

31811

January 14, 2013

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 Larissa Miakicheva and Vincent Scala v. County of Westchester and Liberty Lines Inc. in the amount of \$18,000.00

Attached for your consideration is a resolution, which, if approved by your Honorable Board, would authorize settlement of the lawsuit of Larissa Miakicheva and Vincent Scala v County of Westchester and Liberty Lines Inc. in the amount of \$18,000.00.

This matter arises out of a motor vehicle accident involving a Liberty Lines bus and a 2005 Nissan sedan owned and operated by the plaintiff Larissa Miakicheva, on February 24, 2009, at approximately 4:00 pm. The accident occurred on Central Park Avenue North, at or near the access drive leading out of the Cross County Mall in Yonkers, New York. At the time of the accident the bus was behind the plaintiff's vehicle which was stopped at a stop sign. The plaintiff pulled out and then came to a sudden stop as traffic was stopped in her lane ahead. The driver of the bus testified that as the plaintiff pulled away from the stop sign the driver looked to the left and then pulled out without realizing that the plaintiff had stopped thereby colliding with the plaintiff.

On the day following the accident, the plaintiff began treatment with an orthopedist complaining of neck and back pain, headaches and pain in her left big toe. An x-ray of the left foot revealed a chip fracture of the left big toe. An MRI revealed several herniations in the cervical spine. The plaintiff began physical therapy on February 25 and continued 2-3 times per week until October 28, 2009.

On February 16, 2012, the Supreme Court, Westchester County granted plaintiff's motion for summary judgment on the issue of liability. Accordingly, the matter was scheduled for a trial on damages only.

Plaintiff is represented by Leav & Steinberg LLP, 140 Broadway, Suite 3601, New York, New York 10005. The County and Liberty Lines are represented by our outside counsel firm of Lifflander & Reich, LLP.

Considering the evidence supporting plaintiff's cause of action, the court's finding of liability, her injury, 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 \$18,000.00 is proposed and Plaintiff's counsel has indicated that such an amount is acceptable to Plaintiff.

RFM:jhf

APPROVED BOARD OF ACQUISITION & CONTRACT - 02/14/2013 - JOMARY VEHA, 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 Larissa Miakicheva and Vincent Scala v County of Westchester and Liberty Lines Inc. in the amount of \$18,000.00.

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
101	44	2100/2100	4924		\$18,000.

Budget Funding Year(s) 2013 Start Date 1/1/2013 End Date 12/31/2013
(must match resolution)

Funding Source Tax Dollars \$18,000

State Aid _____

\$ 18,000 Federal Aid _____

(must match resolution)

Other _____