



THE CITY OF NEW YORK  
**LAW DEPARTMENT**

100 CHURCH STREET  
NEW YORK, N.Y. 10007-2601

September 23, 2002

MICHAEL A. CARDOZO  
*Corporation Counsel*

Ms. Anne Pejovich  
315 East 65<sup>th</sup> Street, #4C  
New York, New York 10021

Re: Betsy Combier v. Schneider, et al.  
City File No. 02TT018286

Dear Ms. Pejovich:

Your request for representation in this case has been approved by your agency and by the Corporation Counsel, subject to the conditions set forth below. It is important that you understand and consent to these conditions.

The Corporation Counsel's Office functions primarily as the City's lawyer, and its principal obligation is to represent the City's interests. However, General Municipal Law Section 50-k(2) provides that the City shall provide for the defense of an employee in any civil action "arising out of any alleged act or omission which the Corporation Counsel finds occurred while the employee was acting within the scope of his public employment and in the discharge of his duties and was not in violation of any rule or regulation of his agency at the time the alleged act or omission occurred." In this case, the Law Department has determined, based on the information currently available, that you meet these criteria and are therefore entitled to representation by this office.

If, however, we later receive information from which the Corporation Counsel concludes that you were not acting within the scope of your public employment or in the discharge of your duties or were in violation of any rule or regulation of your agency, we may be compelled to withdraw from representation. In addition, if we learn of facts indicating that you or any others have acted criminally or otherwise in violation of any rule or regulation of your agency, the information will be provided to the relevant City agency for such action as it deems appropriate. We may also withdraw from representation if you should fail to cooperate fully in the defense of this lawsuit or if a conflict of interest arises between you and any other defendants in this action who are represented by the Corporation Counsel.

The City generally pays the judgments rendered against employees represented by the Corporation Counsel's Office. However, you should know that the decision to provide

representation to you does not automatically mean the City will pay any judgment rendered against you. General Municipal Law Section 50-k(3) provides in relevant part that "the duty to indemnify and save harmless prescribed by this subdivision shall not arise where the injury or damages resulted from intentional wrongdoing or recklessness on the part of the employee."

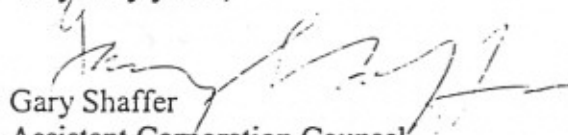
The City's decision whether to pay any judgment awarded against you can be finally made only after the facts have been more fully developed; this may not occur until the end of the lawsuit. In our view, that decision rests solely with the Corporation Counsel. Accordingly, a jury verdict against you, even with respect to punitive damages, is not the dispositive factor. However, you should be aware that the courts could disagree with the Corporation Counsel's decision and could direct the City not to provide indemnification.

Although we call all of these matters to your attention, we do not mean to imply that a judgment will be entered against you for which you will be personally liable or that the City will not indemnify you if such a judgment is entered. However, the possibility of personal liability exists, and you therefore have the right to retain private counsel at your own expense. Your decision to do so would not automatically preclude indemnification by the City for any judgment entered against you or for any settlement to which you might agree. However, if you were represented by private counsel, the Corporation Counsel would have to conduct a thorough review of the case before making a decision concerning indemnification of any judgment against you, and would deny indemnification if the judgment resulted from inadequate representation by private counsel. Indemnification of any settlement to which you might agree while represented by private counsel would be conditioned upon approval of the settlement by the Corporation Counsel and the Comptroller of the City of New York prior to finalization of any such settlement.

Please decide whether you wish to be represented by the Corporation Counsel and then complete the attached form and return it in the enclosed self-addressed envelope. If you have any questions whatsoever, please call me at (212) 788-0475. You are, of course, free to consult private counsel before deciding whether you wish to be represented by the Corporation Counsel.

Thank you for your prompt attention.

Very truly yours,

  
Gary Shaffer  
Assistant Corporation Counsel  
Tort Division

cc: Celeste Sugure, Esq.  
Robin Greenfield, Esq.  
Board of Education  
Office of Legal Services  
110 Livingston Street  
Brooklyn, NY 11201

The City of New York  
Law Department  
Attn: Gary Shaffer  
Assistant Corporation Counsel  
100 Church Street, Rm 4-209  
New York, New York 10007

Re: Betsy Combier v. Schneider, et al.  
City File #: 02TT018286

Dear Mr. Shaffer:

I have received your letter of September 24, 2002, regarding representation and indemnification in the above-referenced action.

( ) I choose to be represented by the Corporation Counsel in this action under the terms and conditions of General Municipal Law Section 50-k and other relevant laws.

( ) I intend to retain private counsel to represent me in this action at my own expense.

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Signature  
(Anne Pejovich)