



George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

July 14, 2022

Westchester County Board of Legislators
County of Westchester
800 Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601

Re: Request for Authorization to Settle the Lawsuit of Doreen D. Klass v. Gayle E. Hogue, Town/Village of Harrison and County of Westchester in the amount of \$85,000.00

Dear Honorable Members of the Board:

Attached for your review is proposed legislation in connection with the above-referenced matter.

In or about January 2018, Doreen D. Klass (“Klass”) commenced an action in the Supreme Court, Westchester County against the County of Westchester, et al., for personal injuries sustained when she was struck by a motor vehicle driven by co-defendant Gayle E. Hogue (“Hogue”), on November 17, 2017. Klass was 75 years old at the time of her accident.

The accident occurred when Klass was crossing Halstead Avenue, a County-designated roadway, in a marked crosswalk located between Parsons Street and Purdys Street, in the Village of Harrison, after departing a train at the Harrison Metro-North train station at about 6:20 p.m. As Klass entered the crosswalk from the sidewalk she was struck just beyond the diagonal parking spaces immediately to her left by the Hogue vehicle which was traveling in an easterly direction. The accident was captured by a video camera under the jurisdiction of the Harrison Police Department which was made available to the parties. At the time of the accident it was raining and Klass had her umbrella deployed.

Had this matter gone to trial, Klass would have argued that the County’s liability arises from its reinstatement of the parking lines after the repaving project when it knew same to be in violation of the MUTCD. The prior documentation in this matter supports this argument. Also, plaintiff, 75 years old at the time of the accident, will argue that she suffered permanent physical injuries to her left leg and shoulder, which required multiple surgeries, permanent installation of metal hardware, permanent loss of function, and future pain and suffering. The County would argue that co-defendant Harrison had an opportunity to remove the diagonal parking lines at the

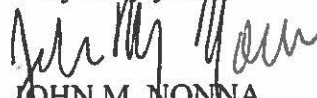
accident location as well as install specialized high visibility lighting at the crosswalk prior to this accident, but failed to do so. The County would also argue that the co-defendant driver, Gayle E. Hogue ("Hogue"), failed to obey the applicable traffic regulations requiring that she yield to pedestrians in the street and further drove in a manner not appropriate to what the existing conditions would dictate as it was dark and raining the night of the accident.

The County as well as co-defendant Town/Village of Harrison did move for summary judgment, and both motions were denied by the Court (Hon. Alexandra D. Murphy, JSC). However, the County did file and perfect its appeal of the lower Court's decision.

Plaintiff's initial demand to settle was \$3,000,000. After extensive negotiations with the assistance of the Court as well as two private mediation sessions, the parties eventually settled all claims in the total amount of \$1,440,000; with the driver, Hogue, contributing \$100,000, Harrison contributing \$1,255,000, and the County contributing \$85,000. This matter has a reserve of \$750,000.00 with the County's 6N Fund.

Therefore, I am requesting that this Board approve the accompanying Act authorizing the settlement of all claims of plaintiff's damages, past and future, by payment in the amount of \$85,000.00, inclusive of counsel fees. Plaintiff's counsel has indicated that such an amount would be acceptable to plaintiff.

Very truly yours,


JOHN M. NONNA
Westchester County Attorney

JMN/jf
Enclosure

BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Act which, if enacted by your Board, would authorize the settlement of the lawsuit of Doreen D. Klass v. Gayle E. Hogue, Town/Village of Harrison and County of Westchester, in an amount not to exceed \$85,000.00.

Plaintiff Doreen D. Klass (“plaintiff”) alleges that on November 7, 2017, at approximately 6:30 p.m., she suffered physical injuries when she was struck by an automobile while walking in a marked mid-block crosswalk at Halstead Avenue, Harrison, New York. Plaintiff alleges that the County was negligent in reinstalling the parking space markings immediately adjacent to the subject crosswalk in violation of New York State traffic regulations. The parking space markings contributed to the cause of the accident by allowing parked vehicles therein to obstruct lines of sight of both the plaintiff and co-defendant driver.

At a trial, plaintiff, 75 years old at the time of the accident, will argue that she suffered a permanent physical injury to her left leg and shoulder, which required multiple surgeries, permanent installation of metal hardware, permanent loss of function, and future pain and suffering. Under these factual circumstances, the Court or jury would likely find in plaintiff’s favor on the issue of the County’s contributing share of liability regarding its installation of the marked parking spaces.

Your Committee has carefully considered the subject matter, the settlement proposal, and the attached Act and recommends authorizing the County Attorney or his designee to settle this

FISCAL IMPACT STATEMENT

SUBJECT: Lawsuit Settlement: Doreen Klass

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ 85,000

Total Current Year Revenue \$ -

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: 6N Fund: 615 59 0697/4110 4280/04

Potential Related Operating Budget Expenses: Annual Amount N/A

Describe: Settlement of General Liability Claim G170194

Potential Related Operating Budget Revenues: Annual Amount N/A

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: N/A

Next Four Years: N/A

Prepared by: John A. Fico

Title: Senior Assistant County Attorney

Department: Law

Date: July 9, ~~2019~~ 2022

Reviewed By: 
Budget Director

Date: 7/14/22

ACT NO.

2022

AN ACT authorizing the County Attorney to settle the lawsuit of Doreen D. Klass v. Gayle E. Hogue, Town/Village of Harrison and County of Westchester, Supreme Court of the State of New York, Westchester County, Index No. 51165/2019

BE IT ENACTED by the County Board of Legislators of the County of Westchester as follows:

Section 1. The County Attorney is hereby authorized to settle the lawsuit of Doreen D. Klass v. Gayle E. Hogue, Town/Village of Harrison and County of Westchester by payment in an amount not to exceed \$85,000.00 to plaintiff, inclusive of counsel fees.

Section 2. The County Attorney or his designee is hereby authorized to execute and deliver all documents and take such actions as the County Attorney deems necessary or desirable to accomplish the purposes hereof.

Section 3. This Act shall take effect immediately.