WESTCHESTER COUNTY

Memorandum
Office of the County Attorney
Michaelian Office Building

TRANSMITTAL MEMO

To: The Honorable Members of the Board of Legislators

From: John M. Nonna, Westchester County Attorney

Karin E. Hablow, Commissioner of Finance

Date: July 28, 2026

Re: Legislation authorizing the County Attorney and the Commissioner of Finance to compromise the liability of the County of Westchester and pay a reduced lump sum to a former County employee in lieu of future payments.

Attached for your consideration is an Act which, if approved, would authorize the County Attorney and the Commissioner of Finance to compromise the liability of the County of Westchester (the "County") to pay Workers' Compensation benefits to a former County employee identified herein as "D.G." Consistent with prior practice in similar cases, we have deleted the name of the employee to protect the individual's privacy. The name, of course, will be disclosed to the Board of Legislators upon request.

Pursuant to Section 32 of the New York State Workers' Compensation Law, the County is permitted to reduce the liability for ongoing benefits by paying a lump sum to the employee. When a County employee suffers a work-related injury, he or she qualifies for Workers' Compensation benefits. Once the Workers' Compensation Board issues a permanency finding, the County is obligated to make continuing payments. Pursuant to Section 32 of the New York State Workers' Compensation Law, the County is permitted to reduce its liability for ongoing benefits by paying the employee a reduced lump sum. As a result of this lump sum, future payments are eliminated and the County realizes substantial savings.

In the past, the Department of Finance, in its role as administrator of the County's Workers' Compensation Program, has negotiated, with the cooperation of the County Attorney's Office, lump-sum settlements with the attorneys for injured employees. Such settlements have been and remain subject to final approval in the interest of justice by the New York State Workers' Compensation Board.

This settlement is based upon the following criteria:

1. The anticipated future litigation expenses;

2. The anticipated future loss-of-use award; and

3. The settlement amount proposed by the claimant's attorney.

Primary Incident

On Monday, July 2, 2018, at approximately 12:00 p.m., D.G., a Supervisor of Case Work in the Westchester County Department of Social Services (the "Department") was on foot as a pedestrian traversing the intersection of Martin Luther King Jr. Blvd. and Quarropas Street in White Plains, New York. She was then struck by motor vehicle operated by an independent contractor employed by the City of White Plains (the "Primary Incident").

As a result of the Primary Incident, D.G. sustained injuries to her neck, both wrists, both shoulders, left hip, right knee, and back. D.G. also sustained a concussion, post-traumatic stress disorder, and pain disorder. Said injuries required surgery for an ACL reconstruction with lateral menisecectomy, synovectomy, and chondroplasty on D.G.'s right knee.

Personal Injury Action

As a result of the primary incident, D.G. commenced a personal injury action against the City of White Plains and its independent contractor. On or about May 8, 2023, D.G. agreed in principle to settle the personal injury action for one million two hundred thousand ($1,200,000.00). On June 6, 2023, the County consented to the settlement (see Act No. 96-2023). On or about July 28, 2023, it received a check for its Workers' Compensation lien in the amount of forty-six thousand two hundred eighty-three and 50/100 dollars ($46,283.50).

Workers' Compensation – Expenses

Shortly after the injury—and on a parallel track to the above-referenced personal injury action—D.G. filed a claim for her injury with the NYS Workers' Compensation Board ("WCB"). The County did not controvert that claim.

To date, the County has paid on that claim medical expenses totaling one hundred twelve thousand seven hundred seventy-nine and 68/100 dollars ($112,779.68) and indemnity (lost wage) expenses totaling one hundred twenty-three thousand four hundred sixty-two and 19/100 dollars ($123,462.19). The County's total expenses on this claim to date total two hundred thirty-six thousand two hundred forty-one and 87/100 dollars ($236,241.87).

For the reader's convenience, a table setting forth those values is included below:

Expenses to Date			
	Medical	Indemnity	Total
Claim No. WC180161	$ 112,779.68	$ 123,462.19	$ 236,241.87

[Remainder of Page Intentionally Left Blank]

Workers' Compensation – Permanency Award (Future Indemnity)

The County and D.G. are now disputing whether the Primary Incident permanently disabled D.G.—and, if so, to what degree. As with all litigation, it is unclear how this dispute will resolve if left to the WCB for decision. The third-party administrator of the County's Workers' Compensation fund (Triad Group LLC) estimates that:

(i) Duration of Award: WCB would likely award D.G. a Loss of Wage Earning Capacity ("LWEC") at 75%, which would entitle D.G. to 400 weeks (approximately 7.75 years) with no additional offsets; and

(ii) Rate of Award: WCB would likely set the award at $312.70/week, which would represent a substantial offset due to the amount recovered in the above-referenced third-party litigation and in accordance with the calculation set forth in Burns v Varriale, 9 NY3d 207 (2007) and its progeny.

Using these figures, the County estimates its total reserve in this matter to be one hundred twenty-five thousand eighty and 00/100 dollars (125,080.00). With a discount rate of 5%, the County estimates the net present value of that reserve to equal one hundred twenty one thousand eight hundred three and 02/100 dollars ($121,803.02).

For the reader's convenience, a table setting forth those values is included below:

Indemnity Exposure Calculation		
Estimated Indemnity Award - Rate	$	312.70
Estimated Indemnity Award - Duration		400 Weeks
Total Reserve	$	125,080.00
Discount Rate		5.0%
Total Reserve (Reduced to Net Present Value)	$	121,803.02

Workers' Compensation – Future Medical Expenses

Irrespective of whether WCB finds permanency and awards D.G. future indemnity payments, the County will still be the primary insurer for D.G.'s medical expenses related to the Primary Incident. Triad estimates those future payments to total seventy-eight thousand three hundred seventy-eight and 61/100 dollars ($78,378.61). However, as a result of the personal injury action settlement—and pursuant to Burns and its progeny—the County would be entitled to an offset in the amount of fifty thousand six hundred twenty-five and 51/100 dollars ($50,625.51), leaving the County responsible for an estimated twenty-seven thousand seven hundred fifty-three and 10/100 ($27,753.10).

[Remainder of Page Intentionally Left Blank]

Proposed Settlement

D.G. has presented the County with a proposed settlement of all of her workers' compensation claims for fifty-two thousand four hundred three and 10/100 dollars ($52,403.10). That settlement includes a single lump sum to extinguish the County's obligation for D.G.'s future indemnity payments and medical reimbursements. Additionally, Triad's subcontractor for setting up Medicaid Set Aside quotes, MSA Advocates, LLC, has confirmed that this matter does not require approval from the Centers for Medicare & Medicaid Services.

If the County accepts the proposed settlement, its potential savings will total ninety-seven thousand one hundred fifty-three and 02/100 dollars ($97,153.02).

For the reader's convenience, a chart of the relevant figures appears below:

Projected Savings			
	Indemnity	**Medical**	**Total**
County Exposure	$ 121,803.02	$ 27,753.10	$ 149,556.12
Proposed Settlement	$ 24,650.00	$ 27,753.10	$ 52,403.10
Potential Savings	$ 97,153.02	$ -	$ 97,153.02

Based upon the foregoing, the County Attorney and the Commissioner of Finance request authority to compromise the liability of the County by contributing fifty-two thousand four hundred three and 10/100 dollars ($52,403.10) toward a lump-sum settlement in full satisfaction of the County's indemnity and medical obligation in all workers' compensation claims involving D.G.

We therefore recommend the accompanying Act.

TO: 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 Attorney and the Commissioner of Finance to compromise the liability of the County of Westchester (the "County") to pay Workers' Compensation benefits to a former County employee, identified herein as "D.G." Consistent with prior practice in similar cases, we have deleted the name of the employee to protect the individual's privacy. The name, of course, will be disclosed to the Board of Legislators upon request.

Pursuant to Section 32 of the New York State Workers' Compensation Law, the County is permitted to reduce the liability for ongoing benefits by paying a lump sum to the employee. When a County employee suffers a work-related injury, he or she qualifies for Workers' Compensation benefits. Once the Workers' Compensation Board issues a permanency finding, the County is obligated to make continuing payments. Pursuant to Section 32 of the New York State Workers' Compensation Law, the County is permitted to reduce its liability for ongoing benefits by paying the employee a reduced lump sum. As a result of this lump sum, future payments are eliminated and the County realizes substantial savings.

The Department of Finance, in its role as administrator of the County's Workers' Compensation Program, has negotiated, with the cooperation of the County Attorney's Office, lump-sum settlements with the attorneys for injured employees. Such settlements have been and remain subject to final approval in the interest of justice by the New York State Workers' Compensation Board.

Employee:	D.G.
Department:	Social Services
Dates of Primary Injury:	July 2, 2018
Injuries:	Neck, wrists, shoulders, left hip, right knee, back
Lump-Sum Settlement (Medical & Indemnity):	$52,403.10

Your Committee has carefully considered the matter and recommends authorizing the County Attorney and the Commissioner of Finance to compromise the liability of the County to pay Workers' Compensation benefits to the above-named former County employee, thereby reducing the liability for ongoing benefits by paying a lump sum to and/or for the benefit of D.G. An affirmative vote of a majority of the Board is required to pass this legislation.

Dated 2026
White Plains, New York

COMMITTEE ON

2026.07.28 STC

WESTCHESTER COUNTY

Kenneth W. Jenkins, County Executive

Lawrence C. Soule, Budget Director
Department of the Budget

FISCAL IMPACT STATEMENT

SUBJECT: Settlement of Workers Comp Benefits (D.G.)

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

SECTION A - FUND

X GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense $52,403

Total Current Year Revenue ______

Source of Funds (check one): Current Appropriations / Transfer of Existing Appropriations / Additional Appropriations / Other (explain)

Identify Accounts: 613-57-0018-4280

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: Sean T. Carey

Title: Associate County Attorney

Department: Law

Date: 07/09/2026

Approved by: Lawrence Soule
Digitally signed by Lawrence Soule Date: 2026.07.09 15:07:32 -04'00'

Budget Director

Date: 07/09/2026

ACT NO. ____ – 2026

AN ACT authorizing the County Attorney and the Commissioner of Finance to compromise the liability of the County of Westchester and pay a reduced lump sum to a former County employee in lieu of future payments.

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

1. The County Attorney and the Commissioner of Finance are hereby authorized to compromise the County's obligation to pay Workers' Compensation benefits to D.G., a former employee, by contributing $52,403.10 towards a lump-sum settlement, thereby extinguishing the County's liability for ongoing benefits to and/or for the benefit of the employee.

2. The County Attorney or his designee and the Commissioner of Finance or her designee are hereby authorized to execute and deliver all documents and take such actions as the County Attorney and/or the Commissioner of Finance deem necessary or desirable to accomplish the purposes hereof.

3. This Act shall take effect immediately.

2026.07.28 STC