

**CITY OF WHITE PLAINS DENIED GOVERNMENTAL IMMUNITY IN GALLERIA PARKING GARAGE MURDER** (See New York Law Journal, p.1, September 14, 2014)

The Estate of Concetta Russo Carriero, and its attorneys, were handed another major victory when the Appellate Division, Second Department affirmed the trial court's decision to let the Estate proceed with its claim that the City of White Plains failed to maintain the Galleria parking garage in a reasonably safe condition. Ms. Carriero was attacked and killed at noontime in the parking garage adjacent to the Galleria mall owned, operated, and maintained by the City of White Plains on June 29, 2005. As the Court noted in its decision, the gravamen of the Estate's complaint against the City was that "it failed in its capacity as a commercial owner of a public parking garage to meet the basic proprietary obligation of providing minimal security for its garage property via lighting, alarms, cameras, and warning signs. These measures are within the normal range of security measures necessary to satisfy the duty of care owed by any landlord or commercial property owner to its tenants or invitees." "The City is not . . . immune from claims arising out of the performance of proprietary functions."

Previously, a jury in Westchester Supreme Court heard nearly three weeks of evidence regarding the remaining claim left intact against the City of White Plains. Ivey Barnum & O'Mara's John Q. Kelly was lead counsel for the Estate at trial. Following emotional closing statements, the jury deliberated for three days before rendering its verdict in favor of Estate for \$1,983,000.