

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 Marcelino Cruz v. County of Westchester, in Westchester County Supreme Court, Index No. 62239/2019, in the amount of \$400,000.00.

This matter is pending in the Westchester County Supreme Court. The matter tentatively settled on February 4, 2022 pending this Board's approval of a settlement in the amount of \$400,000.00, inclusive of attorney's fees.

This matter arises out of a passenger accident which occurred on October 31, 2018. The then 42-year-old plaintiff alleges that at 4:39 p.m. on Grassland Road, near the east gate entrance to Westchester Community College in Valhalla., Bee Line Bus #572 turned left in front of the pick-up truck plaintiff was driving down the hill. The driver of the bus made a left turn in front of plaintiff's truck while the traffic light was green.

Plaintiff was brought to Westchester County Medical Center by ambulance. Plaintiff complained of pain in his entire left leg, right knee, lower back, and neck.

In the weeks after the accident, plaintiff received acupuncture and electrical stimulation. In the months that followed, plaintiff underwent two epidural steroid injections to his lower back. From February 2019 until 2020, plaintiff regularly received physical therapy. For approximately one year following the accident, Plaintiff states he was confined to his home, only leaving for medical treatment.

In 2019 and 2020, plaintiff underwent three arthroscopic surgeries to his knees. Plaintiff has also received prescription pain medication and medicated patches for his neck and back. Plaintiff claims that he now must wear eye glasses to read; whereas before the accident, he did not.

The settlement takes into consideration the uncertainty of litigation and the potential costs of trial, subsequent proceedings and potential appeal. Both outside counsel and our insurer's adjuster recommend this settlement. The County's insurance policy will cover \$300,000 of the \$400,000 settlement, and the County will only pay its \$100,000. deductible.

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 Marcelino Cruz v. County of Westchester, in Westchester County Supreme Court, Index No. 62239/2019, in the amount of \$400,000.00, 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

March 21, 2022

Samuel Gillman Johnson
Paul M...
Maxine...
...
J. V. ...

W. V. ...
Maxine ...

Budget & Appropriations

Law & Major Contracts
COMMITTEE ON:

Dated: March 21, 2022
White Plains, New York

The following members attended the meeting remotely, as per Governor Cuomo's Executive Order 202.1 and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below

COMMITTEES ON

Law & Major Contracts

Budget & Appropriations

ACT NO. 16 -2022

AN ACT authorizing the County Attorney to settle the lawsuit of Marcelino Cruz v. County of Westchester, in Westchester County Supreme Court, Index No. 62239/2019, in the amount of \$400,000.00, 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 Marcelino Cruz v. County of Westchester, in Westchester County Supreme Court, Index No. 62239/2019, in the amount of \$400,000.00 inclusive of attorney's fees. The County will pay \$100,000.00 of this settlement as required by the self-insured retention applicable to its insurance policy.

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: M. Cruz 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 \$ 100,000

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 0698/4270 4280/05

Potential Related Operating Budget Expenses: Annual Amount n/a

Describe: _____

Potential Related Operating Budget Revenues: Annual Amount n/a

Describe: _____

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

Current Year: n/a

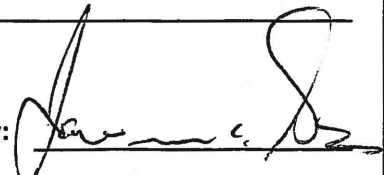
Next Four Years: n/a

Prepared by: Dianne Vanadia

Title: Sr. Budget Analyst

Department: Budget

Date: February 23, 2022

Reviewed By: 
Budget Director
Date: 2/23/22

STATE OF NEW YORK)
) ss.
WESTCHESTER COUNTY)

I HEREBY CERTIFY that I have compared the foregoing Act, Act No. 16 - 2022, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of the said original Act, which was duly adopted by the County Board of Legislators, of the County of Westchester on March 28, 2022, and approved by the County Executive on March 29, 2022.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 30th day of March, 2022.



Malika Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

