

52358

June 29, 2016

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 Lascelles Smith v. Liberty Lines Transit, Inc., et al. in the amount of \$29,000 inclusive of attorney's fees.

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Attached for your consideration is a resolution which, if approved by your Board, would authorize settlement of the lawsuit entitled Lascelles Smith v. Liberty Lines Transit, Inc., et al.

This action was commenced by plaintiff, Lascelles Smith, in the Supreme Court of the State of New York, Westchester County. Plaintiff alleges that on March 4, 2012 he was a passenger in a Liberty Lines Bus when it rear-ended another Liberty Lines bus on Tuckahoe Road at the intersection with the New York State Thruway in Yonkers, New York. He alleges that at the time of the accident he was standing near the stairwell in the rear of the bus and felt a heavy impact that caused him to fall down the stairwell and to lose consciousness. He was taken to St. Joseph's Hospital from the scene with complaints of broken ribs, pain in both shoulders, lower back and neck pain and emotional distress. Plaintiff claims his alleged injuries necessitated repeated nerve block injections to the lumbar and cervical spine. Plaintiff, who was sixty-seven at the time of the accident, claims that as a result of the injuries he sustained in the accident he was unable to return to work as a maintenance associate at Shop-Rite.

Plaintiff is represented by DeAngelis and Hafiz, 22 West First Street, Mount Vernon, New York. The County and Liberty Lines are represented by Kent B. Dolan of Lifflander & Reich, LLP, 425 Madison Avenue, New York, New York. Kent Dolan recommends settling this case for the amount proposed.

At trial, plaintiff will argue that the Liberty Lines bus driver failed to maintain a safe and sufficient distance from the bus in front to avoid an accident. Plaintiff will argue that this alleged deviation from the standard of care was the proximate cause of his injuries.

In light of the nature of plaintiff's injuries and the likelihood that a jury may believe that the operator of the Liberty Lines bus was negligent and his actions were the proximate cause of plaintiff's injuries, a settlement of \$29,000.00 is proposed, and plaintiff's counsel has indicated that such an amount would be acceptable to plaintiff.

RFM/jhf

**RESOLUTION**

Upon the communication of the County Attorney, it is hereby

RESOLVED, that the County Attorney is hereby authorized to settle the lawsuit of Lascelles Smith v. Liberty Lines Inc, et al. by payment from the County of Westchester to Lascelles Smith in an amount not to exceed \$29,000.00; 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		29,000.00

Budget Funding Year(s) 2016 Start Date 1/1/2016 End Date 12/31/2016  
(must match resolution)

Funding Source Tax Dollars 29,000.00

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

**\$ 29,000.00**

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

(must match resolution)

Other \_\_\_\_\_