

21575

September 8, 2011

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 Ronald Hynes v. County of Westchester et al in the amount of \$17,000.00

Attached for your consideration is a resolution, which, if approved by your Honorable Board, would authorize settlement of the lawsuit of Ronald Hynes v. County of Westchester et al, in the amount of \$17,000.00.

Plaintiff Ronald Hynes, a 75-year old, alleges that on October 15, 2007 at the intersection of Ashburton Avenue and Nepperhan Avenue in the City of Yonkers, he was injured when the bus driver violently stopped the bus after it rolled backwards.

Plaintiff alleges he was seated in a front-facing two-passenger seat, along the aisle. A young woman was seated beside him in the window seat. As the bus approached the stop, the young woman stood up to get off the bus. Mr. Hynes stated that the bus came to a complete stop, and he stood to let the woman pass him. At this point, he alleges that the bus then stopped very abruptly and he was "thrown" about 8 feet from his seat, with rear portions of his head, neck, left shoulder, lower back and the outer portion of his left hip striking the floor of the bus. The issue of liability was tried and the court found the defendants 75% liable and the plaintiff 25% liable.

On the day of the accident plaintiff went to the emergency room at St. John's Hospital complaining of pain in his head, left shoulder, back and left hip. A physical examination revealed limited range of motion in the neck and back. X-rays were negative. Mr. Hynes was discharged with instructions to follow up with a primary care physician. He was directed to take over-the-counter Tylenol or Ibuprofen for pain.

On October 19, 2007, plaintiff saw his primary physician and again complained of pain in his head, left shoulder, low back and left hip. Plaintiff claims the pain did not improve after the

incident. Dr. Harvey's impression was strain/sprain of the cervical and lumbar spine. He recommended physical therapy and MRI examinations of plaintiff's neck, left shoulder, low back and left hip. The MRI studies revealed cervical and lumbar bulges and herniations of the spine. For approximately 3 months following the accident, plaintiff alleges that he saw an acupuncturist about 5 times and had physical therapy 1 to 2 times a week, in addition to bi-weekly follow up consultations with Dr. Harvey.

Plaintiff is represented by the firm of DeAngelis and Hafiz, 22 West 1st Street # 407, Mount Vernon, New York 10550-3065. The County and Liberty Lines are represented by our outside counsel firm of Lifflander & Reich.

At the damages phase of the trial the Plaintiff will argue that his injuries were proximately caused by the negligence of the driver in abruptly stopping the bus causing him to be thrown backward to the floor of the bus. The Plaintiff will further argue that all of his pain and suffering was directly related to the injuries he received in the accident.

Considering the finding of 75% liability, Plaintiff's age, injury and current medical condition, the risk of a substantial damages verdict, and the anticipated expense to the County to retain the appropriate medical expert witnesses to challenge the extent of damages, a settlement of \$17,000.00 would be in the best interests of the County. Accordingly, it was determined that settling this matter for \$17,000.00 would ensure a substantial financial savings to the County. It is the recommendation of this office that this matter be settled. The Commissioner of the Department of Public Works and Transportation concurs with the recommendation to settle this matter.

RFM:jhf

RESOLUTION

Upon the communication of the County Attorney, it is hereby

RESOLVED, that the County Attorney is hereby authorized to settle the lawsuit of Ronald Hynes v. County of Westchester et al in the amount of \$17,000.00, and be it further

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

Account to be Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
101	44	2100/2100	4924		\$17,000.

Budget Funding Year(s) 2011 Start Date 1/1/2011 End Date 12/31/2011
(must match resolution)

Funding Source Tax Dollars \$17,000

State Aid _____

\$17,000 Federal Aid _____

(must match resolution)

Other _____