

OnBase ID #: 110774

To: Honorable Members of the Board of Acquisition and Contract

From: John M. Nonna County Attorney

103/2025-RAYMOND SCULIX, SEC Request for Authorization to Settle the Lawsuit of Marco T. Javielayala v. County of Re: Westchester, et al. in the amount of \$10,000.00.

Memorandum

Office of the County Attorney

Attached for your consideration is a resolution which, if approved by your Honorable Board, would authorize settlement of the lawsuit of Marco T. Javielavala 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 \$.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.

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RESOLUTION

Upon the communication of the County Attorney, it is hereby

RESOLVED, that the County Attorney is hereby authorized to settle the lawsuit of Marco

T. Javielayala v. County of Westchester, et al. by payment from the County of Westchester to Marco

T. Javielayala in an amount not to exceed \$110,000.00; and it is further

RESOLVED, that the County Attorney or his designee is authorized to execute any

RESOLVED	, that th	e County A	Attorney or his desig	gnee is author	ized to exe	oute any
documents necessary	to imple	ement this	resolution.		Alle	<i>ъ</i>
Original Agreement First Amendment This Amendment TOTAL	\$ \$ \$			nee is author	050	
Account to be Charged/Credited			0410314			
	Fund 615	Dept	Major Program, Program & Phase Or Unit 0702/4620	Object/ Sub- Object 4280/05	Trust Accoun t	Dollars 110,000.
		(1017				
Budget Funding Yea (must match resolution	9R)	20225	Start Date 1/1/2022	2 End Date 12	2/31/2022	
Funding Source	Tax Dollars					
BOAT	State Aid					
<u>\$_110,000.00</u> Federal Aid						
(must match resolution	on)	Other	6N fund\$11	0,000.00		