

OnBASE ID # 73266

December 10, 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 Beverly Francis v. The County of Westchester et al. in the amount of \$55,000, inclusive of attorney's fees.

Attached for your consideration is a resolution which, if approved by your Honorable Board, would authorize settlement of the lawsuit entitled Beverly Francis v. The County of Westchester et al.

This matter arises out of an injury sustained on Liberty Lines Bus 681 on June 2, 2016 at approximately 6:28 p.m. when a bus seat snapped off the wall of the bus and collapsed onto the plaintiff, Beverly Francis. The video from the bus confirms the plaintiff's version of the accident.

Plaintiff is represented by Bailly and McMillan, LLP, 244 Westchester Avenue, Suite 410, White Plains, New York 10601. The County and Liberty Lines are represented by Keane & Bernheimer, PLLC, 400 Columbus Avenue, Suite 100S, Valhalla, New York 10595.

In light of the video showing the accident, the duty of Liberty Lines, as a common carrier, to maintain and repair its equipment, and the likelihood that a jury may believe that such an accident would not have occurred but for the negligence of Liberty Lines, a settlement of \$55,000.00 is proposed.

An examination of the Plaintiff shortly after the incident resulted in a diagnosis of a knee sprain. It is unclear as to why an MRI was not conducted until September 14, 2016; however, same resulted in a diagnosis of a "complex anterior horn lateral meniscal tear." Surgery was performed approximately one year later on June 27, 2017. Per the Orthopedic IME Report, surgery revealed moderate, degenerative joint disease which led to the conclusion that the tear was likely degenerative; however, the findings are not conclusive and we are thus unable to definitely allege a pre-existing condition. Additional injuries alleged are cervical and lumbar sprains/strains and headaches.

Plaintiff's counsel has confirmed that his client is willing to settle for \$55,000.00.

JMN/ggm

APPROVED BOARD OF ACQUISITION & CONTRACT - 12/19/2019 - LISA MRIJAJ, 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 entitled Beverly Francis v. County of Westchester, et al. by payment from the County of Westchester to Beverly Francis in an amount not to exceed \$55,000.00; 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: \$
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		55,000.00

Budget Funding Year(s): 2019
Start Date: 01/01/2019
End Date: 12/31/2019
(must match resolution)

Funding Source Tax Dollars: \$55,000.00

State Aid:

\$ 55,000.00

Federal Aid:

(must match resolution)

Other: 6N Fund