

George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

May 16, 2022

Westchester County Board of Legislators
County of Westchester
800 Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601

Re: Request for authorization to settle the lawsuit of Lisa A. Robinson v. County of Westchester, et al, in Westchester County Supreme Court, Index No. 56667/2020, in the amount of \$125,000.00 inclusive of attorney's fees.

Dear Honorable Members of the Board:

Attached for your consideration is an Act which, if enacted by your Board, would authorize the settlement of the lawsuit of Lisa A. Robinson v. County of Westchester, et al, in the amount of \$125,000.00 inclusive of attorney's fees.

This matter is pending in the Westchester County Supreme Court. The Yankowitz Law Firm, P.C., 175 East Shore Road, Great Neck, New York 11023 is representing the plaintiff. Codefendant Kenneth O. Akarume is represented by Votto & Albee, PLLC, 30 Bay Street, 7th Floor, Staten Island, New York 10301. Patrick Butler, Esq., of Maroney O'Connor LLP, 11 Broadway, New York, New York 10004 is representing the County.

The matter tentatively settled on May 11, 2022 pending this Board's approval of a settlement in the amount of \$125,000.00, inclusive of attorney's fees.

This matter arises out of a Liberty Lines Bus accident which occurred on August 29, 2018. Plaintiff was a passenger and was standing in front of and facing the back door while holding on to a railing with her left hand. The bus was traveling southbound on South Broadway in Yonkers. The accident happened when a car appeared to run the stop sign at the on-ramp to South Broadway from the Henry Hudson Parkway, and entered South Broadway at an angle from the right. This car was driven by codefendant Kenneth Akarume. The codefendant's car was struck by the bus on the driver's side door. Codefendant appeared to have been attempting to make a left turn in front of the bus.

Plaintiff was transported from the scene of the bus accident to St. Joseph's Hospital in Yonkers. She complained of pain in her left leg, knee and hip, and pain in her left shoulder. As a result of the bus accident, on January 31, 2019, plaintiff had arthroscopic surgery at Surgicore of Manhattan to repair a partial rotator cuff tear in her left shoulder.

On November 11, 2021, counsel filed a summary judgment liability motion under the "Emergency Doctrine Theory". The latter legal theory is that, "motorists faced with a sudden and unexpected circumstance not of their own making that leaves them with little or no time for reflection may not be negligent if their actions are reasonable and prudent in the context of the emergency".

On March 28, 2022, the court issued a decision denying our motion. The judge reviewed the bus's forward video as part of the summary judgment argument and felt there was a question of fact as to whether the bus had sufficient warning to stop and avoid the accident.

The codefendant purchased a minimal \$25,000/\$50,000 limit of liability insurance policy. Due to multiple motorists involved in the accident, New York State's joint and several liability rule will apply to the accident. Under this rule, if the plaintiff achieves just a 1% apportionment of liability against Liberty Lines, the County will be liable for any potential judgment in excess of the codefendant's \$25,000 insurance policy limit. The codefendant has already tendered his \$25,000 policy limit.

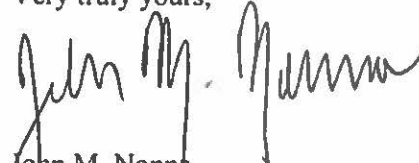
Plaintiff was receiving Medicaid benefits prior to the accident so there will be Medicaid liens imposed against the settlement to be paid by the County.

The accident was found by Liberty Lines to be non-preventable and the bus operator in question was not disciplined.

The settlement takes into consideration the uncertainty of litigation and the potential costs of trial, subsequent proceedings and potential appeal. Both outside counsel and our insurer's adjuster recommend this settlement. The County's insurance policy will cover \$25,000 of the \$125,000 settlement, and the County will pay its \$100,000. deductible.

The accompanying Act will authorize settlement of the lawsuit entitled, Lisa A. Robinson v. County of Westchester, et al, in the amount of \$125,000.00, Westchester County Supreme Court Index No. 56667/2020, inclusive of attorney's fees.

Very truly yours,


John M. Nonna
County Attorney

JMN/mg

BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Act, which if enacted by your Board, would authorize the settlement of the lawsuit of Lisa A. Robinson v. County of Westchester, et al, Westchester County Supreme Court Index No. 56667/2020, in the amount of \$125,000.00 inclusive of attorney's fees.

This matter is pending in the Westchester County Supreme Court. The matter tentatively settled on May 11, 2022 pending this Board's approval of a settlement in the amount of \$125,000.00, inclusive of attorney's fees.

This matter arises out of a Liberty Lines Bus accident which occurred on August 29, 2018. Plaintiff was a passenger and was standing in front of and facing the back door while holding on to a railing with her left hand. The bus was traveling southbound on South Broadway in Yonkers. The accident happened when a car appeared to run the stop sign at the on-ramp to South Broadway from the Henry Hudson Parkway, and entered South Broadway at an angle from the right. The codefendant's car was struck by the bus on the driver's side door. Codefendant appeared to have been attempting to make a left turn in front of the bus

Plaintiff was transported from the scene of the bus accident to St. Joseph's Hospital in Yonkers. She complained of pain in her left leg, knee and hip, and pain in her left shoulder. As a result of the bus accident, on January 31, 2019, plaintiff had arthroscopic surgery at Surgicore of Manhattan to repair a partial rotator cuff tear in her left shoulder.

The settlement takes into consideration the uncertainty of litigation and the potential costs of trial, subsequent proceedings and potential appeal. Both outside counsel and our insurer's adjuster recommend this settlement. The County's insurance policy will cover \$25,000 of the \$125,000 settlement, and the County will pay its \$100,000. deductible.

Your Committee has carefully considered the subject matter, the settlement proposal, the attached Act and recommends authorizing the County Attorney or his designee to settle the lawsuit entitled Lisa A. Robinson v. County of Westchester, et al, Westchester County Supreme Court Index No. 56667/2020, in the amount of \$125,000.00 inclusive of attorney's fees.

An affirmative vote of a majority of the Board is required to pass this legislation.

Dated: White Plains, New York

, 2022

COMMITTEE ON:

ACT NO. -2022

AN ACT authorizing the County Attorney to settle the lawsuit of Lisa A. Robinson v. County of Westchester, et al, in Westchester County Supreme Court, Index No. 56667/2020, in the amount of \$125,000.00, inclusive of attorney's fees

BE IT ENACTED by the Board of Legislators of the County of Westchester as follows:

Section 1. The County Attorney is authorized to settle the lawsuit of Lisa A. Robinson v. County of Westchester, et al, in Westchester County Supreme Court, Index No. 56667/2020, in the amount of \$125,000.00 inclusive of attorney's fees. The County will pay \$100,000.00 of this settlement as required by the deductible applicable to its insurance policy.

Section 2. The County Attorney or his designee is hereby authorized and empowered to execute and deliver all documents and take such actions as the County Attorney deems necessary or desirable to accomplish the purpose of this Act.

Section 3. This Act shall take effect immediately.

FISCAL IMPACT STATEMENT

SUBJECT: Lisa Robinson v. County, et al.

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ 100,000

Total Current Year Revenue \$ -

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: 6N Fund: 615 59 0698 4270 4280 05

Potential Related Operating Budget Expenses: Annual Amount _____

Describe: _____

Potential Related Operating Budget Revenues: Annual Amount _____

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: _____

Next Four Years: _____

Prepared by: Dianne Vanadia

Title: Sr. Budget Analyst

Department: Budget

Date: May 18, 2022

Reviewed By: 

Budget Director

Date: 5/18/22