

ONBASE ID # 72591

November 12, 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 Berona Guity v County of Westchester et al. in the amount of \$45,000, inclusive of attorney's fees.

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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 Berona Guity v County of Westchester et al.

This matter arises out of a hit and run collision on June 1, 2016 at approximately 8:50 a.m. on the north bound side of the Sprain Brook Parkway, just north of Dobbs Ferry Road in Greenburgh. The plaintiff was a passenger on a Liberty Lines bus. The bus was traveling in the center lane of the three lane highway. There was a disabled vehicle in the left hand lane and an unidentified vehicle attempted to overtake the bus to avoid collision with the disabled vehicle. The unidentified vehicle struck the front driver's side corner of the bus and did not stop.

The plaintiff allegedly suffered a torn meniscus which required surgical repair as well as cervical and lumbar herniations. Given the fact that the unidentified driver was at least partially responsible for the accident, the plaintiff was able to successfully move for summary judgment on the New York State mandated uninsured/under insured motorist coverage and was granted the statutory maximum amount of \$25,000.00. The total amount of the proposed settlement includes the \$25,000 in addition to the \$20,000 for plaintiff's alleged injuries.

Plaintiff is represented by Michael Joseph, PLLC, 203 East Post Road, White Plains New York 10601. The County and Liberty Lines are represented by Keane & Bernheimer, PLLC, 400 Columbus Avenue, Suite 100S, White Plains, New York 10595.

In light of the decision on the summary judgment motion and plaintiff's argument that the bus driver should have seen the unidentified driver and slowed down a jury may believe that the operator of the Liberty Lines bus was contributorily negligent and that his actions were one of the proximate causes of plaintiff's injuries, a settlement of \$45,000.00 is recommended. Plaintiff's counsel has indicated that such an amount would be acceptable to plaintiff.

JMN/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 entitled Berona Guity v County of Westchester et al. by payment from the County of Westchester to Berona Guity in an amount not to exceed \$45,000.00; 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	\$
<b>This Amendment</b>	<b>\$</b> _____
TOTAL	\$

Account to be Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
101	44	2100	4924		45,000.00

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

Funding Source Tax Dollars 45,000.00

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

**\$ 45,000.00**

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

(must match resolution)

Other 6N fund \_\_\_\_\_