

ACT 194 - 2023

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 “A.Y.” 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 February 11, 2021, at approximately 4:45 p.m., A.Y.—a Senior Social Caseworker in the Westchester County Department of Social Services (the “Department”)—slipped and fell while attempting to locate a customer’s family home. As a result of the accident, A.Y. fractured her left wrist—an injury that required surgery. As a result of that injury, A.Y. was out of work for just over six months.

A.Y. filed a claim for her injury with the NYS Workers’ Compensation Board, which was uncontroverted. On a parallel track to her Workers’ Compensation claim, A.Y. retained counsel and commenced a personal injury action against the property owners. A.Y.’s counsel is BRIAN J. LEVY & ASSOCIATES, P.C., which has an office at 3265 Westchester Avenue, Bronx, NY 10461. The property owners’ counsel is BRUNO, GERBINO, SORIANO & AITKEN, LLP, located at 445 Broad Hollow Road, Suite 420, Melville, NY 11747-3601.

On or about June 20, 2023, A.Y. agreed in principle to settle her personal-injury action for one hundred ninety-five thousand and 00/100 dollars (\$195,000.00), pending the consent of the County. In connection with the proposed settlement, A.Y.’s counsel notified this Office that its costs and disbursements total four thousand twenty-nine and 65/100 (\$4,029.65) and that its

attorney's fee totals sixty-five thousand and 00/100 (\$65,000.00)—for a total litigation cost of sixty-nine thousand twenty-nine and 65/100 (\$69,029.65).

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 A.Y.'s behalf in the amount of twenty-one thousand ninety-six and 79/100 dollars (\$21,096.79) and indemnity (lost wage) benefits in the amount of fifty-three thousand seventy-six and 22/100 dollars (\$53,076.22)—bringing the County's total expenditures in this matter to seventy-four thousand one hundred seventy-three and 01/100 dollars (\$74,173.01).

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 35.40%, equaling a dollar reduction of twenty-six thousand two hundred fifty-seven and 25/100 dollars (\$26,257.25). The County would thereafter accept in satisfaction of its present lien a total of forty-seven thousand nine hundred fifteen and 76/100 dollars (\$47,915.76). After the County is reimbursed and counsel fees are paid, A.Y. would receive seventy-eight thousand fifty-four and 59/100 dollars (\$78,054.59).

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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 A.Y. from the settlement of her legal action against a third-party tortfeasor. An affirmative vote of a majority of the Board is required to pass this legislation.

Dated: White Plains, New York
September 27, 2023

James Bill Jones
[Signature]
Vedat Fatih
Nancy & Ben
Colin Park

Vedat Fatih
Nancy & Ben
Colin Park

Budget & Appropriations

Law & Major Contracts

Dated: September 27, 2023
White Plains, New York

The following members attended the meeting remotely and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Walter R. Maher

Colin J. Smith

David Duman

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Colin J. Smith

David Duman

COMMITTEES ON

Budget & Appropriations

Law & Major Contracts

ACT NO. 194 - 2023

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 third-party 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 "A.Y.", from a settlement of her legal action against a third party. The County's reimbursement is \$47,915.76, representing a 35.40% reduction of its lien, with full reservation of the County's right to set off A.Y.'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 (A.Y.)

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 \$ 47,915.76

Source of Funds (check one): Current Appropriations

Transfer of Existing Appropriations Additional Appropriations Other (explain)

Identify Accounts: 613-57-0021-4280

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: Sean T. Carey

Title: Associate County Attorney

Department: Law

DT
Reviewed By: 
Budget Department

9/13/23

If you need more space, please attach additional sheets.

STATE OF NEW YORK)
) ss.
WESTCHESTER COUNTY)

I HEREBY CERTIFY that I have compared the foregoing Act, Act No. 194 - 2023, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of the said original Act, which was duly adopted by the County Board of Legislators, of the County of Westchester on October 2, 2023, and approved by the County Executive on October 4, 2023.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 5th day of October, 2023.



Malika Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

