

30206

October 24, 2012

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 Devon Clifford v. The County of Westchester by payment from the County of Westchester to Devon Clifford, in an amount not to exceed \$50,000

Attached for your consideration is a resolution which, if approved by your Honorable Board, would authorize settlement of the lawsuit entitled Devon Clifford v. The County of Westchester (hereinafter "County") by payment from the County to Devon Clifford in an amount not to exceed \$50,000.

This action was commenced by plaintiff Devon Clifford in the Supreme Court of the State of New York, Westchester County. Plaintiff, then an eighteen year old female student attending Westchester Community College (hereinafter "WCC") alleges that on January 29, 2009, at approximately 10:30 am, she was walking in Parking Lot #2 at WCC, when melting snow and ice on the pavement caused her to slip and fall.

Plaintiff alleges that this was her first time on the WCC campus after a snow fall. She also alleges that inadequate drainage in the parking lot caused the melting snow and ice to create a slippery and dangerous condition in the area where she walked. This alleged condition caused her to slip and fall and to sustain injury to her left ankle. Plaintiff alleges that the pavement where she fell was negligently maintained.

As a result of the fall, plaintiff alleges that she sustained a complete fracture of the distal fibula of the left ankle requiring open reduction and internal fixation necessitating the insertion of a steel plate and screws. The plate and screws were subsequently removed from Plaintiff's left ankle because of her claims of pain and swelling. Plaintiff maintains that as a result of the injury she was subjected to two surgical procedures, and has a loss of range of motion in her left

foot. She further alleges that she frequently experiences pain, loss of strength and has a permanent scar of approximately four inches on her left ankle.

At trial, plaintiff will argue that the County was negligent in its failure to provide adequate drainage for the melting snow and ice in the area where she fell. The plaintiff will further argue that the County failed to properly maintain the pavement at the college, and that this breach of duty caused her to sustain injury.

Plaintiff is represented by Keith J. McMillan, Esq. from the law firm of Bailly and McMillan, LLP, 244 Westchester Avenue, White Plains, New York 10604.

In light of the nature of plaintiff's injuries and the possibility that a jury may believe that the County's negligence in maintaining the pavement at WCC was the proximate cause of her injuries, a settlement of \$50,000.00 is proposed and plaintiff's counsel has indicated that such an amount is acceptable to plaintiff.

RFM/faj

APPROVED BOARD OF ACQUISITION & CONTRACT - 11/29/12 - JOMAR VIEIRA, SECRETARY

RESOLUTION

Upon the communication of the County Attorney; it is hereby

RESOLVED, that the County Attorney is hereby authorized to settle the lawsuit of Devon Clifford v. The County of Westchester by payment from the County of Westchester to Devon Clifford in an amount not to exceed \$50,000.00; and it is 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
615	59	0689/3310	4280/04		\$50,000.00

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

Funding Source Tax Dollars _____

State Aid _____

\$ 50,000.00 Federal Aid _____

(must match resolution)

Other 6N Fund _____