

OnBase ID # 71022

July 30, 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 Zachary Ganzarski v. Liberty Lines Transit, Inc. and John Irizarry by payment from the County of Westchester to Zachary Ganzarski, in an amount not to exceed \$70,000.

Attached for your consideration is a resolution which, if approved by your Honorable Board, would authorize settlement of the lawsuit entitled Zachary Ganzarski v. Liberty Lines Transit Inc. and John Irizarry by payment from the County of Westchester to Zachary Ganzarski, in an amount not to exceed \$70,000.

This action was commenced by plaintiff Zachary Ganzarski in the Supreme Court of the State of New York, County of New York.

On April 24, 2015, at approximately 7:26 am, plaintiff, then a twenty-two year old pedestrian was crossing within the crosswalk at the intersection of Lexington Avenue and Main Street in White Plains, when he was allegedly struck by a Liberty Lines bus as it made a left turn from Lexington Avenue onto Main Street. At the time of the accident plaintiff asserts that the pedestrian walk signal was illuminated, giving him the right of way. The Liberty Lines bus operated by John Irizarry ("Irizarry") attempted to turn left onto Main Street, and struck the plaintiff, causing him to rotate counterclockwise, falling on his back and striking his head on the ground.

As a result of the accident, plaintiff was admitted to White Plains Hospital ("WPH") where he received sutures about the lip, and then to Westchester Medical Center ("WMC") due to complaints of pain to his face and mouth, as well as numbness in a finger on his right hand. After his discharge from WMC, Plaintiff treated with his private dentist and was subsequently diagnosed with a "green stick" fracture of the alveolar, which is a fracture of the bony area above the upper teeth.

Plaintiff who is currently twenty-six years old alleges that as a result of the accident he sustained pain and nerve damage to his left front tooth, necessitating root canal, and caused the tooth to become and remain, gray and discolored. He also alleges that he has no feeling in his left front tooth and experiences anxiety and embarrassment because of the tooth discoloration.

At trial, plaintiff will argue that the driver failed to exercise reasonable care in the operation of the bus, and that this deviation from the standard of care was the proximate cause of his injuries. Plaintiff will further argue that the bus driver failed to properly observe the existing traffic conditions while operating the bus, failed to yield the right of way to the plaintiff, and that the bus driver's negligence caused him to sustain injury.

Plaintiff is represented in this action by the Law Offices of David E. Waterbury, 50 Broadway Suite 1000, New York, New York 10004.

In light of the nature of plaintiff's injuries, and the possibility that a jury may believe the negligent operation of the bus was the proximate cause of plaintiff's injuries, a settlement of \$70,000.00 is proposed and plaintiff's counsel has indicated that such an amount is acceptable to plaintiff.

JMN/faj

APPROVED BOARD OF ACQUISITION & CONTRACT - 08/29/2019 - USA MRIJAN SECRETARIAT

RESOLUTION

Upon the communication of the County Attorney, it is hereby

RESOLVED, that the County Attorney is hereby authorized to settle the lawsuit of Zachary Ganzarski v. Liberty Lines Transit Inc., et al. by payment from the County of Westchester to Zachary Ganzarski in an amount not to exceed \$70,000.00; 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 \$

Agreement #
 Account to be
 Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
101	44	2100	4924		70,000.00

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

Funding Source Tax Dollars \$70,000.00
 State Aid _____
 \$ _____ Federal Aid _____
 (must match resolution) Other _____

