

**CITY OF RYE  
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Frank J. Culross, City Manager

SUBJECT: Enclosures - Council Packet

DATE: October 3, 2014

Enclosed with this memorandum are the following items:

- 10-1 Legal Department Update from the Corporation Counsel dated October 3, 2014.
- 10-2 Meeting notice for the week of October 6, 2014 is available on the City website [www.ryeny.gov](http://www.ryeny.gov) under Calendar.

**CITY OF RYE  
MEMORANDUM**

TO: Honorable Mayor and Rye City Council  
FROM: Kristen K. Wilson, Corporation Counsel  
SUBJECT: Litigation Update  
DATE: October 3, 2014

**CLAIMS**

A notice of claim has been filed by Twiggy Brown of 59 Clinton Avenue. The notice claims that a basketball hoop was damaged by a City recycling vehicle. The claim has been forwarded to our insurance carrier.

**TAX CERTIORARI**

**CARROLL v. CITY OF RYE**

This matter is fully submitted before the Appellate Division, Second Department. We are waiting for an oral argument date.

**THE TOWN OF RYE AND THE RYE TOWN PARK COMMISSION v. THE ASSESSOR and Board of Assessment Review of the CITY OF RYE**

The City's reply brief was served and filed. This matter is now fully submitted to the Appellate Division, Second Department. We are waiting for an oral argument date.

**WESTCHESTER JOINT WATER WORKS v. CITY OF RYE**

The Appellate Division, Second Department, reversed the lower court and found that the City of Rye did have standing to seek dismissal of the proceedings based on a failure to comply with RPTL 708(3) and found that the City's records clearly showed that some of the property was located within the Rye Neck Union Free School District's property.

**181 NEW ENGLAND SEAFOOD CORP. v. NOREEN WHITTY, et al**

The return date for the motion has been adjourned to October 24, 2014.

**LITIGATION**

**DOUGLAS E. LIMAN v. NICK EVERETT, MARTHA MONSERRATE, LAURA BRETT, BARBARA CUMMINGS, HUGH GREECHAN, PETER OLSEN, ALFRED VITIELLO, constituting the PLANNING COMMISSION OF THE CITY OF RYE, PANKAJ GUPTA and EMILY GUPTA, PAM McGUIRE and EUGENE McGUIRE**

The City was served this week with an Article 78 proceeding seeking to vacate and nullify actions taken by the Planning Commission in approving a development project proposed by Applicants Pankaj and Emily Gupta. The petition seeks an Order annulling the Planning Commission's Resolution granting a Wetland and Watercourse Permit to the applicants.

**BEAVER SWAMP BROOK – (DEC Administrative proceeding)**

**The T/V of Harrison filed an amended application with the NYSDEC. There is a comment period that has a deadline of October 6, 2014. A request for an extended comment period has been made.**

CASPI v. CITY OF RYE

The City's motions for summary judgment were granted and the City, Commissioner Connors and Lt. Verille were dismissed from the case. The motion for summary judgment against Officer Anfuso was denied and Plaintiff's cause of action for failure to intervene remains. Summary judgment was also denied as to Officers Rosace and Compagnone.

BOARD OF MANAGERS OF THE IVES AT RYE v. CITY OF RYE

The City has served its Answer with Affirmative Defenses.

OMNI CONTRACTING V. CITY OF RYE

The co-defendant Calgi Construction has filed for bankruptcy. As a result, the trial has been adjourned.

AMERICAN LEISURE ACTIVITIES OF NEW YORK CITY INC. v. CITY OF RYE

This matter will be certified on October 15, 2014.

RVIN REYES, et al v. CITY OF RYE, RYE GOLF CLUB, RM STAFFING & EVENTS, INC., MORRIS YACHT AND BEACH CLUB, INC. and SCOTT YANDRASEVICH, Jointly and Severally

A conference was held on September 12, 2014 in front of Judge Roman. The matter was referred to Magistrate Davison for all discovery matters. Plaintiffs' counsel has indicated that he would move for class certification by January 15, 2015.

GORDON and MARIA HARGRAVES v. CITY OF RYE ZONING BOARD OF APPEALS, WALTER & MARGARET NELSON, and Robert TALT

Hon. Barry E. Warhit issued an Opinion, Decision and Order of the Court remanding the matter back to the Board of Zoning Appeals for a more detailed decision. All parties are ordered to appear before Judge Warhit on October 28, 2014 for a conference.

P. STEPHEN LAMONT v. KRISTEN K. WILSON, et al

Defendants' were granted permission to file a motion to dismiss. Plaintiff has until October 10, 2014 to file any amended complaint(s).

ALAN KACHALSKY v. THE CITY OF RYE, NEW YORK and the RYE CITY POLICE DEPARTMENT and P.O. ED BALLS

A summons and complaint was served on the City this week claiming false arrest, violations of civil rights under both the Federal Civil Rights Act and the New York State Constitution, negligent training on the part of the Police Department and Assault and Battery. Plaintiff is seeking both compensatory and punitive damages. A notice of claim had previously been served in connection with this matter.

CHITTENDEN v. COMPAGNONE

Chittenden filed a motion for default judgment. Compagnone filed his answer and moved to dismiss for failure to serve a notice of claim on the City. **Judge Mary Smith denied Plaintiff's motion and has ordered the parties in for a conference on November 10, 2014.**

**CITY COURT**

Routine calendar with no unusual dispositions.

Respectfully submitted,

A handwritten signature in black ink that reads "Kristen K. Wilson". The signature is written in a cursive, flowing style.

Kristen K. Wilson  
Corporation Counsel

KKW/dfn