

OnBase ID # 71787

September 23, 2019

To: Honorable Members of the  
Board of Acquisition and Contract

From: John M. Nonna  
County Attorney

Re: Request for Authorization to Settle the Claim of the Park Avenue Family Practice, P.C.  
against the County of Westchester in the amount of \$75,000.00.

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Attached for your consideration is a resolution that, if approved by your Honorable Board, would authorize settlement of the claim of the Park Avenue Family Practice, P.C. ("Practice") against the County of Westchester in the amount of \$75,000.00<sup>1</sup>.

Claimant is a medical practice located in Yonkers, New York, owned and operated by Nasem John Sayegh, M.D.

The claimant's x-ray machine was damaged by a County Department of Health employee during a mandated annual inspection in December 2017. Specifically, when the County inspector attempted to mechanically engage the swing arm of the machine he allowed it to raise too high causing it to lodge the x-ray head into the ceiling of the office causing permanent damage to the machine's swing arm mechanics. Eventually, the x-ray head and swing arm were dislodged from the ceiling. Thereafter, the machine could only take x-ray photographs from a fixed position and could no longer be utilized to take photographs from multiple positions. Claimant provided billing records indicating that as a result of the damaged machine, the Practice incurred a loss of income of approximately \$7,000.00 per month since the date of the event (December 2017). Additionally, the replacement value of the machine is approximately \$150,000.00

The County retained two (2) separate and independent experts who examined the claimant's machine at different times. Each expert opined that the machine could not be repaired due to the unavailability of replacement parts and motors which were damaged by this event. Each also opined that a replacement machine would be approximately \$150,000.00.

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<sup>1</sup> This claim has a reserve in the amount of \$200,000 with the County's Office of Risk Management, 6N Fund.

Claimant had demanded not only the cost to replace the machine but also lost profits as stated above. However, after extensive and prolonged negotiations, the claimant has agreed to accept a settlement of \$75,000.00 and waive all other monetary claims against the County and the County inspector.

As a result, this office believes it is in the best interest of the County to settle with the claimant. Further, the Commissioner for the Department of Health has been advised of this matter and concurs with the settlement.

JMN/jf

cc: Ken Jenkins  
Deputy County Executive

APPROVED BOARD OF ACQUISITION & CONTRACT - 10/17/2019 - LISA MRIJAJ, SECRETARY

RESOLUTION

Upon the communication of the County Attorney; it is hereby RESOLVED, that the County Attorney is hereby authorized to settle the claim of Park Avenue Family Practice, P.C. in the amount of \$75,000.00.

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

Account to be Charged/credited	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
			Unit/subunit	Object/sub		
	615	59	0697/4110	4280/04		\$75,000.00

**Budget Funding Year(s)** 2019 **Start Date** 1/1/2019 **End Date** 12/31/2019  
(must match resolution)

**Funding Source**

Tax Dollars	
State Aid	
Federal Aid	
Other	6N Fund

\$75,000.00