

43292

November 14, 2014

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 Luz Maria Pantaleon v. Liberty Lines Transit, Inc., Hernan Hernandez and Melville S. Massey, by payment from the County of Westchester to Luz Maria Pantaleon, in an amount not to exceed \$74,999.00.

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Attached for your consideration is a resolution which, if approved by your Honorable Board, would authorize settlement of the lawsuit entitled Luz Maria Pantaleon v. Liberty Lines Transit, Inc., Hernan Hernandez and Melville S. Massey, by payment from the County of Westchester to Luz Maria Pantaleon in an amount not to exceed \$74,999.00.

This action was commenced by Plaintiff Luz Maria Pantaleon in the Supreme Court of the State of New York, County of Bronx. The co-defendant Melville S. Massey ("Massey") has tendered his full liability policy of \$25,000.00 to Plaintiff.

Plaintiff, Luz Maria Pantaleon alleges that on July 4, 2010, a Liberty Lines bus on which she was traveling came to a sudden stop causing the then 59 year old Plaintiff to fall and sustain injury to her left shoulder. Plaintiff, who at the time of the incident provided child care for her grandchildren, alleges that she was approaching a seat and about to sit, when the bus came to a sudden stop causing her to fall and sustain injury.

Plaintiff complained immediately about her left shoulder and was taken directly by ambulance to North Central Hospital where she was treated and released. Plaintiff was diagnosed with a torn labrum to the left shoulder and alleges that she also sustained soft tissue injury to her neck and back, including multiple lumbar and cervical disc herniations. Plaintiff subsequently had arthroscopic surgery performed on her left shoulder at Montefiore Medical Center, followed by a course of physical therapy. She alleges that she took pain medication for



one month after surgery and periodically experiences pain in her left shoulder which limits her ability to care for her grandchildren.

At trial, Plaintiff will argue that the driver failed to exercise reasonable care in the operation of the bus, and that this alleged deviation from the standard of care was the proximate cause of her injuries. Plaintiff will further argue that the driver failed to observe the existing traffic conditions while operating the bus, and that this alleged negligence caused her to sustain injury.

The County is represented by Lifflander & Reich, LLP. Plaintiff is represented by Talkin, Muccigrosso & Roberts, LLP., 40 Exchange Place, New York, New York 10005.

In light of the nature of Plaintiff's injuries, the possibility that a jury may believe that the bus was operated in a negligent manner and that such alleged negligence was the proximate cause of plaintiff's injuries, a settlement of \$74,999.00 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 \$74,999.00 to Luz Maria Pantaleon.

RFM/faj

**RESOLUTION**

Upon the communication of the County Attorney, it is hereby

RESOLVED, that the County Attorney is hereby authorized to settle the lawsuit of Luz Maria Pantaleon v. Liberty Lines Transit, Inc., Hernan Hernandez and Melville S. Massey, by payment from the County of Westchester to Luz Maria Pantaleon in an amount not to exceed \$74,999.00; 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               |               | \$74,999.00 |
|      |       |  |                    |               |             |

Budget Funding Year(s) 2014 Start Date 1/1/2014 End Date 12/31/2014  
 (must match resolution)

Funding Source

Tax Dollars \$74,999.00

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

**\$ 74,999.00**

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

(must match resolution)

Other \_\_\_\_\_