

11703

May 13, 2010

To: Honorable Members of the
Board of Acquisition and Contract

From: Robert F. Meehan
County Attorney

Re: Request for Authorization to Settle the Lawsuit of Sharon Arisohn v. County of Westchester in the amount of \$25,000.00.

Plaintiff, who was 60 years old at the time of the accident, alleges that on May 4, 2004, at about 11:00 a.m., while preparing to descend a staircase known as B-1 which connects the lobby of the Westchester County Courthouse to the County parking facility below, lost her balance and was caused to trip and fall down an entire flight of concrete stairs. Plaintiff alleges that she fell due to the negligent manner in which the landing was maintained and as a result of dirt and debris that had accumulated on the stairs.

Plaintiff also alleges that the failure by the County to install a handrail on the right side of the stairwell as one is descending also contributed to her injuries.

Witnesses to the event summoned court officers from the lobby who then called the ambulance to remove the plaintiff from the scene. Among other injuries, the plaintiff suffered a displaced fracture to the left hip requiring surgery. As a result of the accident and post surgery, plaintiff was hospitalized four (4) days, confined to home bed for one (1) week, and confined to her home for six (6) weeks. Plaintiff also alleges continued pain and limited motion as a result of this accident.

At the time of plaintiff's accident, the Dormitory Authority of the State of New York (hereinafter "DASNY") was renovating and constructing areas within the Westchester County Courthouse. During this period a public escalator connecting the County parking facility to the

County Courthouse lobby was temporarily placed out of service and stairwell B-1 was opened for public use. DASNY's work was not related or connected to stairwell B-1.

At a trial, the Plaintiff will claim that stairwell B-1 was in a state of disrepair, dirty, and had an accumulation of debris creating a hazardous condition for pedestrian traffic. Plaintiff will also argue that a second handrail should have been installed along the right side of the stairwell when descending. The plaintiff will finally claim that the County had an obligation to inspect, maintain and clean stairwell B-1, but failed to do so, inasmuch as it was opened specifically for public use during the time that renovations were being performed at the County Courthouse. The County would argue that plaintiff contributed to her accident by not paying attention while walking down the stairs and, in a panic state, reached to the wrong side of the stairwell to grab a handrail.

With the exception of the plaintiff, there are two (2) other known eyewitnesses to this event. One is a Westchester County Assistant District Attorney who was standing at the bottom of the stairwell waiting for plaintiff to descend the stairs when she fell. He does not recall whether or not there was any obstruction or other hazardous condition at the top of the stairwell. The second eyewitness is a Supreme Court judge who was behind the plaintiff standing at the top landing when the plaintiff fell. This witness will testify that there was dirt, sand and debris at the top of the stairs which caused plaintiff to fall and appeared to present a hazardous condition. She will also testify that she complained about the lack of maintenance to this stairwell.

As a result of plaintiff's injury, and in consideration of the significant testimony directed against the County interests, the County Attorney believes it is in the best interest of the County to settle with the plaintiff.

RFM:jaf

APPROVED BOARD OF ACQUISITION & CONTRACT - 6-10-2010 JAMES V. MURPHY SECRETARY

RESOLUTION

Upon the communication of the County Attorney; it is hereby

RESOLVED, that the County Attorney is hereby authorized to settle the lawsuit Sharon Arisohn v. County of Westchester in the amount of \$25,000.00.

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

Original Agreement	\$N/A
First Amendment	\$N/A
This Amendment	\$N/A
TOTAL	\$N/A

Account to be Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
615	59	0684/2810	4280/04		\$25,000

Budget Funding Year(s) 2010 Start Date 1/1/2010 End Date 12/31/2010
(must match resolution)

Funding Source Tax Dollars _____

State Aid _____

\$ 25,000 Federal Aid _____

(must match resolution)

Other 6N Fund _____