

Law & Major Contracts Meeting Agenda



Committee Chair: Damon Maher

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

Monday, July 31, 2023

10:00 AM

Committee Room

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.

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

AN ACT authorizing the County Attorney to settle the lawsuit of L.S., an infant by his mother and natural guardian, Meredith Shur and Meredith Shur, individually against Westchester County and Westchester County Department of Parks, Recreation and Conservation in the amount of FOUR HUNDRED TEN THOUSAND (\$410,000) DOLLARS.

COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS AND LAW & MAJOR CONTRACTS

Guests: Law Dept.: Associate County Attorney John Fico

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

AN ACT authorizing the County Attorney to settle the lawsuit of Roseanna Serratore against County of Westchester and Patricia O'Connell in the amount of ONE MILLION, NINE HUNDRED NINETY-NINE THOUSAND, NINE HUNDRED NINETY-NINE (\$1,999,999) DOLLARS.

COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS AND LAW & MAJOR CONTRACTS

Guests: Law Dept.: Associate County Attorney John Fico

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

AN ACT authorizing the County Attorney to commence a special proceeding to vacate a mistakenly filed satisfaction of judgment and to order the return of incorrectly remitted funds.

COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS AND LAW & MAJOR CONTRACTS

Guests: Law Dept.: Associate County Attorney Sean Carey

II. OTHER BUSINESS

III. RECEIVE & FILE

ADJOURNMENT

June 7, 2023

George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

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 L.S., an infant by his mother and natural guardian, Meredith Shur and Meredith Shur, individually against Westchester County and Westchester County Department of Parks, Recreation and Conservation in the amount of \$410,000.00

Dear Honorable Members of the Board:

Attached for your review is a draft of proposed legislation in connection with the above-referenced matter.

In or about June 2021, Meredith Shur commenced an action against the County of Westchester ("County") on behalf of her infant child, L.S., and herself for personal injury when the infant child suffered a partial amputation of his right index finger on June 7, 2020, while the family was visiting Cranberry Lake Preserve ("Park"), a County owned and operated park in West Harrison.

On the date of the accident, the Shur family was hiking along trails within the Park with other friends when they stopped at a quarry stone carrying cart exhibit adjacent to one of the trails. The exhibit is comprised of a pair of metal tracks approximately two (2) 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 other 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 infant plaintiff, eleven (11) years old at the time of his accident, and his brother were interacting with the exhibit. According to testimony by the infant plaintiff, he and his brother were trying to move and possibly lift the metal wheels along the track when his 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 family immediately transported plaintiff to

Westchester Medical Center (“WMC”). Plaintiff Meredith Shur, the mother, is a physician and contacted colleagues to advise of the injury while on the way to WMC to obtain appropriate and qualified medical assistance in light of the serious nature of the injury.

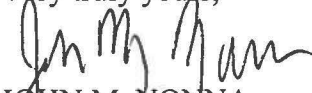
The child plaintiff had gone through several medical procedures and therapies to save as much of the finger as possible including treatment in a hyperbaric chamber as well as the use of medical leeches to cleanse and enhance blood circulation to the damaged fingertip. There is a distinct and noticeable permanent deformity of the right index finger. The infant plaintiff is right-hand dominant and the injury has resulted in his having to adapt to write as well as play various sports. According to the medical records and testimony, there is still tingling, pain and feelings of cold and numbness at the injured finger. If these symptoms do not resolve over time or get worse, there is a possibility that additional vascular surgery may be necessary to alleviate the symptoms

The doctrine of attractive nuisance due to the age of the injured plaintiff, the lack of any signage or other barrier/fencing warning against personal interaction with the exhibit and/or restricting or warning about possible risk of injury in rolling the wheels, the fact that the exhibit was constructed to allow the metal wheels to move over the track, and the prior knowledge by Park personnel that visitors would interact and move the wheels over the track establishes a high likelihood of liability on the County for the accident and injury. Since this accident the metal wheels were spot-welded onto the tracks to prevent any movement or rolling of same.

At the conclusion of discovery, the parties negotiated over several months commencing December 2022 with an effort to settle. Plaintiff’s initial demand was \$800,000. Ultimately, the parties settled for \$410,000.00. Inasmuch as the injured party is an infant under the law, the proposed settlement will require a judge’s order before the settlement amount is approved. However, Judge Nancy Quinn-Koba participated and assisted in the parties’ settlement discussions and indicated that she was satisfied with the settlement amount and would approve same. It is undisputed that the infant plaintiff suffered a permanent physical injury to his right index finger on his dominant hand and that he is likely to have permanent deficiencies as a result of the defect to his finger. As review of settlement and verdicts for similar injuries places the value of this injury anywhere from \$500,000 to \$1,500,000. This matter has an established reserve of \$750,000.00 with the County’s 6N Fund. Also, Commissioner Kathleen O’Connor has been consulted with regarding this matter and concurs with this settlement

Please advise if further information is needed.

Very truly yours,



JOHN M. NONNA
Westchester County Attorney

JMN/jf
Enclosure

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 L.S., an infant by his mother and natural guardian, Meredith Shur and Meredith Shur, individually against Westchester County and Westchester County Department of Parks, Recreation and Conservation in the amount of \$410,000.00.

Infant plaintiff L.S. suffered a partial amputation of his right index finger of his dominant hand while interacting with the metal wheels and track of a quarry stone carrying cart exhibit at the Cranberry Lake Preserve, Harrison, New York; a County-owned and maintained public park.

The exhibit is comprised of two heavy metal wheels connected by an axle that roll back and forth on metal train tracks approximately two (2) feet long. The axle was tethered to the ground by a chain to limit its roll. However, the wheels rolled and moved enough to catch the infant plaintiff's right index finger and caused it to be wedged between the metal wheels and track.

As a result of the accident, the infant plaintiff's right index finger is visibly deformed, continues to suffer pain and numbness, and is considered to be permanent.

Your Committee has carefully considered the subject matter, the settlement proposal, and the attached Act and recommends authorizing the County Attorney or his designee to settle this

AN ACT authorizing the County Attorney to settle the lawsuit of L.S., an infant by his mother and natural guardian, Meredith Shur and Meredith Shur, individually against Westchester County and Westchester County Department of Parks, Recreation and Conservation in the amount of \$410,000.00, Supreme Court of the State of New York, Westchester County, Index No. 58261/2021

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

Section 1. The County Attorney is hereby authorized to settle the lawsuit of L.S., an infant by his mother and natural guardian, Meredith Shur and Meredith Shur, individually against Westchester County and Westchester County Department of Parks, Recreation and Conservation in the amount of \$410,000 to plaintiff, inclusive of counsel fees.

Section 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 purposes hereof.

Section 3. This Act shall take effect immediately.

FISCAL IMPACT STATEMENT

SUBJECT: Settlement for G200053(Shur) 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 \$ 410,000

Total Current Year Revenue _____

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

Additional Appropriations Other (explain)

Identify Accounts: 6N Fund- 615/59/0700/4410/4280/04

Potential Related Operating Budget Expenses: Annual Amount _____

Describe: BI Settlement of G200053 L.S., an infant by his m/n/g Shur, Meredith

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: John Fico

Title: Associate County Attorney

Department: Law

Date: June 7, 2023

Reviewed By: 
pH

Budget Director

Date: 6/8/23

George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

June 29, 2023

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 Roseanna Serratore against The County of Westchester and Patricia O'Connell in the amount of \$1,999,999.00

Dear Honorable Members of the Board:

Attached for your consideration is proposed legislation, which if enacted, would authorize settlement of the above referenced action by payment of \$1,999,999.00 by the County, inclusive of attorney's fees.

In December 2018, Plaintiff Roseanna Serratore ("Serratore") commenced an action in the Supreme Court, Westchester County against the County of Westchester and Patricia O'Connell, a County employee. In the lawsuit, Serratore alleges she suffered multiple personal injuries sustained on February 28, 2018, 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 the City of Yonkers.

On the date of the accident, Serratore was walking northbound within a marked crosswalk on Yonkers Avenue when the County vehicle, in the northbound traffic lane of Kimball Avenue, commenced a left turn onto Yonkers Avenue and struck the plaintiff while doing so. The accident occurred at approximately 6:00 p.m. Plaintiff was removed from the accident scene by ambulance and taken to the emergency room at New York Presbyterian Westchester Hospital (formerly known as Lawrence Hospital). The County employee involved in this incident worked for the Department of Social Services and was on duty at the time.

Under the factual circumstances established during discovery, the County would be found 100% liable for the accident. Consequently, the issue to resolve is the amount of damages needed to compensate the plaintiff for her injuries.

Michaelian Office Building
148 Martine Avenue, 6th Floor
White Plains, New York 10601

Telephone: (914)995-2676

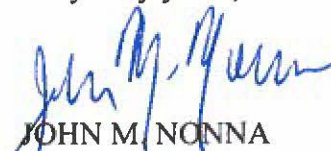
Website: westchestergov.com

Plaintiff underwent extensive medical treatments and various surgeries for several years after the accident as a result of her injuries. Her injuries included: 1) right shoulder internal derangement and rotator cuff tear requiring surgical repair; 2) a non-displaced fracture in the fibular head of the right knee; 3) internal derangement of the right knee with peripheral tear of the posterior junctional zone of the medial meniscus and oblique tear of the lateral meniscus requiring arthroscopic surgery; 4) central herniation at C2-3; 5) left herniation at C6-7; and 6) underwent surgical spinal fusion at C5-6 requiring a discectomy, fusion of the vertebrae, and intervertebral titanium implants to stabilize the fused spine. Plaintiff also had undergone multiple nerve block and cortisone injections to the cervical, lumbar, and sacral sections of her spine and extensive physical therapy. Plaintiff currently suffers from continuous and ongoing pain, uses a cane to ambulate, and has put on a significant amount of body weight since the accident. The injuries suffered by plaintiff and the resultant disabilities connected with same are most likely permanent in nature and there remains a strong possibility that additional surgical intervention will be required.

Had this matter gone to trial, the County would likely have been found 100% liable for the accident and injuries. So the issue before the County was arriving at a reasonable monetary settlement otherwise the issue of damages would have been decided by a jury. The Plaintiff's demand for settlement was \$6,000,000. The Plaintiff's injuries could support such an award by a jury. A review of settlements and jury awards for similar injuries ranged from \$2,000,000 to \$6,000,000. Plaintiff also presented a life care plan supporting damages of approximately \$3,100,000. The life care plan is a detailed report of a person's financial needs and expenses following a personal injury accident. The report attempts to take the person's entire circumstances into account, including medical costs, nursing care, and the costs of daily living. However, the life care plan does not quantify a value for past and future pain and suffering.

After extensive negotiations over the course of several months, the parties essentially mediated this case before Judge Joan Lefkowitz, Supreme Court, Westchester County. Ultimately, 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.

Very truly yours,



JOHN M. NONNA
Westchester County Attorney

JMN/jf
Enclosure

ACT NO.

2023

AN ACT authorizing the County Attorney to settle the lawsuit of Roseanna Serratore against County of Westchester and Patricia O'Connell, Supreme Court of the State of New York, Westchester County, Index No. 71145/2018

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

Section 1. The County Attorney is hereby authorized to settle the lawsuit of Roseanna Serratore against The County of Westchester and Patricia O'Connell in the amount of \$1,999,999 to plaintiff, inclusive of counsel fees.

Section 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 purposes hereof.

Section 3. This Act shall take effect immediately.

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 Roseanna Serratore against County of Westchester and Patricia O'Connell in the amount of \$1,999,999.00.

Plaintiff Roseanna Serratore ("plaintiff") alleges that on February 28, 2018, at approximately 6:00 p.m., she suffered physical injuries when, as a pedestrian, she was struck by a County owned and operated vehicle while in a marked crosswalk on Yonkers Avenue at its intersection with Kimball Avenue, City of Yonkers. The County vehicle was being operated by a County employee on duty at the time of the accident.

At a trial, plaintiff, 42 years old at the time of the accident, will argue that she suffered permanent physical injuries to her right shoulder and right knee, both requiring surgery, and her back and spine wherein she underwent surgical spinal fusion with discectomy, fusion, and permanently implanted titanium hardware. Plaintiff is permanently disabled from this accident and will most likely require future medical care and possible surgeries. Under these circumstances, a jury would likely find the County 100% liable for plaintiff's accident and injuries, leaving to a jury the issue of the evaluation of damages to be awarded.

Your Committee has carefully considered the subject matter, the settlement proposal, and the attached Act and recommends authorizing the County Attorney or his designee to settle this

lawsuit by payment to plaintiff in the amount not to exceed \$1,999,999.00, 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
 , 2023

COMMITTEE ON

l:jf

FISCAL IMPACT STATEMENT

SUBJECT: Settlement of Serratore-A180002NF 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 \$ 1,999,999

Total Current Year Revenue _____

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

Additional Appropriations Other (explain)

Identify Accounts: 6N Fund- 615/59/0698/4220/4280/05

Potential Related Operating Budget Expenses: Annual Amount _____

Describe: Serratore, Roseanna (A180002NF) Auto Liability Settlement

Potential Related Operating Budget Revenues: Annual Amount _____

Describe: _____

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

Current Year: _____

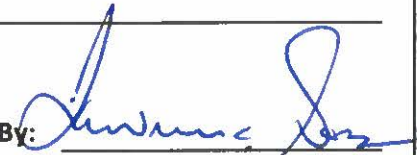
Next Four Years: _____

Prepared by: John Fico

Title: Associate County Attorney

Department: Law

Date: June 21, 2023

DF
Reviewed By: 

Budget Director

Date: 6/21/23

Westchester County

George Latimer
County Executive

Department of Law
John M. Nonna
County Attorney

June 7, 2023

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

Re: Legislation authorizing the County Attorney to commence a special proceeding:
to vacate a mistakenly filed satisfaction of judgment; and
to order the return of \$1,105.13 in incorrectly remitted funds

Dear Honorable Members of the Board:

Attached for your consideration is an Act which, if approved, would authorize the County Attorney to commence a special proceeding on behalf of the Acting Commissioner/Sheriff of the Westchester County Department of Public Safety (the "Westchester County Sheriff") for a Judgment under Article 4 of the Civil Practice Law and Rules (i) vacating a mistakenly filed satisfaction of judgment; and (ii) ordering the return of incorrectly remitted funds in the amount of one thousand one hundred five and 13/100 dollars (\$1,105.13).

The issue here is very straightforward. However, this Office lacks the authority to commence the proposed proceeding without Board authorization (*see* Charter and Administrative Code of Westchester County [hereinafter, "Laws of Westchester County" or "LWC"] § 158.11 [3], [4] [defining the County Attorney's authority to institute proceedings]; LWC ch 273, art I [defining the Department of Public Safety's powers and omitting reference to any authority to initiate proceedings]).

Relevant Background

Among its many duties, the Westchester County Department of Public Safety's Civil Unit (the "Sheriff's Office") is tasked with processing the requests of individuals holding money judgments ("Judgment Creditors") to collect the property of those who owe the money ("Judgment Debtors") from third parties ("Garnishees"). This processing often takes the form of serving letter demands on one of the local banks (*i.e.*, the Garnishee). If the Judgment Debtor has funds in his or her bank account, the Garnishee sends the Sheriff's Office a check. The Sheriff's Office then remits the check's proceeds, less processing fees, to the Judgment Creditor. Once the judgment is paid off in full, the Sheriff's Office sends the Westchester County Clerk's Office paperwork notifying it of same. The Westchester County Clerk's Office then marks the judgment "satisfied."

Michaelian Office Building
148 Martine Avenue, 6th Floor
White Plains, New York 10601

Telephone: 914-995-3630

Fax: 914- 995-3132*

*Please be advised that service by facsimile
is not accepted.



On May 11, 2022, the Sheriff's Office misattributed a check to the wrong judgment. As a result of that misattribution, the Sheriff's Office distributed the check's proceeds to the Judgment Creditor, distributed the overage to the Judgment Debtor, and caused the Clerk's Office to mark the judgment satisfied. The funds incorrectly distributed to the Judgment Creditor totaled eight hundred fifty-six and 10/100 dollars (\$856.10). The overage incorrectly distributed to the Judgment Debtor totaled two hundred forty-nine and 03/100 dollars (\$249.03). Pursuant to statutory and decisional law, a satisfaction of judgment can only be vacated by court order.

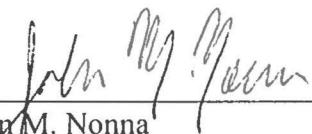
Proposed Proceeding

To vacate the satisfaction of judgment and to prompt return of the incorrectly distributed funds, this Office proposes a special proceeding pursuant to Article 4 of the Civil Practice Law and Rules. The anticipated respondents include the Judgment Creditor to the incorrectly satisfied judgment (AAA Property Tax Appeal LLC) and the Judgment Debtors thereto (Lee and Mindy Diamond). The commencement papers have already been drafted and circulated for review.

Requested Authority

For the foregoing reasons, I recommend commencing a special proceeding for a court order (i) vacating a mistakenly filed satisfaction of judgment; and (ii) ordering the return of incorrectly remitted funds in the amount of one thousand one hundred five and 13/100 dollars (\$1,105.13). The Sheriff's Office concurs in this recommendation.

Very truly yours,



John M. Nonna
County Attorney

JMN/stc

BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Act which, if enacted by your Honorable Board, would authorize the County Attorney to commence a special proceeding (i) vacating a mistakenly filed satisfaction of judgment; and (ii) ordering the return of incorrectly remitted funds in the amount of one thousand one hundred five and 13/100 dollars (\$1,105.13). The satisfaction of judgment was mistakenly filed as a result of a clerical error in the Civil Unit of the Westchester County Department of Public Safety (the “Sheriff’s Office”). That clerical error was also the cause of the incorrectly remitted funds.

Pursuant to statutory and decisional law, a satisfaction of judgment can only be vacated by order of the court. The County Attorney has therefore recommended commencing a special proceeding for a court order (i) vacating a mistakenly filed satisfaction of judgment; and (ii) ordering the return of incorrectly remitted funds.

Your Committee concurs with the County Attorney and therefore recommends that the Board approve the accompanying Act authorizing the County Attorney to initiate such a special proceeding.

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

Dated: White Plains, New York
June __, 2023

ACT NO. 2023

AN ACT authorizing the County Attorney to commence a special proceeding to vacate a mistakenly filed satisfaction of judgment and to order the return of incorrectly remitted funds.

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

1. The County Attorney is authorized to commence a special proceeding on behalf of the Acting Commissioner/Sheriff of the Westchester County Department of Public Safety pursuant to Article 4 of the Civil Practice Law and Rules to vacate a mistakenly filed satisfaction of judgment and to order the return of incorrectly remitted funds.
2. The County Attorney or her designee be and hereby is authorized to execute and deliver all documents and take such actions as the County Attorney deems necessary and desirable to accomplish the purposes hereof.
3. This Act shall take effect immediately.

FISCAL IMPACT STATEMENT

SUBJECT: Proceeding to Vacate Satisfaction of Judgment

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 \$ _____

Source of Funds (check one): Current Appropriations

Transfer of Existing Appropriations Additional Appropriations Other (explain)

Identify Accounts: _____

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: Sean T. Carey

Title: Associate County Attorney

Department: Law

NO

Reviewed By: _____



Budget Department

6/13/23

If you need more space, please attach additional sheets.