

52731

September 7, 2016

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 Daijon Burroughs by his f/n/g Derron Burroughs and/or Derron Burroughs Individually v. Westchester County Department of Parks, Recreation and Conservation and The County of Westchester, by payment from the County of Westchester, in an amount not to exceed \$75,000.00.

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Attached for your consideration is a proposed resolution which if approved by your Board, would authorize settlement of the lawsuit entitled Daijon Burroughs by his f/n/g Derron Burroughs and/or Derron Burroughs Individually v. Westchester County Department of Parks, Recreation and Conservation and The County of Westchester, by payment from the County of Westchester in an amount not to exceed \$75,000.00, of which \$4,133.06 will be paid to the New York City Human Resources Administration in satisfaction of its lien for medical expenses and the remaining \$70,866.94 paid to plaintiff.

This action was commenced by plaintiff, Daijon Burroughs, by his f/n/g Derron Burroughs, and/or Derron Burroughs individually, in the Supreme Court of the State of New York, County of Westchester.

Plaintiff Daijon Burroughs ("Daijon"), who was thirteen (13) years old at the time, alleges that on July 11, 2013, he went on the Derby Racer ride. While he was riding on a horse on the outer diameter of the platform, Daijon claims that he slipped off the horse and, as he was falling to the right side of the horse, his leg got caught on a stirrup rung. Daijon further alleges that after his leg was caught on the stirrup rung and he was tethered to the horse, he was dragged around the platform until the operators were able to stop the ride. As a result of being stuck on the stirrup rung, Daijon claims that he sustained a 5cm laceration of the right posterior lower leg that required ten (10) sutures to close and a non-displaced fracture of his right ankle. Daijon further claims that his laceration did not heal properly and became infected, which required him to be hospitalized for approximately nine (9) days.

Plaintiff is represented in this action by Robert B. Marcus, Esq., of the Law Office of Robert B. Marcus, P.C., 1 North Broadway, Suite 412, White Plains, NY 10601.

At trial, plaintiff will argue that the Derby Racer was installed in 1927 and not properly upgraded, nor maintained. Plaintiff will also argue that the ride neither provided proper instructions, nor adequate safeguards. Plaintiff will further argue that the failure to properly maintain the ride and to provide proper safeguards were the proximate cause of Daijon's fall and subsequent injuries.

In light of the nature of plaintiff's injuries and his young age, the possibility that a jury may believe that the Derby Racer was maintained and operated in a negligent manner and that such alleged negligence was the proximate cause of plaintiff's injuries, a settlement of \$75,000.00, inclusive of all liens, is proposed and plaintiff's counsel has indicated that such an amount is acceptable to plaintiff.

RFM/sbf

APPROVED BOARD OF ACQUISITION & CONTRACT - 10/06/2016 - JON COCCIPPO, 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 Daijon Burroughs by his f/n/g Derron Burroughs and/or Derron Burroughs Individually v. Westchester County Department of Parks, Recreation and Conservation and The County of Westchester, by payment from the County of Westchester in an amount not to exceed \$75,000, of which \$4,133.06 will be paid to the New York City Human Resources Administration in satisfaction of its lien for medical expenses and the remaining \$70,866.94 paid to plaintiff.

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	0693/3710	4280/04		75,000.00

Budget Funding Year(s) 2016 Start Date 1/1/2016 End Date 12/31/2016  
 (must match resolution)

Funding Source

Tax Dollars \_\_\_\_\_

State Aid \_\_\_\_\_

**\$ 75,000.00**

Federal Aid \_\_\_\_\_

(must match resolution)

Other 6N Fund \_\_\_\_\_