

OnBase ID # 62276

March 21, 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 William J. Cassese and Adrienne Cassese v. The County of Westchester, by payment from the County of Westchester, in an amount not to exceed \$40,000.00.

Attached for your consideration is a proposed resolution which, if approved by your Board, would authorize settlement of the lawsuit entitled William J. Cassese and Adrienne Cassese v. The County of Westchester, by payment from the County of Westchester ("County"), in an amount not to exceed \$40,000.00.

This action was commenced by plaintiffs in the Supreme Court of the State of New York, County of Westchester. Plaintiff alleges that on July 8, 2010, at approximately 5:30 p.m., as he was riding his bicycle on the North County Trailway ("NCT") in Mount Pleasant, in the area approximately two miles north of Eastview but south of the County's Department of Public Safety's headquarters, his bicycle went into a pothole in the pavement causing him to lose his balance and fall. As a result, plaintiff claims that he sustained a fracture to his pelvic and hip bones. His wife, Adrienne Cassese, has also brought a claim for loss of services as a result of her husband's accident.

Plaintiff is represented in this action by Donald S. Mazin, Esq., 1415 Boston Post Road, P.O. Box 3082 Overhill Road, Suite 200, Scarsdale, New York 10583.

At trial plaintiff will argue that the area of the pavement where he fell from his bicycle was not properly maintained by the County and, as a result, a pothole near the middle of the NCT caused plaintiff to lose his balance on his bicycle and sustain a serious injury to his hip and pelvis. Plaintiff will further argue that witnesses will testify that the pothole was open and obvious and should have been discovered and remedied before the time of plaintiff's accident.

Plaintiff will further argue that the failure to properly maintain the NCT at the specific location where plaintiff sustained his accident was the proximate cause of his fall and subsequent injuries.

In light of the nature of plaintiff's injuries and the possibility that a jury may believe that the NCT in the area of plaintiff's accident was not properly maintained and that, as a result thereof, plaintiff sustained serious injuries; a settlement of \$40,000.00, inclusive of all liens and attorney fees, is proposed and plaintiff's counsel has indicated that such an amount is acceptable to plaintiffs.

JMN/sbf

APPROVED BOARD OF ACQUISITION & CONTRACT - 04/19/2018 - LISA M. P. J. SECRETARY

RESOLUTION

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

RESOLVED, that the County Attorney is hereby authorized to settle the lawsuit of William J. Cassese and Adrienne Cassese v. The County of Westchester, by payment from the County of Westchester, in an amount not-to-exceed \$40,000.00; and be it 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	\$ <u> </u>

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	0690/3410	4280/04		\$40,000.00

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

\$40,000.00