

OnBase ID #: 110774

March 24, 2025

To: Honorable Members of the  
Board of Acquisition and Contract

From: John M. Nonna  
County Attorney

Re: Request for Authorization to Settle the Lawsuit of Marco T. Javielayala v. County of Westchester, et al. in the amount of \$110,000.00.

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Attached for your consideration is a resolution which, if approved by your Honorable Board, would authorize settlement of the lawsuit of Marco T. Javielayala v. County of Westchester, Claudia Benschine and Keith Benschine in the amount of \$110,000.00, inclusive of counsel fees.

Plaintiff, approximately 40 years old at the time the claim arose, alleges that on February 2, 2022, at about 8:00 a.m., his vehicle was struck by a County police vehicle on Route 118 at its intersection with Hanover Street, Yorktown Heights, New York. Plaintiff was legally stopped eastbound on Route 118 waiting to make a left turn onto Hanover Street. The County police vehicle was traveling westbound on Route 118 at approximately 45 to 50 miles per hour when co-defendant Claudia Benschine, after making a full stop on the intersecting Hanover Street, pulled into the intersection intending to make a left turn onto eastbound Route 118. The County's police vehicle in its attempt to avoid a collision with the Benschine vehicle swerved left toward the oncoming opposing lane of traffic. The County vehicle collided with the Benschine vehicle then struck plaintiff's stationary vehicle head on.

Despite the Benschine vehicle entering the intersection after making a full stop on Hanover Street, it is likely that a jury would assign a percentage of fault for the accident on the County vehicle as well. As a result of this accident, plaintiff underwent two (2) separate left shoulder surgeries, suffered cervical and thoracic disc herniations, was treated with spinal injections, received physical therapy and suffered lost wages. Considering the injuries and

damages suffered by plaintiff and the County's anticipated percentage of fault, it is the recommendation of this office that this matter be settled for \$110,000, inclusive of counsel fees.

Plaintiff is represented by Keith Ahlers, Esq. and Josh Bass, Esq., of Curan & Ahlers, LLP, 14 Mamaroneck Avenue, White Plains, New York 10601.

JMN:jaf

APPROVED BOARD OF ACQUISITION & CONTRACT - 04/03/2025 - RAYMOND SCULKY, SECRETARY

