

OnBase ID # 65510

October 15, 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 Kathy R. McFadden against Anthony C. Rao, The County of Westchester in the amount of \$15,000.00.

Attached for your consideration is a resolution which, if approved by your Honorable Board, would authorize settlement of the lawsuit of Kathy R. McFadden against Anthony C. Rao, The County of Westchester in the amount of \$15,000.00¹.

Plaintiff, who was 46 years old at the time of the accident on December 15, 2016, was operating her 2011 Honda CR-V automobile on the southbound left lane of the Palisade Interstate Parkway, Stony Point, Rockland County, when an unmarked County-owned vehicle operated by Detective Anthony C. Rao ("Rao"), Westchester County Department of Public Safety, while on duty and traveling in the same direction collided with plaintiff's vehicle. Rao's vehicle hit ice, skidded off the roadway, hit a guardrail, re-entered the roadway and then collided with plaintiff's vehicle. Both plaintiff and Rao were taken via ambulance to Nyack Hospital emergency room for treatment and released later in the day.

At trial, plaintiff will claim that she was operating her vehicle in a safe and prudent manner considering the road conditions at the time, was obeying all traffic regulations, and could not avoid the accident as put into play by our County operator.

Plaintiff's current injuries include multiple cervical strain injuries with cervicgia, pain in right upper extremity, neck pain radiating down into right arm and forearm, pain and

¹ This claim has a reserve in the amount of \$250,000 with the County's Office of Risk Management, 6N Fund.

numbness in right arm, cervical radiculopathy, and exacerbation of pre-existing anterolisthesis of cervical spine at multiple levels.

Considering the likelihood that the County would be found 100% liable for the accident and that plaintiff suffered current and treated injuries that can develop to require more extensive treatment and have a potential for future surgeries, a settlement for this amount at this time in the litigation process is reasonable. Further, the Commissioner for the Department of Public Safety has been advised of this matter and concurs with the settlement.

By settling, the claimant will be releasing both the County of Westchester and Detective Anthony C. Rao.

JMN/jf

cc: Ken Jenkins
Deputy County Executive

APPROVED BOARD OF ACQUISITION & CONTRACT - 11/08/2016 - LISA MRAJ SECRETARY

RESOLUTION

Upon the communication of the County Attorney; it is hereby

RESOLVED, that the County Attorney is hereby authorized to settle the lawsuit Kathy R. McFadden against Anthony C. Rao, The County of Westchester, et al. in the amount of \$15,000.00; and be it further

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

<u>Account to be Charged/credited</u>	<u>Fund</u>	<u>Agency</u>	<u>Unit / Sub-unit Or Org</u>	<u>Object/ Sub Object</u>	<u>Trust Account</u>	<u>Activity</u>	<u>Dollars</u>
\$15,000.00	615	59	0696 / 4020	4280 / 05			\$15,000
TOTAL							

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

Funding Source

<u>Tax Dollars</u>	
<u>State Aid</u>	
<u>Federal Aid</u>	
<u>Other - 6N Fund</u>	<u>6N Fund - \$15,000.00</u>

\$15,000.00