

# Law & Major Contracts

## BOL Meeting Minutes - Final



Committee Chair: Damon Maher

800 Michaelian Office Bldg.  
148 Martine Avenue, 8th Floor  
White Plains, NY 10601  
www.westchesterlegislators.com

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Monday, July 31, 2023

10:00 AM

Committee Room

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### CALL TO ORDER

Joint with Budget & Appropriations committee.

Please note: Meetings of the Board of Legislators and its committees are held at the Michaelian Office Building, 148 Martine Avenue, White Plains, New York, 10601, and remotely via the WebEx video conferencing system. Legislators may participate in person or via Webex. Members of the public may attend meetings in person at any of its locations, or view it online on the Westchester County Legislature's website: <https://westchestercountyny.legistar.com/> This website also provides links to materials for all matters to be discussed at a given meeting. *With a quorum present, Chair Maher called the meeting to order at 10:15 a.m.*

*Others in Attendance: BOL: Legislators: Erika Pierce, Tyrae Woodson-Samuels, and Terry Clements; Legislator James Nolan (Remote); Committee Coordinators: Jill Axelrod, James Silverberg, and Dayana Gomez; Lisa Hochman; Law Dept.: John Fico and Sean Carey*

**Present:** Committee Chair Maher, Legislator Barr, Legislator Gashi, Legislator Parker, Legislator Smith and Legislator Williams Johnson

**Absent:** Committee Vice-Chair Imamura

### MINUTES APPROVAL

Monday, June 12, 2023 at 10:00 a.m.

Tuesday, June 20, 2023 at 10:00 a.m.

### I. ITEMS FOR DISCUSSION

1. [2023-267](#) **ACT - Lawsuit Settlement of Shur v. Westchester County**

Guests: Law Dept.: Associate County Attorney John Fico

*Mr. Fico advised that this is the plaintiff filed an action for personal injury on behalf of herself and her then 11-year-old child after the child suffered a partial amputation of his right index finger. The family was hiking along trails at Cranberry Lake Preserve, which is County owned and operated. They stopped at an exhibit adjacent to one of the trails, which is comprised of a pair of metal tracks about two feet long upon which a pair of metal train-like wheels connected by an axle rests. The axle was tethered to the ground below by a chain which permitted the heavy metal wheels to roll back and forth along the tracks. There was no fencing, barrier or signage advising or intending to prevent park patrons from interacting with the exhibit. Park personnel also had prior knowledge that park patrons would interact with the exhibit. The child and his brother were trying to move and possibly lift the metal wheels along the track when*

*the child's right index finger was crushed by one of the train-like wheels. The accident caused a traumatic fracture of right index finger causing partial amputation. The child has gone through several medical procedures and therapies to save as much of the finger as possible, but has a distinct and noticeable permanent deformity of the right index finger. He is right-hand dominant, and the injury has resulted in his having to adapt to write as well as play various sports. He still has tingling, pain and feelings of cold and numbness at the injured finger, and if these symptoms do not resolve over time or get worse, additional vascular surgery may be necessary.*

*Mr. Fico said that there is a high likelihood of liability on the County for the accident and injury, since this was an attractive nuisance to children, there was no fencing or sign warning against interaction with the exhibit or rolling the wheels, and Park personnel had prior knowledge that visitors would interact and move the wheels over the track. Since this accident, the metal wheels were spot-welded onto the tracks to prevent any movement or rolling of same. Legislator Barr said we should also put a sign there. Mr. Fico said he would follow up on that.*

*He said that the parties negotiated for several months, and although the plaintiffs' initial demand was \$800,000, the parties ultimately settled for \$410,000. The judge who participated and assisted in the parties' settlement discussions has indicated that she will approve the settlement amount.*

On motion of Legislator Barr, seconded by Committee Chair Maher, the above item was signed by committee and referred to Board of Legislators. The motion carried unanimously.

2. [2023-283](#)      **ACT - Lawsuit Settlement of Serratore v. County of Westchester**

Guests: Law Dept.: Associate County Attorney John Fico

*Mr. Fico discussed the item. He said that the plaintiff brought an action against the County and a County employee. The plaintiff alleged she suffered multiple personal injuries when she was struck in a crosswalk by a County owned and operated vehicle while crossing Yonkers Avenue at its intersection with Kimball Avenue in Yonkers. The County employee worked for the Department of Social Services and was on duty at the time. The plaintiff underwent extensive medical treatments and various surgeries for several years after the accident as a result of her injuries to her shoulder, knees and spine.*

*Under the factual circumstances established during discovery, the County would be found 100% liable for the accident, so the only issue is the compensatory damages amount. The plaintiff's demand for settlement was \$6 million. The plaintiff also presented a life care plan supporting damages of approximately \$3.1 million, which does not include pain and suffering. After extensive negotiations over the course of several months, the parties agreed to settle all claims against the County, including the potential for future surgeries that may be necessary for plaintiff, in the amount of \$1,999,999.*

*Chair Maher asked what the reserve was for this case, and Mr. Fico said that should be discussed in executive session. With a motion by Legislator Barr seconded by Chairman Gashi, the committee went into executive session to discuss litigation strategy at 10:33 a.m. With a motion by Legislator Barr seconded by Chairman Gashi, the committee came out of executive session at 10:47 a.m.*

On motion of Legislator Barr, seconded by Legislator Gashi, the above item was signed by

committee and referred to Board of Legislators. The motion carried unanimously.

3. [2023-269](#) **ACT - Vacate a Satisfaction of Judgment**

Guests: Law Dept.: Associate County Attorney Sean Carey

*Mr. Carey said that this will authorize the County Attorney to commence a special proceeding on behalf of the Acting Commissioner/Sheriff of the Westchester County Department of Public Safety vacating a mistakenly filed satisfaction of judgment; and ordering the return of incorrectly remitted funds in the amount of \$1105.13.*

On motion of Legislator Gashi, seconded by Legislator Barr, the above item was signed by committee and referred to Board of Legislators. The motion carried unanimously.

**II. OTHER BUSINESS**

**III. RECEIVE & FILE**

**ADJOURNMENT**

Moved by Legislator Gashi, seconded by Legislator Smith, the Committee adjourned at 11:55 a.m.