

George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

September 19, 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 James Bryant v. County of Westchester et al. in Supreme Court Westchester County, Index No. 55478/2020, in the amount of \$195,000.00 inclusive of attorney's fees.

Dear Honorable Members of the Board:

Attached for your consideration is an Act, which if enacted by your Board, would authorize the settlement of the lawsuit of James Bryant v County of Westchester et al., in the amount of \$195,000.00 inclusive of attorney's fees.

This matter is pending in the Westchester County Supreme Court before the Honorable Nancy Quinn Koba. The lawsuit tentatively settled after a verdict on liability, pending this Board's approval of a settlement in the amount of \$195,000.00, inclusive of attorney's fees.

Worby Vecchio Edelman, LLP., 81 Main Street, Suite 306, White Plains, New York 10601, is representing the plaintiff, James Bryant.

This lawsuit arises out of an inmate on inmate assault at the Westchester County Jail on January 28, 2019 at approximately 9:40 am. The plaintiff was in the shower when he was attacked by another inmate who was out of his cell having just completed his shower time. At trial plaintiff claimed that the County was negligent for failing to rehouse him or his assailant. Plaintiff claimed that he repeatedly complained to correctional staff that he was fearful of his assailant and that, being co-defendants in the same criminal case, they shouldn't be housed together. The County argued that it had no actual notice that the plaintiff was fearful of his co-defendant because he never told anyone at Correction. The County further argued that they had no constructive notice because the two co-defendants had been housed together for over five months prior to the assault without any apparent difficulty.

At the conclusion of the liability phase of a bifurcated trial, the jury returned a verdict finding the County and the non-party assailant responsible for the accident. The County was




found to be 35% percent responsible and the non-party assailant was found to be 65% responsible. The Plaintiff was found to have no responsibility for the assault.

The matter settled before the damages phase of the trial where the plaintiff would have presented evidence that, as a result of the assault, he suffered a right nasal bone fracture, a right medial orbital wall fracture and a laceration to his right eyelid and tear duct requiring surgery and the implantation of a drainage tube. He claims he continues to suffer from blurry vision, dizziness and headaches.

The settlement takes into consideration the liability findings of the jury, the uncertainty of litigation and the potential costs of trial, subsequent proceedings and potential appeal. The accompanying Act will authorize settlement of the lawsuit entitled of James Bryant v County of Westchester et al, in the amount of \$195,000.00, , inclusive of attorney's fees.

Very truly yours,



John M. Nonna
County Attorney

JMN/jhf

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 James Bryant v County of Westchester et al., in the amount of \$195,000.00 inclusive of attorney's fees.

This matter is pending in the Westchester County Supreme Court before the Honorable Nancy Quinn Koba. The lawsuit tentatively settled after a verdict on liability, pending this Board's approval of a settlement in the amount of \$195,000.00, inclusive of attorney's fees.

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The County was found to be 35% percent responsible and the non-party assailant was found to be 65% responsible. The Plaintiff was found to have no responsibility for the assault.

The matter settled before the damages phase of the trial where the plaintiff would have presented evidence that, as a result of the assault, he suffered a right nasal bone fracture, a right medial orbital wall fracture and a laceration to his right eyelid and tear duct requiring surgery and the implantation of a drainage tube. He claims he continues to suffer from blurry vision, dizziness and headaches.

The settlement takes into consideration the liability findings of the jury, the uncertainty of litigation and the potential costs of trial, subsequent proceedings and potential appeal. The accompanying Act will authorize settlement of the lawsuit entitled of James Bryant v County of Westchester et al, in the amount of \$195,000.00, Westchester County Supreme Court Index No. 55478/2020, inclusive of attorney's fees.

Your Committee has carefully considered the subject matter, the settlement proposal, the attached Act and recommends authorizing the County Attorney or his designee to settle the lawsuit entitled James Bryant v County of Westchester et al., in the amount of \$195,000.00, Westchester County Supreme Court Index No. 55478/2020, inclusive of attorney's fees. An affirmative vote of a majority of the Board is required to pass this legislation.

Dated: White Plains, New York

, 2023

ACT NO. -2023

AN ACT authorizing the County Attorney to settle the lawsuit of James Bryant v County of Westchester, et al, Westchester County Supreme Court Index No. 55478/2020, in the amount of \$195,000.00, inclusive of attorney's fees

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

Section 1. The County Attorney is authorized to settle the lawsuit of James Bryant v. County of Westchester, et al, Westchester County Supreme Court Index No. 55478/2020, in the amount of \$195,000.00, inclusive of attorney's fees.

Section 2. The County Attorney or his designee is hereby authorized and empowered to execute and deliver all documents and take such actions as the County Attorney deems necessary or desirable to accomplish the purpose of this Act.

Section 3. This Act shall take effect immediately.

FISCAL IMPACT STATEMENT

SUBJECT: Lawsuit Settlement: James Bryant 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 \$ 195,000

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 0699/4350 4280/04

Potential Related Operating Budget Expenses: Annual Amount N/A

Describe: Settlement of Public Officials Liability Claim G190019 Bryant, James

Potential Related Operating Budget Revenues: Annual Amount N/A

Describe: _____

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

Current Year: N/A

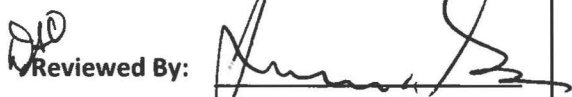
Next Four Years: N/A

Prepared by: Jane Hogan-Felix

Title: Deputy County Attorney

Department: Law

Date: September 19, 2023

 Reviewed By:

Budget Director

Date: 9/19/23