

OnBase ID # 61332

February 6, 2018

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 Koji Kakinuma v. County of Westchester in the amount of \$70,000.00.

Attached for your consideration is a resolution which, if approved by your Honorable Board, would authorize settlement of the lawsuit of Koji Kakinuma v. County of Westchester in the amount of \$70,000.00.

Plaintiff, who was 54 years old at the time of the accident, alleges that on August 16, 2014, at about 6:00 p.m., he was struck in the eyes and face by high pressure water discharging from a sprinkler head near the 12th hole tee-box while golfing at the Sprain Lake Golf Course, Yonkers.

Plaintiff alleges that he was standing near the tee-box waiting for his turn when an unseen sprinkler head suddenly and unexpectedly discharged from approximately five (5) feet away hitting him directly in the face and eyes and causing him to be knocked to the ground.

Witnesses to the accident assisted the plaintiff to the pro-shop on the premises when an ambulance arrived and took plaintiff to the emergency room at St. John's Riverside Hospital in Yonkers for treatment.

As a direct result of this accident plaintiff suffered post vitreous detachments to both eyes, acute traumatic iritis to the right eye, acute hemorrhage to his right eye, and, as a result, is at an enhanced risk of developing cataracts, glaucoma and/or on-going retinal detachments as a result of traumatic impact to his eyes from this accident. Further, plaintiff claims to suffer from floaters and light flashes affecting his vision especially at night resulting in plaintiff curtailing and avoiding driving.

¹ This claim has a reserve in the amount of \$175,000 with the County's Office of Risk Management, 6N Fund.

At trial, plaintiff will claim that there was no notice or warning signs that advised of intermittent discharge of sprinklers; that the sprinklers discharge at high pressure with no audible or visual warning; and that a prior accident and injury occurred to a County employee three years earlier when a sprinkler suddenly discharged. The County would argue that there is a sign displayed at the course's pro-shop advising that sprinklers do discharge, although it has become a question of fact whether that sign existed prior to this accident.

The witnesses to the event include three (3) other men who were part of the group playing golf with the plaintiff and present when the accident occurred. The County employee who suffered from a similar accident a few years earlier was deposed by plaintiff during discovery and subsequently subpoenaed by the plaintiff to appear at trial as well.

As a result of plaintiff's injury, and in consideration of the significant testimony directed against the County interests, the County Attorney believes it is in the best interest of the County to settle with the plaintiff. Further, the Commissioner for the Department of Parks Recreation and Conservation has been advised of this matter and concurs with the settlement.

JMN/jf

cc: Ken Jenkins
Deputy County Executive

APPROVED BOARD OF ACQUISITION & CONTRACT - 13/01/2018 - LISA MURPHY/SECRETARY

RESOLUTION

Upon the communication of the County Attorney; it is hereby
RESOLVED, that the County Attorney is hereby authorized to settle the lawsuit Koji Kakinuma
v. County of Westchester in the amount of \$70,000.00.

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	Agency	Unit / Sub-unit Or Org	Object/ Sub Object	Trust Account	Activity	Dollars
\$70,000.00	615	59	0694 / 3810	4280 / 04			\$70,000
TOTAL							

Budget Funding Year(s) 2018 Start Date 1/1/2018 End Date 12/31/2018
(must match resolution)

Funding Source

Tax Dollars	
State Aid	
Federal Aid	
Other - 6N Fund	6N Fund - \$70,000.00

\$70,000.00