

SPORTS 1C

# GIANTS STAY IN 1<sup>ST</sup>

with big win over Saints



# The Journal News

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MONDAY, DECEMBER 10, 2012

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## TZB dredging a 'plus'

Top replacement option removes less sediment than expected

By Michael Risinit  
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The recommended option for the new Tappan Zee Bridge came with two figures that heartened Gov. Andrew Cuomo and other state officials: a lower-than-expected price tag and the removal of less of the Hudson River's bottom than expected.

The latter was touted almost as much as the former during Cuomo's recent cabinet meeting in Albany.

"That's a very big deal, the dredging," Cuomo said last week. "The environmental groups, especially the river environmental groups, will find it very attractive that it does less dredging."

The three proposals for the new bridge spanning the Hudson between

Tarrytown and Nyack were unveiled during the meeting. The top contender, which a source close to the selection process told The Journal News was Tappan Zee Constructors, said it would dredge about 951,000 cubic yards of sediment from the river. That's about half the amount noted in the project's

See BRIDGE, Page 8A

## Voters ignore most fire districts

Turnout less than 1%; some urge Nov. ballots

By Julie Moran Alterio  
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This might be the year that Eastchester Fire District voters face something new at the polls: Lines.

Last year's turnout in the district was the highest in 18 years and it will likely be topped Tuesday, when a combative three-way contest rouses interest in what's usually the sleepest election on the voting calendar.

Fire district elections typically draw fewer than 1 percent of registered voters — and some districts can barely muster enough people to populate a dinner party.

Set by state law on the second Tuesday of December, the elections in New York's 810 fire districts are often ignored by an electorate busy with the holidays and fatigued with the previous month's statewide or national races.

See VOTE, Page 6A

## CUISINE FOR RECOVERY

Breast cancer patients offered meal delivery

By Jane Lerner  
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After a long day of chemotherapy and doctor appointments, not to mention caring for a home and two young children, the last thing Hong Chen wants to do is make dinner.

Now the West Nyack resident doesn't have to.

She and other breast cancer patients in the Lower Hudson Valley are among the first in the nation to take part in a program started by a Bergen County, N.J., pharmaceutical company.

Magnolia Meals at Home is a partnership between Eisai, a Japanese company with U.S. headquarters in Woodcliff Lake, N.J., and two national cancer organizations, CancerCare and Cancer Support Community.

"They tell you how important it is to eat, but sometimes you're just too tired to cook," said Chen, 44, who has been receiving treatment for breast cancer since the summer.

It's important for people undergoing cancer treatments to maintain a healthful diet, experts said.

"It's a great benefit for breast cancer patients to know that they have a meal ready to go," said Marilyn Leroy-Sterling, a nurse practitioner and care coordinator at the cancer center at Northern Westchester Hospital Center in Mount Kisco.

The hospital has long

See FOOD, Page 6A

Leslie Pierson of Chappaqua with food she received from Magnolia Meals at Home, which gives breast cancer patients free meals during their treatment.

JOE LARESE/THE JOURNAL NEWS



## FedEx faces fed suit by local 'David'

NYBikerGear.com claims shipper defrauds users

By Erik Shilling  
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As holiday packages pile up on doorsteps, most consumers will likely think very little about how much their shipments weigh and, in turn, how much major deliverers may be picking their pockets, a Putnam Valley online retailer claims.

NYBikerGear.com is a Lower Hudson Valley 'David' taking on FedEx's 'Goliath'; the motorcycle-supply business has filed a federal lawsuit accusing the nation's second-largest shipper of systematically defrauding customers for years by manipulating the weights of their shipments, all without customers' consent.

The suit, parts of which were

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SPORTS » 1C

### Track season kicks off at Armory competition

Local track stars kicked off their season on the Armory track Sunday with dreams of victories at the state meet in March.



WEATHER » 2A

**Today:** Rain, warmer  
HIGH: 65 LOW: 35  
**Tuesday:** Some sun  
HIGH: 50 LOW: 26

WP X

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new york's lower hudson valley

### Gift guide

Check out a slide show of small, thoughtful gifts from local boutiques online at [lohud.com/giftguide](http://lohud.com/giftguide)

### A gallery of photos

View more photos from this weekend's events at LoHud.com, including the start of Hanukkah celebrations and the train show.

\$1.00 FOR HOME DELIVERY PRICING, PAGE 2A



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LIFE & STYLE » 1B

### 'Othello' reversed

Shakespeare's tragedy tells the story of a leader, a black among whites, but not at Woodlands High School, where the races are inverted.

COMING » TUESDAY

We catch up with Steven Van Zandt, who is behind the Rascals' reunion shows at the Capitol Theatre.



LOCAL NEWS 3A

### All aboard! Train show stops here

Max Belvedere, 9, of Valhalla, was among hundreds of Westchester residents to attend Sunday's Great Westchester Train and Toy Show, held at the Westchester County Center in White Plains. **Story, 3A**

# FRAUD: FedEx accused of billing scam

Continued from Page 1A

cleared for trial in October in U.S. District Court in White Plains, is seeking class-action status to cover an untold number of affected consumers. It was filed in March 2011 only after NYBikerGear.com discovered the over-payments and it had been refunded some overpaid shipping costs.

The suit makes a number of other allegations against FedEx, accusing the delivery giant of implementing a "labyrinthine and corrupt" billing scheme designed to confuse customers, while raking in "millions if not billions" of dollars in over-payments, primarily because of an "upweighting" scheme.

"I noticed some discrepancies in our bills, probably around the spring, summer of 2009," said Joe Bagnato, 41, a co-owner of NYBikerGear.com. "With every business, logistics is a big part of it, and when it's cutting into your bottom line, you start to look at those things."

Bagnato's lawyer cites several examples in the lawsuit of over-payments, primarily involving 4-pound packages, which, according to FedEx's online rate tool, might cost up to \$5 or so more if classified as a similarly-sized 10-pound package when shipped in the United States on the ground over the same distance. That rate difference may be negligible to consumers who ship just a few packages a year, but for a business such as Bagnato's, which ships hundreds of packages yearly, the losses can add up quickly.

When he discovered the errors, Bagnato said he complained to FedEx immediately, before later discovering other over-payments, and, after taking up the issue with FedEx representatives and getting nowhere, ultimately decided to file suit. Bagnato now exclusively uses UPS and the U.S. Postal Service to ship orders.

Judge Cathy Seibel cleared at least two of the major claims for trial on



Joe Bagnato, center, owner of NYBikerGear.com in Putnam Valley, is joined by his attorneys Brian Rudner, left, and Michael Paleudis at their offices in White Plains on Nov. 29. RICKY FLORES/THE JOURNAL NEWS

Sept. 25, while dismissing, among others, conspiracy accusations against UPS.

"I find that Plaintiff has plausibly alleged that FedEx and FedEx Services violated (the law) with respect to both the upweighting and Canadian Customs schemes," Seibel wrote in her 30-page decision, much of which was skeptical of FedEx's arguments for dismissal of the claims.

Angela Wheland, a spokeswoman for FedEx, said that the company would "vigorously defend our position."

"We are pleased that the court decided to dismiss multiple claims in this case and we are reviewing our options concerning next steps for the remaining claims," Wheland added in a statement.

Both parties are now in the midst of discovery, or the exchanging of evidence pertinent to the case. Both sides last appeared in court Nov. 9, and no new court date has been set.

As outlined in the suit, the schemes are relatively simple. Small packages — typically just a few pounds in weight — are routinely processed in FedEx's computer system as weighing significantly more, therefore raising the total cost of shipping and earning FedEx exponentially more in profit.

At least some of the suit's claims fall under the Racketeer Influenced and Corrupt Organizations Act, which could triple the damages should the legal action ultimately be successful. If the suit is ultimately certified as a class action — which will be decided upon sometime before trial — potentially tens of thousands of customers could eventually be considered claimants.

Bagnato declined to go into sales or revenue figures for the website, but he recently told The Journal News that the business, which sells motorcycle helmets, jackets, gloves, vests, saddlebags, and other biker accessories, has been his full-time occupation since its founding.

NYBikerGear had used FedEx from July 2008 until August 2010, when it realized that the FedEx's computer system was establishing "fictional" weights of many of its shipments, in accordance with "complex formulas and algorithms" that are in FedEx's sole control, the suit says.

Many of FedEx's overcharges, meanwhile, were embedded in small-print contracts with customers, contracts that Michael J. Paleudis, a lawyer for NYBikerGear.com, called "unconscionable and unenforceable" in the

# Shooting suspect dies of injuries

Associated Press

PORTERVILLE, Calif. — A man suspected of fatally shooting three people and wounding three children, including his two daughters, died Sunday from his injuries in a police shootout, authorities said.

Hector Celaya, 31, died several hours after he was wounded during gunfire with Tulare County sheriff's deputies as he tried to flee in a vehicle. His death was confirmed by sheriff's Sgt. Chris Douglass, who did not release details.

Authorities apprehended him early Sunday, about six hours af-

ter deputies were called to a trailer on the Tule Indian Reservation on Saturday night. Inside, they found the bodies of a man and a woman; the body of another man was nearby.

Deputies also discovered a wounded young boy, whose condition and age were not known.

Officials said Celaya shot his two daughters, ages 5 and 8, who were found with him in the vehicle when he was apprehended.

One girl suffered life-threatening injuries, while the other girl was less seriously hurt.

A motive for the attacks was not immediately known.

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