

32603

February 19, 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 Ruby Freeman v. The City of New York, Liberty Lines Transit Inc., Bee-Line Systems, and 3400 Boston Road Inc., by payment from the County of Westchester to Ruby Freeman, in an amount not to exceed \$35,000.

Attached for your consideration is a resolution which, if approved by your Honorable Board, would authorize settlement of the lawsuit entitled Ruby Freeman v. The City of New York, Liberty Lines Transit Inc., Bee-Line Systems and 3400 Boston Road Inc. by payment from the County of Westchester to Ruby Freeman in an amount not to exceed \$35,000.

This action was commenced by plaintiff Ruby Freeman in the Supreme Court of the State of New York, Bronx County. The action has been discontinued against the City of New York and the remaining co-defendant 3400 Boston Road Inc. has contributed \$315,000 of the total settlement amount of \$350,000.

On March 2, 2005, at approximately 1:20 pm, Plaintiff, a sixty-nine year old female, alleges that as she stepped off a Liberty Lines bus she tripped and fell on an uneven sidewalk in the vicinity of 3402 Boston Road in the County of Bronx, New York. Plaintiff alleges that she was caused to fall because the bus operator failed to provide her with a safe place to alight.

Plaintiff was taken from the scene of the accident by ambulance to Our Lady of Mercy Medical Center ("OLMMC") where she was diagnosed with a trimalleolar fracture of her left ankle. On March 7, 2005, Plaintiff was admitted to OLMMC for approximately three days when surgery was performed on her left ankle including open reduction internal fixation using syntheses orthopedic hardware. Following Plaintiff's surgery, she was required to wear a cast for approximately two months and claims that she was confined to her home for approximately two to three months. Additionally, Plaintiff alleges that she must now use a cane to walk and that she walks with an antalgic gait as a result of her injuries.

At trial, Plaintiff will argue that the driver failed to exercise reasonable care in the operation of the bus, specifically with the discharge of passengers, 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 sidewalk conditions when discharging passengers from the bus, and failed to ascertain that the sidewalk where the bus stopped to discharge passengers was defective, and that this negligence caused her to sustain her injury.

The County is represented by Lifflander & Reich, LLP. Plaintiff is represented by William R. Hamel, Esq. from the law firm of Dinkes & Schwitzer, Esqs, 112 Madison Avenue, N.Y., N.Y. 10016.

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 \$35,000.00 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 \$35,000.00 to Ruby Freeman.

RFM/faj

APPROVED BOARD OF ACQUISITION & CONTRACT - CASE NO. 03-000003 - NOMARY VEIRA, 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 Ruby Freeman v. The City of New York, Liberty Lines Transit Inc., Bee-Line Systems and 3400 Boston Road Inc., by payment from the County of Westchester to Ruby Freeman in an amount not to exceed \$35,000.00; and it is further

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

Account to be Charged/Credited

| Fund | Dept | Major Program, Program & Phase Or Unit | Object/ Sub-Object | Trust Account | Dollars |
|------|------|--|--------------------|---------------|-----------|
| 101 | 44 | 2100 | 4924 | | 35,000.00 |
| | | | | | |

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

Funding Source Tax Dollars \$35,000.00

State Aid _____

\$ 35,000.00 Federal Aid _____

(must match resolution) Other _____