

OnBase ID # 67926

February 13, 2019

To: Honorable Members of the
Board of Acquisition and Contract

From: John M. Nonna
County Attorney

Re: Request for Authorization to Settle the Lawsuit of Maximilla Cassell as Administratrix of the Estate of Merrill Cassell et al. v. The County of Westchester et al. in the amount of \$75,000 inclusive of attorney's fees.

Attached for your consideration is a resolution which, if approved by your Honorable Board, would authorize settlement of the lawsuit entitled Maximilla Cassell as Administratrix of the Estate of Merrill Cassell et al. v. The County of Westchester et al.

This matter arises out of a fatal collision between a bicyclist and a Liberty Lines bus on November 6, 2009 at approximately 3:30 pm on Tarrytown Road, near the intersection with Aqueduct Road, in the town of Greenburgh. The operator of the bus initially saw the plaintiff's decedent riding his bicycle eastbound on the sidewalk approaching Russell Street one block away from the scene of the accident. The bus was travelling east on Tarrytown Road in the rightmost lane and passed the plaintiff's decedent. The bus stopped at the traffic light at the intersection of Tarrytown Road and Aqueduct Road. At about the same time as the light turned green the bus driver saw the plaintiff's decedent at the same intersection on the sidewalk. As the bus driver was clearing the intersection he heard a thump from the right rear of the bus. He looked in his right side rear view mirror and saw a bicycle near the rear tires of the bus. The plaintiff's decedent was taken by ambulance to White Plains Hospital where he was pronounced dead.

Plaintiff is represented by Charles A. Goldberger, 1311 Mamaroneck Avenue, Suite 340, White Plains New York 10605. The County and Liberty Lines are represented by Lifflander & Reich, LLP, 1221 Avenue of the Americas, New York, New York 10020.

In light of the nature of Plaintiff's decedent's injuries and resultant death and the likelihood that a jury may believe that the operator of the Liberty Lines bus was negligent in failing to see the plaintiff's decedent enter the roadway and that his actions were the proximate

cause of plaintiff's injuries, a settlement of \$75,000.00 is proposed, and Plaintiff's counsel has indicated that such an amount would be acceptable to Plaintiff.

JMN/jhf

APPROVED BOARD OF ACQUISITION & CONTRACT - 03/07/2019 - LISA MRIJAJ, 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 entitled Maximilla Cassell as Administratrix of the Estate of Merrill Cassell et al. v The County of Westchester et al. by payment from the County of Westchester to Maximilla Cassell as Administratrix of the Estate of Merrill Cassell in an amount not to exceed \$75,000.00; and it is further

RESOLVED, that the County Attorney or his designee is authorized to execute any documents necessary to implement this resolution.

Original Agreement	\$
First Amendment	\$
This Amendment	\$ _____
TOTAL	\$

Account to be Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
101	44	2100	4924		75,000.00

Budget Funding Year(s) 2019 Start Date 1/1/2019 End Date 12/31/2019
(must match resolution)

Funding Source Tax Dollars 75,000.00

State Aid _____

\$ 75,000.00 Federal Aid _____

(must match resolution) Other 6N fund _____