

## BUS ACCIDENT SETTLEMENT AGREEMENT

*This is a settlement agreement entered into by the City of Chicago in June 1989 with a woman who was hit by a municipal bus in 1978. The agreement was edited for style and to remove the plaintiff's name. The undiscounted sum of the payments is \$780,000. The initial payment of \$95,000 mentioned in paragraph 2 was distributed (i) \$85,000 to the plaintiff's attorney, under a contingent fee agreement giving the attorney 40% of any recovery; (ii) \$1,500 to cover expenses incurred by the plaintiff's attorney; and (iii) \$8,500 to plaintiff. Plaintiff kept all subsequent payments.*

### Release and Settlement Agreement

1. In consideration of the amounts, terms and conditions stated herein, the terms and sufficiency of which are hereby agreed to and acknowledged by \_\_\_\_\_ ("Plaintiff"), Plaintiff hereby releases and forever discharges The City of Chicago ("Defendant"), its heirs, executors, administrators, principals, employees, representatives, agents, assigns and successors, and all other persons, firms or corporations liable or who might be claimed to be liable in any manner, from any and all claims, demands, damages, actions, causes of action or suits of any kind or nature whatsoever, both known and unknown, to person and property, which have resulted in the past or may in the future develop as a result of an accident which occurred on or about July 31, 1978, at or near \_\_\_\_\_, Chicago, Illinois, and is the subject matter of Civil Action #79L16501, pending in the Circuit Court of Cook County, Illinois the "Accident"). The payments set out herein are not to be construed as an admission of liability by Defendant, by whom liability is expressly denied.

2. In consideration of the release set forth above, \$95,000 has been paid to Plaintiff and her attorney, on behalf of Defendant, receipt of which is hereby acknowledged, as full accord, satisfaction and settlement of all claims referred to herein except only for the future periodic payments to be paid by Defendant or its assigns set forth in the Addendum (the "Future Payments").

3. If Plaintiff dies before the date of the last Future Payment, the remaining Future Payments shall continue to be paid as stated in the Addendum to such person or entity as Plaintiff shall designate at the time of settlement to Defendant. If no person or entity is so designated by Plaintiff, or if the person designated is not living at the time of Plaintiff's death, the payments shall be made to Plaintiff's estate.

4. It is expressly understood and agreed that none of the recipients of the Future Payments shall have the right to:

- a) accelerate the Future Payments to any time or vary in any respects the Future Payments;
- b) receive the present discounted value of Future Payments;

- c) have any control of the investments of funds from which payments are made;
- d) have any right to increase or decrease the Future Payments;
- e) change or modify the manner of meeting any payments or discharging any obligations set forth in this agreement.

5. Defendant may make a "qualified assignment" within the meaning of § 130(c) of the Internal Revenue Code of 1986 (the "Code") to Safeco Assigned Benefits Service Company ("Insurer") of Defendant's obligation to make the Future Payments. Plaintiff hereby consents to such an assignment and agrees that: (a) Plaintiff's rights to the Future Payments and against Insurer shall be no greater than those of a general creditor; (b) Insurer is not required to set aside specific assets to secure the Future Payments; and (c) Insurer's obligation to make Future Payments shall be no greater than those of Defendant immediately preceding the assignment.

6. Upon making such a "qualified assignment", Defendant shall be fully released from all obligations to make the Future Payments and only Insurer shall be obligated to make the Future Payments. Insurer's obligation to make each Future Payment shall be discharged upon mailing of a valid check in the amount due to the address designated by Plaintiff.

7. Insurer may fund the Future Payments by purchasing an annuity policy from Safeco Life Insurance Company with Plaintiff designated as "measuring life" under said policy. All rights of ownership and control of such annuity policy shall be vested in Insurer.

8. There will be no fees or charges made to Plaintiff by Defendant or any of its employees or agents (including, without limitation, Insurer) for the purchase or administration of the annuities or payments described herein.

9. Plaintiff warrants that no other person or entity has asserted or is able to assert any lien, claim or entitlement to any portion of the consideration recited above which has not been satisfied, or will not be satisfied immediately out of the consideration. Plaintiff agrees to indemnify and hold harmless Defendants and their present and former insurers, directors, officers, agents, employees, successors and assigns from any lien, claim or entitlement to any portion of the consideration recited above which may be asserted at any time by any person or entity.

10. Plaintiff hereby declares that she is competent and of the age of majority, that no representations about the nature and extent of damages, loss or injury made by any attorney or agent of any party hereby released, or regarding the nature and extent of the legal liability or financial responsibility of any party hereby released, have induced Plaintiff to make this settlement; and that the payments take into consideration not only the ascertained damages and losses, but also the fact that consequences not now ascertained may result from the Accident.

11. Plaintiff covenants and agrees that she will never institute, prosecute, or in any way aid in the institution or prosecution of, any claim, demand, complaint, suit, or action, in law or in equity, against Defendant, arising out of the Accident. In connection therewith, Plaintiff will

indemnify and hold harmless Defendant from any and all claims, demands, complaints, or actions that may be brought by any person or other entity against Defendant, for injury, damage or loss of Plaintiff arising out of the Accident.

12. Plaintiff acknowledges receipt of a copy of this release before signing same. Plaintiff has read the foregoing Release and Settlement Agreement, understands it and signs it as her voluntary act and deed.

Dated: June 13, 1989                      By: \_\_\_\_\_  
*Plaintiff*

Approved by the undersigned authorized representative of the City of Chicago:

Dated: June 13, 1989                      By: \_\_\_\_\_  
*Authorized Agent*

**ADDENDUM 1**

Future periodic payments, to or for the benefit of Plaintiff:

Payable on July 1, 1994 - \$20,000.00  
Payable on July 1, 1999 - \$40,000.00  
Payable on July 1, 2004 - \$65,000.00  
Payable on July 1, 2009 - \$85,000.00  
Payable on July 1, 2014 - \$120,000.00  
Payable on July 1, 2019 - \$155,000.00  
Payable on July 1, 2024 - \$200,000.00

---

## Notes on the Bus Accident Settlement Agreement

1. Assume that you are satisfied with amount of the settlement payments, measured by their present value. Would you sign this agreement? Why or why not? What features do you find troublesome?
2. Is the schedule of payments attractive to you? If not, what schedule would you prefer, or would you like a lump sum payout? (Bear in mind that the payments are tax-free when made, but income earned on a lump sum payment is taxable).
3. How much would the promised payments be worth *to you*? How would you decide how much they are worth?
4. The ethics of the fee retained by Plaintiff's attorney, and of some other features of the settlement, will be discussed in class.