

31791

January 15, 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 Victoria Joyce v. Westchester County, Westchester County Department of Transportation, Liberty Lines Transit Inc., and Edward A. Damico, Jr. by payment from the County of Westchester to Victoria Joyce, in an amount not to exceed \$60,000

Attached for your consideration is a resolution which, if approved by your Honorable Board, would authorize settlement of the lawsuit entitled Victoria Joyce v. Westchester County, Westchester County Department of Transportation, Liberty Lines Transit Inc., and Edward A. Damico, Jr. by payment from the County of Westchester to Victoria Joyce in amount not to exceed \$60,000.

This action was commenced by plaintiff Victoria Joyce in the Supreme Court of the State of New York, County of Westchester.

On August 28, 2008 at approximately 12:00 noon, plaintiff, then a thirty-one year old free lance hairstylist was a pedestrian crossing from south to north on Valentine Avenue, in the crosswalk on the east side of Riverdale Avenue in Yonkers, when she was struck by a Liberty Lines commuter bus. Plaintiff who was walking her dog at the time of the accident alleges that the Liberty Lines bus was proceeding south on Riverdale Avenue, and made a left turn on to Valentine Avenue where it made contact with plaintiff and knocked her to the ground.

As a result of the accident, Ms. Joyce was taken by ambulance to St. Joseph's Hospital where at the emergency room she complained of abrasions about the body as well as pain to her left arm, left leg and right hand. She was treated at the emergency room and released that day. Ms. Joyce who is currently thirty-six years old alleges that as a result of the accident she sustained tears of the anterior horn of the medial meniscus and internal derangement of the left

knee which required repair by arthroscopic surgery. She also alleges disc bulges in her lower back, post-concussive headaches, and that she is no longer able to work.

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 her injuries. Plaintiff will further argue that the driver failed to properly observe the existing traffic conditions while operating the bus, and failed to ascertain that the Plaintiff was crossing the street at the crosswalk as he made the left turn onto Valentine Avenue, and that his negligence caused her to sustain injury.

The County is represented by Lifflander & Reich, LLP. Plaintiff is represented in this action by Nelly Stotland, Esq. from the law firm of Nelly Stotland & Assoc., P.C. 118-21 Queens Blvd., Suite 404, Forest Hills, New York 11375.

In light of the nature of plaintiff's injuries and the possibility that a jury may believe that the negligent operation of the bus was the proximate cause of plaintiff's injuries, a settlement of \$60,000.00 is proposed and plaintiff's counsel has indicated that such an amount is acceptable to plaintiff. Our outside counsel in this matter, Lifflander & Reich, LLP, recommends that this case be settled by payment from the County of Westchester of \$60,000.00 to Victoria Joyce.

RFM/faj

APPROVED BOARD OF ACQUISITION & CONTRACTS - 02/14/2018 - HONORARY VICE 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 Victoria Joyce and Liberty Lines Transit, Inc. by payment from the County of Westchester to Victoria Joyce in an amount not to exceed \$60,000.00; and it is further

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

Agreement #
Account to be
Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
101	44	2100	4924		60,000.00

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

Funding Source Tax Dollars \$60,000.00
State Aid _____
\$ _____ Federal Aid _____
(must match resolution) Other _____