



Metropolitan Transportation Authority The Cost of Judgments and Claims

Thomas P. DiNapoli
New York State Comptroller

Kenneth B. Bleiwas
Deputy Comptroller

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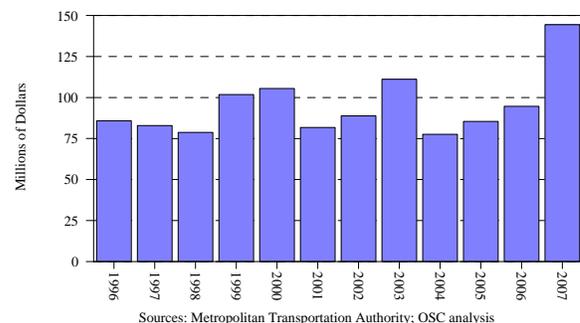
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- Between 1996 and 2007, the MTA paid out almost 87,000 claims at a total cost of \$1.1 billion.
- Since 1996, 85 cases have been settled for \$1 million or more, at a total cost of \$233 million or 20 percent of all claims paid.
- Claims paid on behalf of the LIRR averaged \$11.9 million annually during 2003 through 2005, but grew to \$21 million in 2006 and then to \$52.9 million in 2007. (Claims paid on behalf of Metro-North have remained steady at about \$20 million annually since 1996.)
- In 2007, claims against the LIRR set a new record at 1,936 filings—a twofold increase over the 2003 level. Claims were primarily for clothing caught on armrests and for accidents involving the gap between trains and station platforms.
- Claims against the LIRR and Metro-North for torn clothing have totaled 3,221 since the introduction of the new M7 commuter rail car in 2002. Although the cost to the MTA for such claims is minimal, the cost to repair poorly designed armrests is significant, and the inconvenience to commuters is enormous.
- The estimated future liability of claims that have been filed against the MTA but not yet paid totaled \$1.2 billion in 2007. (New York City Transit was responsible for \$858 million, or 70 percent, of the total estimate.)
- In 2006, Metro-North commuters paid, on average, \$0.25 per ride for the cost of judgments and claims—twice as high as New Jersey Transit, which serves about the same number of riders. LIRR commuters paid \$0.19 per ride—50 percent higher than New Jersey Transit.

Over the past 12 years, the three largest operating agencies of the Metropolitan Transportation Authority (i.e., New York City Transit, the Long Island Rail Road, and the Metro-North Railroad) paid out more than \$1.1 billion on 86,875 claims for personal injury or property damage. The claims were filed by passengers, employees, motorists, and others.

The number of new claims filed annually has been relatively constant over the 12-year period—about 8,000 annually. The cost to settle claims, however, peaked at \$144 million in 2007 (see Figure 1), or 52 percent more than in the previous year, largely because of the settlement of a number of large claims. In addition, the three operating agencies paid \$35.8 million in insurance premiums to the First Mutual Transportation Assurance Company, a captive insurance company created by the MTA to help manage the cost of judgments and claims.

Figure 1
MTA Claims Paid



The estimated future liability of claims that have been filed against the MTA but not yet paid totaled \$1.2 billion in 2007, a 38 percent increase since 2001. Given this trend, the annual cost to settle judgments and claims is likely to remain a significant budget expense. The State Comptroller recommends that the MTA step up its efforts to mitigate safety hazards to workers and commuters.

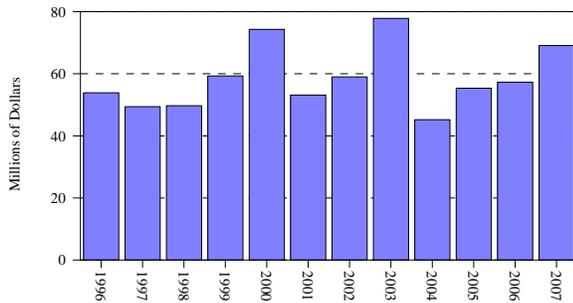
Agency Trends

From 1996 through 2007, 86,875 claims were filed against New York City Transit (NYC Transit), the Long Island Rail Road (LIRR), and the Metro-North Railroad (Metro-North). Settlements¹ totaled more than \$1.1 billion on these claims, an average of \$13,104 per claim.

New York City Transit Authority

Each year between 1996 and 2007, an average of 5,003 claims was settled on behalf of NYC Transit. The annual amount paid out on these claims ranged from a low of \$45 million in 2004 to a high of \$78 million in 2003, when several large claims were settled (see Figure 2). During this 12-year period, the cost per claim averaged \$11,721.

Figure 2
New York City Transit
Claims Paid By Year



Sources: Metropolitan Transportation Authority; OSC analysis

Between 2002 and 2007, third-party insurers received \$14.2 million from NYC Transit to cover the liability risk for paratransit services, but those insurers paid out just \$2.6 million on \$26.5 million in settled claims.² NYC Transit could have saved \$11.6 million during this period if not for a State law that requires the MTA to obtain third-party insurance for paratransit vehicle liability.³

¹ This report refers to claims resolved through negotiation or adjudication as “settled.”

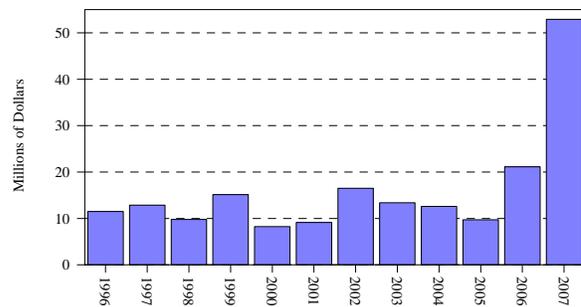
² Paratransit provides shared ride vehicle transportation for people who are unable to use public bus or subway services.

³ New York State Insurance Law, Article 70, Section 7003.

Long Island Rail Road

Each year between 1996 and 2005, an average of 1,140 claims was settled on behalf of the LIRR. The amount paid out on these claims averaged \$11.9 million per year (see Figure 3). During the ten-year period, the cost per claim averaged \$10,943. In 2006 and 2007, a similar number of claims were settled but the amount paid out jumped to \$21 million in 2006 and \$52.9 million in 2007, due to two large settlements, which are discussed later in this report. As a result, the average cost per claim rose to \$39,540 in that year.

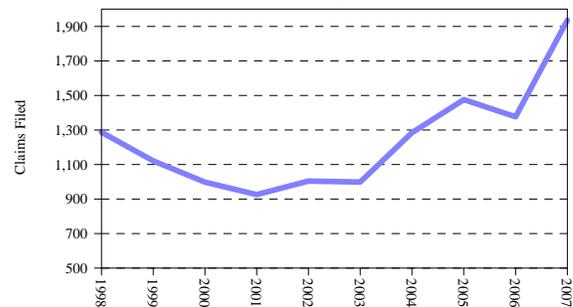
Figure 3
Long Island Rail Road
Claims Paid By Year



Sources: Metropolitan Transportation Authority; OSC analysis

The number of new claims filed against the LIRR has been rising over the past four years (see Figure 4). In 2007, new claims filed reached a high of 1,936—a twofold increase over the 2003 level. A large number of the claims resulted from torn clothing (caught on armrests) and from accidents involving the gap between the train and the station platform.

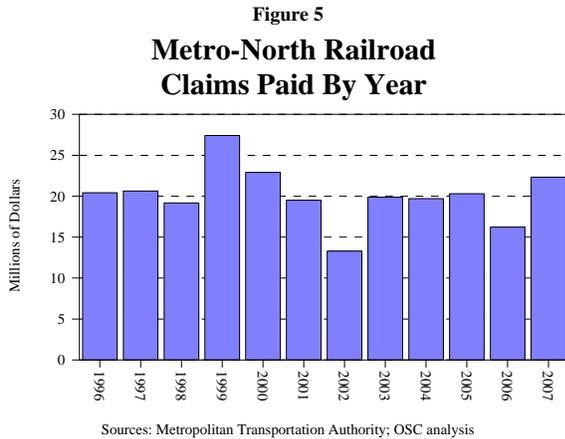
Figure 4
Long Island Rail Road
Claims Filed By Year



Sources: Metropolitan Transportation Authority; OSC analysis

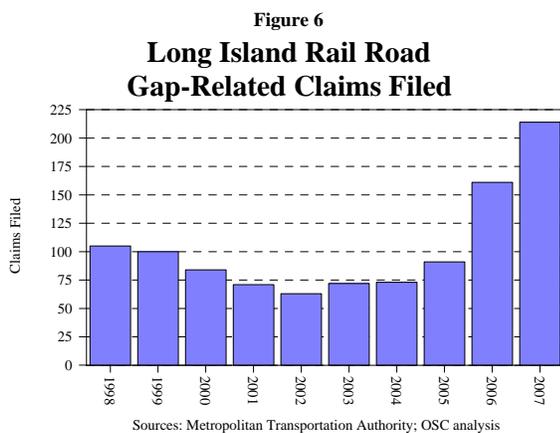
Metro-North Railroad

Each year between 1996 and 2007, an average of 1,088 claims was settled on behalf of Metro-North. The amount paid on these claims averaged \$20.2 million per year (see Figure 5), an average of \$18,521 per claim.



Gaps Between the Train and Platform

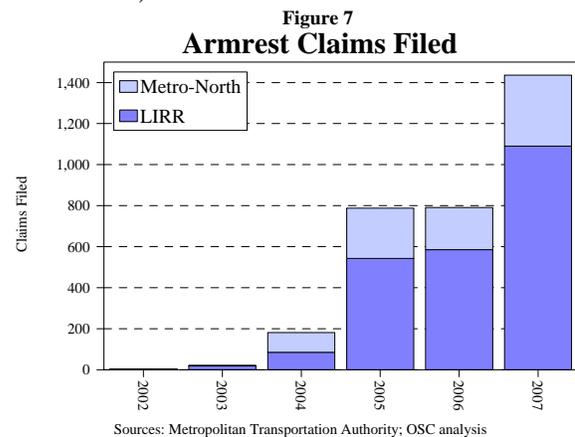
The number of claims filed for injuries related to LIRR platform gaps increased from an annual average of 86 claims filed per year in 1996-2005 to 161 claims filed in 2006, and 214 claims in 2007 (see Figure 6). Since 1998, the LIRR has received 1,034 claims involving gaps between trains and station platforms. Of these claims, 199 have been or will be paid a total of \$16 million, including \$11 million to one claimant who was injured at the Forest Hills station. Another 286 cases are still open and may require payment in the future. The LIRR has closed the remaining 549 gap-related cases with no payments made.



In 2007, the LIRR initiated several actions to narrow its platform gaps. The LIRR installed wooden edge boards on some platforms, brought some tracks a few inches closer to the platform, and moved some platforms closer to the tracks. In total, the LIRR spent \$6.6 million on these efforts. In December 2007, the LIRR announced that it would spend another \$28.1 million to reduce platform gaps by installing metal threshold plates on all doors of every train car in the system (\$11.3 million), and by installing one-inch boards on all platform edges in the system (\$16.8 million).

Armrest Claims

Both the LIRR and Metro-North have encountered problems with the armrests on their new M7 train cars. Since the cars were first put into service in 2002, many commuters have torn their clothing on the armrests. The number of claims filed annually has grown from 3 in 2002 to over 1,400 in 2007 (see Figure 7), more than two thirds of which were filed on behalf of LIRR commuters. (The LIRR currently has about 500 more M7 cars than Metro-North does.)



The costs associated with these claims totals \$285,046—a relatively small amount given the size of the commuter railroad operations—but the inconvenience to riders and the impact on public relations have been tremendous. In addition, the claim data does not reflect any of the costs to remedy the situation. The commuter railroads have announced plans to spend \$3.6 million to replace 50,982 armrests on 1,172 M7 train cars. The new armrests will be three inches shorter and made of a new material that does not “grab” clothing. All armrests are expected to be modified by the first quarter of 2009 at Metro-North, and by the middle of 2010 at the LIRR.

Settlements of More Than \$1 Million

Since 1996 the MTA has settled 85 cases for amounts totaling \$1 billion or more, at a total cost of \$233 million. This represents 20 percent of the amount of all claims paid by the MTA and its affiliates, an average cost per claim of \$2.7 million (see Figure 8).

Figure 8
Settlements of More Than \$1 Million
(1996 through 2007)

| | Number of Cases | Amount Paid (in millions) |
|-----------------------|-----------------|---------------------------|
| New York City Transit | 61 | \$ 149.4 |
| Long Island Rail Road | 15 | 60.1 |
| Metro-North Railroad | 9 | 23.2 |
| Total | 85 | \$ 232.7 |

Source: Metropolitan Transportation Authority

Since 1996, NYC Transit settled 61 cases for more than \$1 million per case, for a total of \$149 million. Two thirds of these settlements (41 cases with an aggregate value of \$105 million) arose when pedestrians or motorists were struck by buses or trains. Two claims cost \$6 million each, and another cost \$9 million.

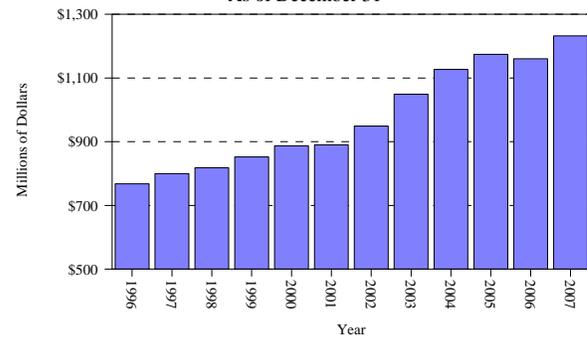
Over the past 12 years, the LIRR settled 15 claims for more than \$1 million per case, for a total of more than \$60 million. Nine of the settlements involved LIRR employees; these had an aggregate cost of \$27 million. Of the remaining six large settlements, three had a collective total of \$16 million and stemmed from a single incident, when an unmanned LIRR locomotive rolled out of a rail yard and hit a number of occupied vehicles, causing multiple injuries. Another claimant was awarded \$11 million after she fell in the gap between platform and train while disembarking. The remaining two judgments awarded \$3.7 million to a rider struck by a train, and \$2.2 million in a large property damage claim.

During the same 12-year period, nine large claims were settled on behalf of Metro-North. All but one of those claims involved injured employees. The three largest claims were in the amounts of \$7.3 million (paid to an employee hurt while attaching train cars), and \$5.6 million and \$3.1 million (both paid to employees hurt in shops and yards, in two separate incidents).

Future Liabilities

At the end of each year, the MTA determines, on an actuarial basis, its potential liability from open claims and from incidents in the claim process. Since 2001, the MTA's future liability has increased by 38 percent, from \$890 million to \$1.2 billion (see Figure 9).

Figure 9
MTA Claim Liability
As of December 31



Sources: Metropolitan Transportation Authority; OSC analysis

Comparative Statistics

In 2006, NYC Transit had the lowest reported judgments and claims cost per subway trip (\$0.01) and bus trip (\$0.02) among the nation's ten largest operators in each category. The LIRR and Metro-North, however, had the second- and third-highest costs per trip among the six largest commuter rail operators (see Figure 10). Metro-North riders paid \$0.25 per ride—twice as much as those on New Jersey Transit, which serves about the same number of riders. LIRR riders paid \$0.19 per ride—50 percent higher than New Jersey Transit.

Figure 10
2006 Judgments and Claims Expense
Per Commuter Railroad Trip

| Operator | Expense Per Commuter Trip |
|--------------------|---------------------------|
| Chicago, IL | \$0.27 |
| MTA Metro-North | \$0.25 |
| MTA LIRR | \$0.19 |
| Boston, MA | \$0.14 |
| New Jersey Transit | \$0.13 |
| Philadelphia, PA | \$0.01 |

Note: Includes insurance premiums.

Source: American Public Transportation Association

Major contributors to this report include:

| | |
|-----------------|-----------------|
| Robert Horowitz | Leonard Liberto |
| Daryl Jones | Jane Moore |

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Office of the State Comptroller, New York City Public Information Office
633 Third Avenue, New York, NY 10017