

OnBase ID #: 109981

November 20, 2024

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 Marilyn Torres v. County of Westchester in the amount of \$74,500.00.

Attached for your consideration is a resolution which, if approved by your Honorable Board, would authorize settlement of the lawsuit Marilyn Torres v. County of Westchester in the amount of \$74,500.00., inclusive of counsel fees.

Plaintiff Marilyn Torres, then 58 years old, brought this personal injury lawsuit against the County alleging that the County was negligent in its maintenance of the walkway located at, near and/or adjacent to the shuttle bus area of Rye Playland Park, City of Rye. Plaintiff specifically alleged that she was caused to fall on the walkway due to a dangerous condition existing thereon, identified as a hazardous and inconspicuous "parking stake base" with a missing yellow pole/top, as she traversed the walkway on her way to the bus on August 7, 2021. The parking stake base existing on the walkway at that time was missing its pole, and consequently plaintiff was not alerted to its existence as she walked, and thereupon subsequently tripped upon the parking stake base, which was the same black color as the asphalt, blending into the asphalt walkway. After she fell forward, plaintiff hit her mouth on the walkway, ultimately causing broken and missing teeth, she sustained knee contusions, disc bulges of her back, a left wrist sprain, nasal fracture, hematoma on the left side of her forehead, subsequent headaches and dizziness and was also caused to undergo physical therapy for her bilateral knee derangement.

In light of the facts and circumstances of plaintiff's fall and her alleged damages, the County determined that it was prudent to settle this matter, as it is definitely likely that the County will be found liable for plaintiff's damages. Were this matter to proceed to trial, and considering the fact that the black parking stake base was missing its yellow pole/top at the time of plaintiff's fall, a jury would conclude that it was therefore unable to alert the plaintiff and other patrons to its existence upon the walkway. Accordingly, the black base was the proximate cause of plaintiff's fall.

Plaintiff's counsel is Gregory S. Newman Esq., of the Law Office of Newman, Anzalone & Newman, LLP, 95-25 Queens Boulevard, 11th Floor, Rego Park, New York 11374.

RESOLUTION

Upon the communication of the County Attorney; it is hereby

RESOLVED, that the County Attorney is hereby authorized to settle the lawsuit of MARILYN TORRES v. COUNTY OF WESTCHESTER in the amount of \$74,500.00.

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	<u>\$N/A</u>
TOTAL	\$N/A

Account to be Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
615	59	0701/ 4510	4280/ 04		\$74,500

Budget Funding Year(s) 2021 Start Date 1/1/2021 End Date 12/31/2021
(must match resolution)

Funding Source Tax Dollars _____

State Aid _____

\$ 74,500 Federal Aid _____

(must match resolution)

Other 6N Fund

APPROVED BOARD OF ACQUISITION & CONTRACTS 11/19/2024 - RAYMOND SCULKY, SECRETARY