

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

Wednesday, September 28, 2022

10:00 AM

Committee Room

CALL TO ORDER

Joint with Budget & Appropriations committee

Chairwoman Catherine Borgia will be participating remotely from Clear View School and Day Treatment Center, 480 Boston Post Road, Briarcliff, NY, 10510.

Please note: This meeting will be held in person at the Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601 in the McPoland Conference Room # 824 and also remotely via WebEx. Legislators may participate in person or via video conferencing through WebEx. Members of the public are invited to attend the meeting in person at any of its locations or view it online at the Westchester Legislators website: <https://westchestercountyny.legistar.com/Calendar.aspx>. This website also has links to the Agenda Packets containing documents to be discussed at the meeting.

MINUTES APPROVAL

Monday, September 12, 2022 at 9:30 a.m.

I. ITEMS FOR DISCUSSION

1. [2022-467](#) ACT - Lawsuit Settlement of Dewaters v. County of Westchester

AN ACT authorizing the County Attorney to settle the lawsuit of Alice P. Dewaters v. County of Westchester, et al, in the amount of ONE HUNDRED THOUSAND (\$100,000) DOLLARS, inclusive of attorney's fees.

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

Guest: Law Dept.: Mark Gardner, Senior Assistant County Attorney

II. OTHER BUSINESS

III. RECEIVE & FILE

ADJOURNMENT

George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

August 25, 2022

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 Alice P. Dewaters v. County of Westchester, et al, in Westchester County Supreme Court, Index No. 68649/2018, in the amount of \$100,000.00 inclusive of attorney's fees.

Dear Honorable Members of the Board:

Attached for your consideration is an Act which, if enacted by your Board, would authorize the settlement of the lawsuit entitled Alice P. Dewaters v. County of Westchester, et al, in the amount of \$100,000.00 inclusive of attorney's fees.

This matter is pending in the Westchester County Supreme Court. The law firm of Antin, Ehrlich & Epstein, 49 West 37th Street, New York, New York 10018 is representing the plaintiff. The law firm of Keane & Bernheimer, 480 Bedford Road, Suite 3201, Chappaqua, New York 10514-1715 is representing the County.

The matter tentatively settled on July 28, 2022 pending this Board's approval of a settlement in the amount of \$100,000.00, inclusive of attorney's fees.

This matter arises out of a Liberty Lines Bus accident which occurred on August 22, 2017. The plaintiff is a 63-year-old female who was reportedly struck by a bus as she walked in a crosswalk on Warburton Avenue in Yonkers. She stated that the bus struck her on her right side, causing her to fall onto the street. She was transported via ambulance to St. John's Riverside Hospital in Yonkers where she was evaluated, treated, and then transferred to Westchester Medical Center for a higher level of care. Plaintiff was hospitalized from August 22nd and subsequently discharged on August 26th.

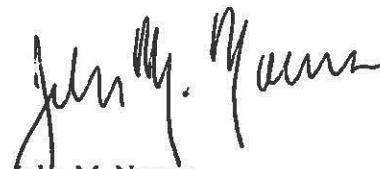
Plaintiff sustained a small laceration to her forehead which resulted in a scar. Plaintiff sustained multiple right rib fractures and a pulmonary contusion. Plaintiff also underwent physical therapy for an extended period of time.

The accident was found by Liberty Lines to be preventable and the bus operator in question was disciplined. Specifically, the operator was subjected to a first level hearing after which he was discharged, as well as a second level appeal. He was required to undergo one day of training and forfeited approximately two and a half weeks of pay as a result of the discharge being dropped.

The settlement takes into consideration the uncertainty of litigation and the potential costs of trial, subsequent proceedings and potential appeal. Both outside counsel and our insurer's adjuster recommend this settlement. The County will pay the \$100,000 settlement as part of the \$250,000. self-insured retention in its insurance policy.

The accompanying Act will authorize settlement of the lawsuit entitled, Alice P. Dewaters v. County of Westchester, et al., in the amount of \$100,000.00, Westchester County Supreme Court Index No. 68649/2018, inclusive of attorney's fees.

Very truly yours,



John M. Nonna
County Attorney

JMN/mg

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 entitled Alice P. Dewaters v. County of Westchester, et al, Westchester County Supreme Court Index No. 68649/2018, in the amount of \$100,000.00 inclusive of attorney's fees.

This matter is pending in the Westchester County Supreme Court. The matter tentatively settled on July 28, 2022 pending this Board's approval of a settlement in the amount of \$100,000.00, inclusive of attorney's fees.

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Plaintiff sustained a small laceration to her forehead which resulted in a scar. Plaintiff sustained multiple right rib fractures and a pulmonary contusion. Plaintiff also underwent physical therapy for an extended period of time.

The settlement takes into consideration the uncertainty of litigation and the potential costs of trial, subsequent proceedings and potential appeal. Both outside counsel and our insurer's adjuster recommend this settlement. The County will pay the \$100,000 settlement as part of the \$250,000. self-insured retention in its insurance policy.

Your Committee has carefully considered the subject matter, the settlement proposal, the attached Act and recommends authorizing the County Attorney or his designee to settle the lawsuit entitled Alice P. Dewaters v. County of Westchester, et al, Westchester County Supreme Court Index No. 68649/2018, in the amount of \$100,000.00 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

, 2022

COMMITTEE ON:

ACT NO. -2022

AN ACT authorizing the County Attorney to settle the lawsuit entitled Alice P. Dewaters v. County of Westchester, et al, in Westchester County Supreme Court, Index No. 68649/2018, in the amount of \$100,000.00, inclusive of attorney's fees

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

Section 1. The County Attorney is authorized to settle the lawsuit entitled Alice P. Dewaters v. County of Westchester, et al, in Westchester County Supreme Court, Index No. 68649/2018, in the amount of \$100,000.00 inclusive of attorney's fees. The County will pay the \$100,000 settlement as part of the \$250,000. self-insured retention in its insurance policy.

Section 2. The County Attorney or his designee is hereby authorized and empowered to execute and deliver all documents and take such actions as the County Attorney deems necessary or desirable to accomplish the purpose of this Act.

Section 3. This Act shall take effect immediately.

FISCAL IMPACT STATEMENT

SUBJECT: Alice Dewaters v Cty. of Westchester 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 \$ 100,000

Total Current Year Revenue \$ -

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

Additional Appropriations Other (explain)

Identify Accounts: 101-44-2100-4924

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: Dianne Vanadia

Title: Sr. Budget Analyst

Department: Budget

Date: August 30, 2022

Reviewed By: 

DV
8/30/22 Budget Director

Date: 8/30/22