

George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

June 29, 2023

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 Roseanna Serratore against The County of Westchester and Patricia O'Connell in the amount of \$1,999,999.00

Dear Honorable Members of the Board:

Attached for your consideration is proposed legislation, which if enacted, would authorize settlement of the above referenced action by payment of \$1,999,999.00 by the County, inclusive of attorney's fees.

In December 2018, Plaintiff Roseanna Serratore ("Serratore") commenced an action in the Supreme Court, Westchester County against the County of Westchester and Patricia O'Connell, a County employee. In the lawsuit, Serratore alleges she suffered multiple personal injuries sustained on February 28, 2018, when she was struck in a crosswalk by a County owned and operated vehicle while crossing Yonkers Avenue at its intersection with Kimball Avenue in the City of Yonkers.

On the date of the accident, Serratore was walking northbound within a marked crosswalk on Yonkers Avenue when the County vehicle, in the northbound traffic lane of Kimball Avenue, commenced a left turn onto Yonkers Avenue and struck the plaintiff while doing so. The accident occurred at approximately 6:00 p.m. Plaintiff was removed from the accident scene by ambulance and taken to the emergency room at New York Presbyterian Westchester Hospital (formerly known as Lawrence Hospital). The County employee involved in this incident worked for the Department of Social Services and was on duty at the time.

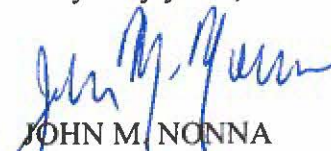
Under the factual circumstances established during discovery, the County would be found 100% liable for the accident. Consequently, the issue to resolve is the amount of damages needed to compensate the plaintiff for her injuries.

Plaintiff underwent extensive medical treatments and various surgeries for several years after the accident as a result of her injuries. Her injuries included: 1) right shoulder internal derangement and rotator cuff tear requiring surgical repair; 2) a non-displaced fracture in the fibular head of the right knee; 3) internal derangement of the right knee with peripheral tear of the posterior junctional zone of the medial meniscus and oblique tear of the lateral meniscus requiring arthroscopic surgery; 4) central herniation at C2-3; 5) left herniation at C6-7; and 6) underwent surgical spinal fusion at C5-6 requiring a discectomy, fusion of the vertebrae, and intervertebral titanium implants to stabilize the fused spine. Plaintiff also had undergone multiple nerve block and cortisone injections to the cervical, lumbar, and sacral sections of her spine and extensive physical therapy. Plaintiff currently suffers from continuous and ongoing pain, uses a cane to ambulate, and has put on a significant amount of body weight since the accident. The injuries suffered by plaintiff and the resultant disabilities connected with same are most likely permanent in nature and there remains a strong possibility that additional surgical intervention will be required.

Had this matter gone to trial, the County would likely have been found 100% liable for the accident and injuries. So the issue before the County was arriving at a reasonable monetary settlement otherwise the issue of damages would have been decided by a jury. The Plaintiff's demand for settlement was \$6,000,000. The Plaintiff's injuries could support such an award by a jury. A review of settlements and jury awards for similar injuries ranged from \$2,000,000 to \$6,000,000. Plaintiff also presented a life care plan supporting damages of approximately \$3,100,000. The life care plan is a detailed report of a person's financial needs and expenses following a personal injury accident. The report attempts to take the person's entire circumstances into account, including medical costs, nursing care, and the costs of daily living. However, the life care plan does not quantify a value for past and future pain and suffering.

After extensive negotiations over the course of several months, the parties essentially mediated this case before Judge Joan Lefkowitz, Supreme Court, Westchester County. Ultimately, the parties agreed to settle all claims against the County, including the potential for future surgeries that may be necessary for plaintiff, in the amount of \$1,999,999.

Very truly yours,



JOHN M. NONNA
Westchester County Attorney

JMN/jf
Enclosure

ACT NO.

2023

AN ACT authorizing the County Attorney to settle the lawsuit of Roseanna Serratore against County of Westchester and Patricia O'Connell, Supreme Court of the State of New York, Westchester County, Index No. 71145/2018

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 Roseanna Serratore against The County of Westchester and Patricia O'Connell in the amount of \$1,999,999 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.

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 Roseanna Serratore against County of Westchester and Patricia O'Connell in the amount of \$1,999,999.00.

Plaintiff Roseanna Serratore ("plaintiff") alleges that on February 28, 2018, at approximately 6:00 p.m., she suffered physical injuries when, as a pedestrian, she was struck by a County owned and operated vehicle while in a marked crosswalk on Yonkers Avenue at its intersection with Kimball Avenue, City of Yonkers. The County vehicle was being operated by a County employee on duty at the time of the accident.

At a trial, plaintiff, 42 years old at the time of the accident, will argue that she suffered permanent physical injuries to her right shoulder and right knee, both requiring surgery, and her back and spine wherein she underwent surgical spinal fusion with discectomy, fusion, and permanently implanted titanium hardware. Plaintiff is permanently disabled from this accident and will most likely require future medical care and possible surgeries. Under these circumstances, a jury would likely find the County 100% liable for plaintiff's accident and injuries, leaving to a jury the issue of the evaluation of damages to be awarded.

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: Settlement of Serratore-A180002NF 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 \$ 1,999,999

Total Current Year Revenue _____

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

Additional Appropriations Other (explain)

Identify Accounts: 6N Fund- 615/59/0698/4220/4280/05

Potential Related Operating Budget Expenses: Annual Amount _____

Describe: Serratore, Roseanna (A180002NF) Auto Liability Settlement

Potential Related Operating Budget Revenues: Annual Amount _____

Describe: _____

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

Current Year: _____

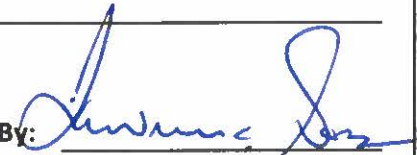
Next Four Years: _____

Prepared by: John Fico

Title: Associate County Attorney

Department: Law

Date: June 21, 2023

DF
Reviewed By: 

Budget Director

Date: 6/21/23