

OnBASE ID # 89352

December 2, 2021

To: Honorable Members of the
Board of Acquisition and Contract

From: John M. Nonna
County Attorney

Re: Request for Authorization to Settle the Lawsuit Daniel Yeboah & Joyce Haick v. County of Westchester, et al. in the amount of \$17,500.00.

Attached for your consideration is a resolution which, if approved by your Honorable Board, would authorize settlement of the lawsuit Daniel Yeboah & Joyce Haick v. County of Westchester, et al.

This action was commenced by plaintiffs, husband and wife Daniel Yeboah and Joyce Haick, in the Supreme Court of the State of New York, Westchester County. The accident occurred on August 21, 2017, at approximately 10:40 a.m., in the parking lot located at 132 Tuckahoe Road in Yonkers, New York. Plaintiffs allege that at the time of the accident, they were seated in the backseat of a taxi being driven by co-defendant, Alberto Reyes, when the County vehicle, driven by County driver, John Frias, was backing out of a parking spot and struck the rear right passenger side of the taxi. The two vehicles sustained damage.

As a result of the accident, plaintiff Daniel Yeboah sustained injuries to his lumbar and cervical spine consisting of numerous disc herniations and disc bulges, as well as right shoulder tendinosis and tenderness, right hip tenderness, left hip swelling and associated pain. His injuries necessitated numerous pain management injections into his right shoulder, lumbar and cervical spine, and left hip. Also, he was required to undergo physical therapy treatment.

Plaintiff Joyce Haick sustained injuries to her lumbar and cervical spine consisting of numerous disc herniations, disc bulges, and ligament and joint swelling. She also sustained injuries to her right knee, including an ACL sprain and fluid development, as well as soft tissue injuries to her right hip. Her injuries necessitated numerous pain management injections into her lumbar spine and right hip. Also, she was required to undergo physical therapy treatment.

Under the New York Vehicle & Traffic Law, it is probable that the County will be found liable for the accident since the taxi vehicle that plaintiffs were riding in had the right of way while traveling through the parking lot, which required the driver of the County vehicle to stop and yield to the taxi (NY VTL § 1143). Additionally, the driver of the County vehicle was not permitted to back out of the parking spot until such movement was able to be made with safety and without interfering with other traffic (NY VTL § 1211). Therefore, the plaintiffs will argue that the County driver was negligent in his operation of the County vehicle. The plaintiffs will further argue that the County driver's negligence was the proximate cause of their injuries.

Plaintiff is represented by Michael Kafer, of Loscalzo & Loscalzo, P.C., 225 West 34th Street, 9th Floor, New York, New York 10122.

In light of the nature of plaintiffs' injuries and the liability assessment, a settlement of \$17,500.00¹ is proposed, and plaintiffs' counsel has indicated that such an amount would be acceptable to plaintiffs.

JMN/tal

¹ Plaintiff Daniel Yeboah will be receiving payment in the amount of Ten Thousand Dollars (\$10,000.00) and plaintiff Joyce Haick will be receiving payment in the amount of Seven Thousand Five Hundred Dollars (\$7,500.00).

RESOLUTION

Upon the communication of the County Attorney, it is hereby

RESOLVED, that the County Attorney is hereby authorized to settle the lawsuit Daniel Yeboah & Joyce Haick v. County of Westchester, et al. by payment from the County of Westchester to Daniel Yeboah and Joyce Haick in the amount of \$17,500.00; and it is further

RESOLVED, that the County Attorney or his designee is authorized to execute any documents necessary to implement this resolution.

Original Agreement	\$	N/A
First Amendment	\$	N/A
This Amendment	\$	N/A
TOTAL	\$	N/A

Account to be
Charged/Credited

Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub- Object	Trust Account	Dollars
615	59	0697/4120	4280/05	N/A	\$17,500.00

Budget Funding Year(s) 2017 Start Date 1/1/2017 End Date 12/31/2017
(must match resolution)

Funding Source Tax Dollars _____

State Aid _____

\$ 17,500.00 Federal Aid _____

(must match resolution) Other Self-Insurance Retention 6N