

OnBase ID #: 110191

PRIVILEGED & CONFIDENTIAL

Date: December 26, 2024
To: Honorable Members of the Board of Acquisition & Contract
From: John M. Nonna
County Attorney
Re: Request for authorization to settle the negligence action titled *Vargas Rangel v County of Westchester*, Index No. 50022/2022 (Sup Ct, Westchester County) for ninety-five thousand (\$95,000.00) dollars

Attached for your consideration is a resolution, which—if approved by Your Honorable Board—would authorize the County to settle the negligence action *Vargas Rangel v County of Westchester*, Index No. 50022/2022 (Sup Ct, Westchester County) (the “Underlying Action”).

Relevant Background

Underlying Incident

On February 9, 2021, plaintiff Diana Vargas Rangel (“Plaintiff”)—then a pre-trial detainee in the Women’s Unit of the Westchester County Jail (the “Jail”)—was injured as a bystander to an inmate-on-inmate fight (the “Underlying Incident”). The fighting inmates should have been kept separate; before the fight, they were both named in a keep-separate order of which the relevant correction officers were aware. It appears that the fighting inmates conspired to come together. But it also appears that an administrative error enabled them to do so.

Plaintiff’s Injuries

Immediately after the incident, Plaintiff reported pain to her right shoulder, chest (breast implants), back, forearm, and wrist. The next day, she reported pain in her ribs, tailbone, head, backside, and throughout her body. The Jail’s medical service provider (Wellpath, formerly known as Correct Care Solutions) promptly scheduled Plaintiff for x-rays, and the x-rays revealed neither fracture nor bone abnormality. Plaintiff did, however, continue to complain of pain until she was released from the Jail on October 4, 2021.

In the community, Plaintiff continued her treatment. In 2022, she underwent three separate surgeries: (i) one to her ankle (arthoscopy and stabilization with use of an implant); (ii) one to her knee (arthoscopy); and (iii) and one to remove her breast implants. Plaintiff claims that each of these surgeries was necessitated by the Underlying Incident. The County disagrees.

Plaintiff also received a recommendation (from The Back Institute, of Union, New Jersey) for disk removal and fusion. As of today’s date, she has not followed it. Plaintiff attributes her

delay to her having been diagnosed with thyroid cancer. As with the aforementioned surgeries, the County disputes whether the Underlying Incident necessitated the recommendation.

Medical Liens

Plaintiff's unreduced medical liens in this matter total fifty-eight thousand thirteen and 88/100 dollars (\$58,013.88).

Procedural Posture

Plaintiff commenced the Underlying Action on January 4, 2022, in the Supreme Court of New York, County of Bronx. In her Complaint, Plaintiff alleged that that the County negligently permitted the Underlying Incident to occur. (Plaintiff also asserted a second cause of action that she eventually abandoned involving her hand getting caught in a cell door.)

On January 13, 2022, the parties stipulated to transferring the action from Bronx County to Westchester County. On August 11, 2023, the Court entered the trial readiness order, and on August 11, 2023, Plaintiff entered the Note of Issue. Jury selection in this matter is currently scheduled for January 14, 2025.

Proposed Settlement

Plaintiff has agreed in principle to settle this matter for ninety-five thousand and 00/100 dollars (\$95,000.00). Plaintiff has represented that, in conjunction with this agreement, she has reduced her medical liens to an undisclosed amount.

The Westchester County Attorney's Office recommends entering this settlement. Doing so will avoid the risks of litigation. It will also sidestep any escalation of damages in the event Plaintiff elects to undergo the recommended back surgery.

Parties' Counsel

As set forth above, Plaintiffs are represented by PANZAVECCHIA & ASSOCIATES, PLLC, 1000 Franklin Avenue, Suite 204, Garden City, NY 11530.

Summation

In light of the forgoing, this Office proposes that Your Honorable Board authorize the settlement amount of ninety-five thousand and 00/100 dollars (\$95,000.00).

JMN/stc

RESOLUTION

Upon the communication of the County Attorney, it is hereby:

RESOLVED, that the County Attorney is hereby authorized to settle the lawsuit titled *Vargas Rangal v County of Westchester*, Index No. 50022/2022 (Sup Ct, Westchester County) by payment from the County of Westchester to counsel for Plaintiff Diana Vargas Rangal an amount of ninety-five thousand and 00/100 dollars (\$95,000.00); 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 \$
 First Amendment \$
 This Amendment \$ _____
 TOTAL \$

Account to be
 Charged/Credited

Fund	Dept.	Major Program, Program & Phase Or Unit/Sub Unit	Object/ Sub- Object	Trust Account	Dollars
615	59	0701/4510	4280/04		\$ 95,000.00

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

Funding Source

Tax Dollars _____

State Aid _____

\$ 95,000.00

Federal Aid _____

(must match resolution) Other_x_6N
 fund ___ \$95,000.00 _____