

BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Act which, if enacted by your Board, would authorize the County of Westchester (the "County") to compromise its claim to be reimbursed for healthcare and wage benefits paid to or on behalf of a County employee, identified as "M.D." Consistent with prior practice in similar cases, the County Attorney has deleted the name of the employee to protect the individual's privacy. The name, of course, will be disclosed to the Board of Legislators if that is desired.

On May 13, 2016, M.D., an employee in the Westchester County Department of Public Safety (the "Department") was involved in a motor vehicle accident at a location identified as Nannyhagen Road, Thornwood, NY – approximately one half mile east of Davidson Drive. On said date, a tractor trailer owned and operated by defendant tortfeasors crossed a double yellow line and collided with the vehicle driven by M.D. As a result of the accident, M.D. sustained injuries to her head, neck, shoulders, back and both wrists and missed 129 weeks of work. She returned to full-time regular duty on April 11, 2019, and is currently back at work in full capacity without restrictions.

M.D. filed a claim for her injury with the NYS Workers' Compensation Board, which was uncontroverted. On a parallel track to her Workers' Compensation claim, M.D. retained counsel in advance of commencing a personal injury action against the operator of the tractor trailer, individually, and against their employer Maverick Transportation, LLC, headquartered in North Little Rock, Arkansas.

On or about March 8, 2022, M.D. agreed in principle to settle her personal injury claim after issue was joined in federal court, for three hundred eighty-five thousand and 00/100 dollars (\$385,000.00), pending the consent of the County. In connection with the proposed settlement,

M.D.'s counsel notified this Office that his legal fee totaled one hundred twenty thousand four hundred eighty-six and 74/100 dollars (\$120,486.74) and his costs and disbursements totaled twenty-three thousand five hundred thirty-nine and 76/100 dollars (\$23,539.76).

Between the date of the accident and the date of the proposed settlement, the County expended medical benefits pursuant to the NYS Workers' Compensation Law ("WCL") to or on M.D.'s behalf in the amount of thirty-one thousand six hundred forty-four and 55/100 dollars (\$31,644.55), paid indemnity (lost wage) benefits in the amount of twenty-six thousand eight hundred forty-eight and 42/100 dollars (\$26,848.42)—bringing the County's total expenditures in this matter to fifty-eight thousand four hundred ninety-two and 97/100 dollars (\$58,492.97). Furthermore, because the matter involved a motor vehicle accident, that figure is reduced by fifty thousand and 00/100 dollars (\$50,000.00) to eight thousand four hundred ninety-two and 97/100 dollars (\$8,492.97).

Based upon a review of the facts and circumstances of this matter, this Office seeks the authority to compromise the County's claim for reimbursement by reducing its lien by 37.41%, equaling a dollar reduction of three thousand one hundred seventy-seven and 22/100 dollars (\$3,177.22). The County would thereafter accept in satisfaction of its present lien a total of five thousand three hundred fifteen and 75/100 dollars (\$5,315.75). After the County is reimbursed and counsel fees are paid, M.D. would receive two hundred thirty-five thousand six hundred fifty-seven and 75/100 dollars (\$235,657.75).

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Your Committee has carefully considered the matter and recommends authorizing the County Attorney, pursuant to Section 158.11 of the Westchester County Charter, to compromise the County's right to be reimbursed for health care and wage benefits paid to or on behalf of M.D. from the settlement of her legal action against defendant tortfeasor. An affirmative vote of a majority of the Board is required to pass this legislation.

Dated: White Plains, New York
April 25, 2022

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Budget & Appropriations

Law & Major Contracts

COMMITTEE ON

Dated: April 25, 2022
White Plains, New York

The following members attended the meeting remotely pursuant to Chapter 1 of New York State Laws of 2022, and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Committees on:

Budget & Appropriations

David J. Jablonski

Jeff Rein

Paul J. ...

Catherine F. Parker

Law & Major Contracts

Catherine F. Parker

ACT NO. 2022

AN ACT authorizing the County of Westchester to compromise its right to be reimbursed for health care and wage benefits paid to or on behalf of a County employee from a settlement of her legal action against a defendant tortfeasor.

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

1. The County of Westchester is hereby authorized to compromise its right to be reimbursed for health care and wage benefits paid or owing to or on behalf of a County employee, identified as "M.D.", from a settlement of her legal action against a third party. The County's reimbursement is \$5,315.22, representing a 37.41% reduction of its lien, with full reservation of the County's right to set off M.D.'s net recovery against any future compensation in accordance with the provisions of New York State Workers' Compensation Law.
2. The County Attorney or his designee is hereby authorized to execute and deliver all documents and take such actions as the County Attorney deems necessary or desirable to accomplish the purpose hereof.
3. This Act shall take effect immediately.

FISCAL IMPACT STATEMENT

SUBJECT: Settlement of Workers Comp Lien (M.D.)

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

(To be completed by operating department and reviewed by Budget Department)

A) GENERAL FUND AIRPORT SPECIAL REVENUE FUND (Districts)

B) EXPENSES AND REVENUES

Total Current Year Cost \$ 0

Total Current Year Revenue \$ 5,315.75

Source of Funds (check one): Current Appropriations

Transfer of Existing Appropriations Additional Appropriations Other (explain)

Identify Accounts: 613-57-0016-4280

Potential Related Operating Budget Expenses: Annual Amount \$ _____

Describe: _____

Potential Related Revenues: Annual Amount \$ _____

Describe: _____

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

Current Year: _____

Next Four years: _____

Prepared by: Gianfranco Arlia

Title: Assistant County Attorney

Department: Law

Reviewed By: _____

Budget Department

4/11/22

If you need more space, please attach additional sheets.