

30389

November 13, 2012

To: Honorable Members of the Board
of Acquisitions and Contracts

From: Robert F. Meehan
County Attorney

Re: Request for authorization to Settle the Lawsuit of Scott Switzer v. County
of Westchester in the amount of \$13,000.00.

Attached for your consideration is a resolution which, if approved by your Honorable Board, would authorize settlement of the lawsuit of Scott Switzer v. County of Westchester in the amount of \$13,000.00, inclusive of counsel fees and liens.

The plaintiff was 52 years old at the time of his alleged accident and was employed as the Dean of Special Education for the NYC Board of Education. The Plaintiff alleges that on September 7, 2008, while a patron at Playland Park, he was riding on the Derby Racer when the "force" of the ride caused him to lean to the right, lose his balance and his foot came out of the stirrup. He claims that there were no belts or straps securing him to the ride. He alleges that he called to the ride operator to stop the ride but that the ride continued. He alleges that an employee of the Park came to his assistance by holding him up and preventing him from falling off of the horse until the ride stopped.

Plaintiff reported the incident to Park personnel and filled out an incident report. At the time he felt pain in his upper/inner left thigh, was given an ice pack and an ace bandage but refused further medical attention. Later that day he went to North Shore Hospital. Plaintiff was diagnosed with a hematoma that required surgical removal. He remained in the hospital for four days. Plaintiff remained under the care of a home nurse aide who cared for the wound. Plaintiff claims he remained out of work until October 3, 2008.

Plaintiff is represented by Queller, Fisher, Washor, Fuchs, & Kool LLP, The Woolworth Building, 233 Broadway, 18th Floor, New York, New York 10279.

At trial the Plaintiff will argue that his injuries were proximately caused by the negligence of the County in its maintenance of the Derby Ride. Plaintiff will further argue that the ride operators were negligent in not stopping the ride when he began to have difficulty and that the injury he suffered was directly related to that negligence.

In light of the nature of Plaintiff's injuries and the possibility that a jury may believe that the County and the operators were negligent, a settlement of \$13,000.00 is proposed and Plaintiff's counsel has indicated that such an amount is acceptable to Plaintiff.

RFM:jhf

APPROVED BOARD OF ACQUISITION & CONTRACT - 12/13/2012 - JOMAR WEIRA, 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 Scott Switzer v. County of Westchester, in the amount of \$13,000.00.

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	059	0688/3210	4280/04		\$13,000

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

Funding Source Tax Dollars _____

State Aid _____

\$ 13,000 Federal Aid _____

(must match resolution)

Other 6N Fund - \$13,000