FY 2010 through FY 2018 is provided.

**Table VIII – Number of Law Claim Settlements & Judgments by Claim Type
FYs 2010-2018***

	2010	2011	2012	2013	2014	2015	2016	2017	2018
Affirmative	614	858	753	861	899	1,111	1,015	986	871
Contract	26	18	28	27	26	22	34	32	26
Disputes	47	30	35	30	44	45	62	37	37
Equitable	8	12	8	3	2	6	2	5	5
Refund	10	15	23	580	14	18	20	9	12
Salary	17	4,418	21	19	23	286	30	23	20
Special Education	540	2,086	2,366	1,841	2,223	4,067	3,772	3,970	4,565
Other	2,301	45	46	41	28	38	46	44	56
Total	3,563	7,482	3,280	3,402	3,259	5,593	4,981	5,106	5,592

*Historically, law claims have not been tracked in a uniform manner, so only data from FY 2010 through FY 2018 is provided.

**Table IX – Dollar Amount of Law Claim Settlements & Judgments by Claim Type*
FYs 2010-2018****

	2010	2011	2012	2013	2014	2015	2016	2017	2018
Contract	12,629,562	8,997,798	21,840,545	50,992,338	19,573,476	44,846,785	49,626,492	46,406,058	61,312,859
Disputes	4,509,068	3,667,018	4,519,344	3,105,639	7,325,629	3,001,135	6,116,577	5,261,545	7,528,417
Equitable	661,072	394,391	1,311,758	446,904	76,576	616,256	25,143	1,142,203	416,018
Refund	12,404	64,960	430,935	293,817	116,834	697,973	14,207,059	59,594	1,089,853
Salary	6,021,876	10,226,385	5,284,521	33,332,876	104,468,018	65,511,792	16,548,145	7,568,425	10,275,899
Special Education	24,946,960	105,466,595	120,577,708	106,243,225	130,450,454	249,944,721	256,403,783	279,688,825	302,985,899
Other	116,274,262	14,259,856	96,580,967	4,506,573	7,541,036	6,734,055	38,263,330	3,760,839	16,511,290
Total	165,055,203	143,077,003	250,545,777	198,921,372	269,552,023	371,352,717	381,190,529	343,887,489	400,120,235

*Figures on Law Claims settlements and judgments dollar amount does not include claims wherein the City is to receive payment

**Historically, law claims have not been tracked in a uniform manner, so only data from FY 2010 through FY 2018 is provided.

ENDNOTES

- ¹ City Charter Chapter 5, § 93(i).
- ² The Comptroller’s Office records claims data in its Omnibus Automated Image Storage and Information System (OAISIS). This report is based on data available in OAISIS as of December 31, 2018. Since OAISIS is a dynamic system that is updated constantly, data in this report does not reflect values for matters that have settled, but have not yet been reported in OAISIS.
- ³ The FY 2017 Claims Report, recorded as of December 1, 2017, reflected 8,841 tort claim settlements totaling \$675.6 million. An additional 338 tort claims resolved in FY 2017 were recorded as of December 31, 2018, growing claims settled in FY 2017 to 9,179 and totaling \$750.6 million.
- ⁴ New York City’s tort claim costs are paid from the Judgments and Claims account established annually in the City’s General Fund, except H+H assumes financial responsibility for its settlements.
- ⁵ NY Exec. Law § 632-a(1)(a), (b).
- ⁶ 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.
- ⁷ See Appendix A for a description of claim types.
- ⁸ In FY 2018, BLA changed the claim type of pre-litigation wrongful conviction settlements from police action to civil rights claims.
- ⁹ Certain New York City employees, including sanitation workers, firefighters, police officers, and public school teachers, are not eligible for Workers’ Compensation and file a claim with the City of New York.
- ¹⁰ HH operates 11 acute care hospitals.
- ¹¹ 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.
- ¹² The United States Census Bureau estimated as of July 1, 2017 the total population for New York City was 8,622,698 residents. In order of population the boroughs are: Brooklyn (2,648,771 or 31 percent of the total population); Queens (2,358,582 or 27 percent of the total population); Manhattan (1,664,727 or 19 percent of the total population); Bronx (1,471,160 or 17 percent of the total population); and Staten Island (479,458 or six percent of the total population). Statistics do not take into account commuters and tourists.
- ¹³ Rounded to the nearest whole claim.
- ¹⁴ While the total number of law claims settlements and judgments include all resolved law claims, law claims settlements and judgment payment figures do not include claims wherein the City is to receive payment.
- ¹⁵ Claims for special education services costs and tuition reimbursement submitted by the DOE for settlement at the administrative level are for proposed settlements of more than \$25,000. Claims submitted by DOE for attorneys’ fees where an underlying claim for special education reimbursement has been successful at the administrative level are for proposed settlements of more than \$13,500. Requests for settlement authority submitted by the Office of the Corporation Counsel for special education reimbursement claims and attorneys’ fees claims that have proceeded to litigation are for proposed settlements in any amount. Accordingly, claims and settlements at the administrative level for special education reimbursement claims in amounts \$25,000 or less and for attorneys’ fees claims in amounts \$13,500 or less are not reflected in this report.
- ¹⁶ In FY 2018, one contract claim settlement related to a holdover proceeding settled for \$29.6 million.
- ¹⁷ Settled dispute claims only reflect those disputes for which the contractor and the Comptroller’s Office have agreed to a settlement that involves a monetary payout. These settlements do not include dispute claims where the Comptroller’s Office has issued a contract interpretation determination that has been accepted by the contractor.
- 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://comptroller.nyc.gov/services/for-the-public/claims/file-a-claim/>).
- 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 claims. 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