

RESOLUTION 28 – 2011

RESOLUTION SUPPORTING S-2404
CAPPING ATTORNEY FEES IN LITIGATION AGAINST PUBLIC ENTITIES

Whereas, Public Officials and employment practices claims against municipalities have increased dramatically during the past several years; and

Whereas, according to a ten year closed claim study recently completed by the Municipal Excess Liability Joint Insurance Fund, the cost of employment practices liability claims per employee was \$26 in the year 2000 and increased to \$125.00 per employee for most of the decade; and

Whereas, according to the same study, the cost per employee increased \$175.00 to \$354 per employee in just the past two years; and

Whereas, 65% of these claims are for police and the 2011 projected cost of these claims is \$740.00 per officer; and

Whereas, legal fees historically represent over 70% of the cost of these claims; and

Whereas, provisions in various laws such as LAD and CEPA providing for fee shifting have encouraged attorneys to make unreasonable demands in otherwise minor cases; and

Whereas, John Farmer, Dean of the Rutgers Law School, and former New Jersey Attorney General stated: "Even cases with marginal relevance are now being presented by Plaintiffs' counsel as having substantial settlement value"; and

Whereas, in a recent case, a New Jersey Court awarded the Plaintiff's attorney a fee of \$450,000 even though the injury awarded his client was only \$20,000; and

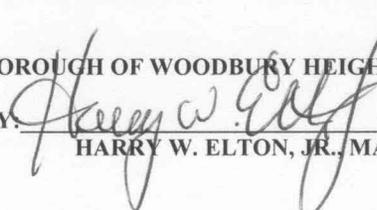
Whereas, the explosion of employment practices cases will continue until reasonable caps are placed on legal fee applications.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Woodbury Heights that the Legislature is urged to adopt S-2404 placing a cap on attorney fee awards in fee shifting cases against public entities, as follows:

- For awards (compensatory and punitive damages combined) of \$50,000 or less, the maximum fee award should be \$50,000, though a lower fee should be awarded if warranted based on considerations of reasonableness.
- For awards over \$50,000, the fee award should not exceed the verdict, though a lower fee should be awarded if warranted based on considerations of reasonableness.

BE IT FURTHER RESOLVED that a copy of this Resolution shall be sent to our State Legislative Delegation, the Governor, the Senate President, Majority Leader and Minority Leader, as well as the Assembly Speaker, Majority Leader and Minority Leader.

BOROUGH OF WOODBURY HEIGHTS

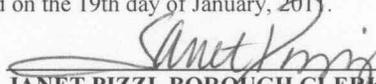
BY: 
HARRY W. ELTON, JR., MAYOR

ATTEST:


JANET PIZZI, BOROUGH CLERK

CERTIFICATION

I hereby certify the above to be a true copy of the Resolution adopted by the Borough Council of the Borough of Woodbury Heights at a Meeting held on the 19th day of January, 2011.


JANET PIZZI, BOROUGH CLERK