

28390

July 18, 2012

To: Honorable Members of the
Board of Acquisition and Contracts

From: Robert F. Meehan
County Attorney

Re: Request for Authorization to Settle the Lawsuit Bernadette Mutz v. County of Westchester, Rye Playland and John Does (1-5) and Jane Does (1-5) in the amount of \$23,225.00

Attached for consideration is a resolution which, if approved by your Honorable Board, would authorize settlement of the lawsuit, Bernadette Mutz v. County of Westchester et al, in the amount of \$23,225.00.

Plaintiff Bernadette Mutz, then forty-two years of age, alleges that on May 27, 2007 at approximately 9:00 p.m., she was caused to sustain injuries to her right knee and ankle when her boat on the Ye Old Mill Ride was struck from behind by another boat as she was exiting her boat at the end of the ride. Plaintiff alleges that as result of the collision between the two boats, she was caused to stumble inside the boat, twist her knee, and that her right knee subsequently came into contact with the side of the boat. As a result of the incident, plaintiff contends that the County was negligent in its operation of the ride, in that park employees failed to timely utilize the brakes on the ride in order to prevent the subject boat from striking her boat. Plaintiff alleges that she sustained a sprain and a contusion to her right knee with initial swelling, developed a hard mass with a cyst in her right knee, that formed as a result of trauma to her knee when she stumbled inside the boat, and that she was caused to have surgery to her right knee, wherein the cyst was removed from the specific area of her knee that directly sustained the trauma after the two boats collided. Plaintiff also alleges a residual transverse scar on the right knee as a result of the surgery, pain before and after the surgery, and the need to use a cane in order to walk for approximately two months preceding the surgery.

Had the matter proceeded to trial, plaintiff would argue that the County and its park employees were negligent in their operation of the ride, by failing to timely utilize the brake to stop the boat from striking her boat as she was exiting the ride. In light of the nature of plaintiff's injuries and the possibility that a jury may believe that the park employees were negligent, a settlement of \$23,225.00 is proposed and plaintiff's counsel has indicated that such an amount is acceptable to plaintiff.

RFM/tal

RESOLUTION

Upon the communication of the County Attorney; it is hereby

RESOLVED, that the County Attorney is hereby authorized to settle the lawsuit of BERNADETTE MUTZ v. WESTCHESTER COUNTY, RYE PLAYLAND and JOHN DOES (1-5) and JANE DOES (1-5) in the amount of \$23,225.00.

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	0687/3110	4280/04		\$23,225.00

Budget Funding Year(s) 2012 Start Date 1/1/2012 End Date 12/31/2012
(must match resolution)

Funding Source Tax Dollars _____
 State Aid _____
 Federal Aid _____
 Other 6N Fund _____

\$23,225.00
(must match resolution)