



George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

December 6, 2024

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

Re: An Act authorizing the County of Westchester to settle its claims against Target Corporation and Henry Schein in an adversary proceeding filed in the Supreme Court of the State of New York, Westchester County, titled *The County of Westchester v. Purdue Pharma, et al.*, Index No. 51606/2018, transferred to the coordinated proceeding before Judge Garguilo in the Supreme Court of the State of New York, Suffolk County and then transferred to the Supreme Court of the State of New York, Westchester County (the “Instant Proceeding”) and to settle potential claims against Shop-Rite Supermarkets, Inc. arising out of the alleged abuse and misuse of opioids.

Dear Honorable Members of the Board:

Attached for your review is proposed legislation that, if enacted, would authorize the County of Westchester (“County”) to enter settlements and general release agreements fully resolving the pending claims of the County against Target Corporation (“Target”) and Henry Schein, Inc. and Henry Schein Medical Systems, Inc. (“Henry Schein”), a drug distributor, pending in a proceeding filed in the Supreme Court of the State of New York, Westchester County, titled *The County of Westchester v. Purdue Pharma, et al.*, Index No. 51606/2018 (transferred to the coordinated proceeding in the Supreme Court of the State of New York, Suffolk County and then transferred to the Supreme Court of the State of New York, Westchester County) (the “Instant Proceeding”), as well as fully resolving potential claims of the County against Shop-Rite Supermarkets, Inc. (“Shop-Rite”) arising out of the alleged abuse and misuse of opioids.



The Instant Proceeding

On February 6, 2018, the County commenced an action against opioid manufacturers, distributors and dispensers in the Supreme Court of the State of New York, County of Westchester. The Complaint asserted several causes of action, such as deceptive marketing, false advertising, public nuisance, misrepresentation, fraud, negligence, and unjust enrichment and conspiracy, alleging that each of the Defendants contributed to the opioid epidemic that Westchester County has been battling and will continue to battle for the foreseeable future. The causes of action against the various Defendants are based on claims that they contributed to the opioid epidemic by violating state and federal statutes related to the manufacturing, distribution and sale of opioids, all of which contributed to a public health crisis. Since the litigation's inception in 2018, many of the County's claims against the Defendants have been resolved through settlement.

Terms of the Proposed Settlement

Defendants Target and Henry Schein were added as Defendants in April 2023. Target has offered to settle the claims against it related to opioid use and misuse including those brought by the County. Pursuant to an allocation formula, if the County participates in the settlement, the County will be paid a lump-sum payment of approximately \$400,000. It is the intent of the Settlement that the use of funds be for opioid remediation. In no event may less than eighty-five percent (85%) of the settlement amount be spent on opioid remediation. The Settlement includes a Most Favored Nations Clause in the event that Target settles with other entities in an agreement that would have yielded more funding to the County. There is a Confidentiality provision, in which the County must agree that it will not disclose, publish, publicize, disseminate, or otherwise communicate to any individual or entity any term, condition, or provision of the Settlement, except as required by law.

Defendant Henry Schein has offered to settle the claims against it related to opioid use and misuse including those brought by the County. Pursuant to an allocation formula, if the County participates in the settlement, the County will be paid a lump-sum payment of approximately \$60,000. The County must agree that it will not issue any press release regarding the settlement and further agree that if asked, it will provide the statement "no comment". There are no requirements or limitations on how the funds can be used.

Shop-Rite is not a Defendant in the pending litigation but has offered to resolve any potential claims the County may have against it related to opioid use and misuse for a lump-sum payment of approximately \$360,000. There is a Confidentiality provision, in which the County must agree that it will not disclose, publish, publicize, disseminate, or otherwise communicate to any individual or entity any term, condition, or provision of the Settlement, except as required by law. There are no requirements or limitations on how the funds can be used.

In order to become a party to the Settlement Agreements, Westchester County has to do the following:

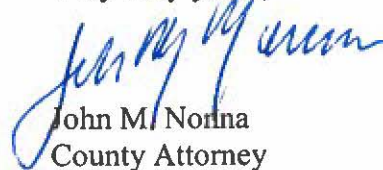
1. Sign (or give Napoli Shkolnik permission to sign on Westchester County's behalf) Exhibit "B" to the Target Master Settlement Agreement (Settling Subdivision Participation and Release Form), attached as Exhibit "A" hereto;
2. Sign (or give Napoli Shkolnik permission to sign on Westchester County's behalf) Exhibit "B" to the Henry Schein Settlement Agreement (Subdivision Participation and Release Form), attached as Exhibit "B" hereto;
3. Sign (or give outside counsel Napoli Shkolnik permission to sign on Westchester County's behalf) Exhibit "B" to the Shop-Rite Settlement Agreement (Local Government Participation and Release Form), attached as Exhibit "C" hereto.

Recommendation of Westchester County Attorney's Office

Litigation concerning the opioid epidemic has been pending for several years. Westchester County has suffered tremendous losses and continues to suffer the effects of the epidemic and will for the foreseeable future. The funds it will receive in these settlements will help offset some of those costs and can be used for future abatement purposes. The County Attorney recommends accepting these settlements, as opposed to assuming the risks and burdens of litigating against these Defendants individually.

I respectfully request authority from this Board pursuant to Section 158.11 of the Westchester County Charter to settle the above-referenced matter. I therefore recommend passage of the accompanying Act.

Very truly yours,



John M. Norina
County Attorney

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 (“County”) to enter settlements and general release agreements fully resolving the pending claims of the County against Target Corporation (“Target”) and Henry Schein, a drug distributor, pending in a proceeding filed in the Supreme Court of the State of New York, Westchester County, titled *The County of Westchester v. Purdue Pharma, et al.*, Index No. 51606/2018 (transferred to the coordinated proceeding in the Supreme Court of the State of New York, Suffolk County and then transferred to the Supreme Court of the State of New York, Westchester County) (the “Instant Proceeding”), as well as fully resolving potential claims of the County against Shop-Rite Supermarkets, Inc. (“Shop-Rite”) arising out of the alleged abuse and misuse of opioids.

On February 6, 2018, the County of Westchester commenced an action against opioid manufacturers, distributors and dispensers in the Supreme Court of the State of New York, County of Westchester. The Complaint asserted several causes of action, such as deceptive marketing, false advertising, public nuisance, misrepresentation, fraud, negligence, and unjust enrichment and conspiracy, alleging that each of the Defendants contributed to the opioid epidemic that Westchester County has been battling and will continue to battle for the foreseeable future. The causes of action against the various Defendants are based on claims that they contributed to the opioid epidemic by violating state and federal statutes related to the manufacturing, distribution and sale of opioids, all of which contributed to a public health crisis. Since the litigation’s inception in 2018, many of the County’s claims against the Defendants have been resolved through settlement.

Defendants Target and Henry Schein were added as Defendants in April 2023. Target has offered to settle the claims against it related to opioid use and misuse including those brought by the County. Pursuant to an allocation formula, if the County participates in the settlement, the County will be paid a lump-sum payment of approximately \$400,000. It is the intent of the Settlement that the use of funds be for opioid remediation. In no event may less than eighty-five percent (85%) of the settlement amount be spent on opioid remediation. The Settlement includes a Most Favored Nations Clause in the event that Target settles with other entities in an agreement that would have yielded more funding to the County. There is also a Confidentiality provision, in which the County must agree that it will not disclose, publish, publicize, disseminate, or otherwise communicate to any individual or entity any term, condition, or provision of the Settlement, except as required by law.

Defendants Henry Schein, Inc. and Henry Schein Medical Systems, Inc. have offered to settle the claims against them related to opioid use and misuse including those brought by the County. Pursuant to an allocation formula, if the County participates in the settlement, the County will be paid a lump-sum payment of approximately \$60,000. The County must agree that it will not issue any press release regarding the settlement and further agree that if asked, it will provide the statement "no comment". There are no requirements or limitations on how the funds can be used.

Shop-Rite is not a Defendant in the pending litigation but has offered to resolve any potential claims the County may have against it related to opioid use and misuse for a lump-sum payment of approximately \$360,000. There is a Confidentiality provision, in which the County must agree that it will not disclose, publish, publicize, disseminate, or otherwise communicate to

any individual or entity any term, condition, or provision of the Settlement, except as required by law. There are no requirements or limitations on how the funds can be used.

In order to become a party to the Settlement Agreements, Westchester County has to do the following:

1. Sign (or give Napoli Shkolnik permission to sign on Westchester County's behalf) Exhibit "B" to the Target Master Settlement Agreement (Settling Subdivision Participation and Release Form), attached as Exhibit "A" hereto;
2. Sign (or give Napoli Shkolnik permission to sign on Westchester County's behalf) Exhibit "B" to the Henry Schein Settlement Agreement (Subdivision Participation and Release Form), attached as Exhibit "B" hereto;
3. Sign (or give outside counsel Napoli Shkolnik permission to sign on Westchester County's behalf) Exhibit "B" to the Shop-Rite Settlement Agreement (Local Government Participation and Release Form), attached as Exhibit "C" hereto.

Your Committee has carefully considered the matter and recommends approval of the annexed Act. The Act, which would authorize the County to enter into the proposed settlement to effectuate the resolution of the lawsuit, is in the best interests of the County.

Your Committee therefore recommends this Honorable Board approve the annexed Act authorizing the County to enter into the proposed settlement of the above-referenced lawsuit. An affirmative vote by a majority of the Board is required to pass this Act.

Dated: White Plains, New York
December 6, 2024

ACT NO. 2024

AN ACT authorizing the County of Westchester to settle the claims against Target Corporation and Henry Schein in an adversary proceeding filed in the Supreme Court of the State of New York, Westchester County, titled *The County of Westchester v. Purdue Pharma, et al.*, Index No. 51606/2018, transferred to the coordinated proceeding before Judge Garguilo in the Supreme Court of the State of New York, Suffolk County and then transferred to the Supreme Court of the State of New York, Westchester County (the “Instant Proceeding”) and settle potential claims against Shop-Rite Supermarkets, Inc. arising out of the alleged abuse and misuse of opioids

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

1. The County of Westchester is hereby authorized to settle its claims against Target Corporation and Henry Schein in an adversary proceeding filed in the Supreme Court of the State of New York, Westchester County, titled *The County of Westchester v. Purdue Pharma, et al.*, Index No. 51606/2018, transferred to the coordinated proceeding before Judge Garguilo in the Supreme Court of the State of New York, Suffolk County and then transferred to the Supreme Court of the State of New York, Westchester County (the “Instant Proceeding”) and settle potential claims against Shop-Rite Supermarkets, Inc. arising out of the alleged abuse and misuse of opioids.

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.

EXHIBIT

A

TARGET MASTER SETTLEMENT AGREEMENT

EXHIBIT B

SETTLING SUBDIVISION PARTICIPATION AND RELEASE FORM

Local Political Subdivision / Governmental Entity:
State:
Authorized Official:
Address 1:
Address 2:
City, State, Zip:
Phone:
Email:

The local political subdivision / governmental entity identified above ("*Settling Subdivision*"), in order to obtain and in consideration for the benefits provided to the Settling Subdivision pursuant to the Settlement Agreement, and acting through the undersigned authorized official, hereby elects to participate in the Settlement Agreement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Settling Subdivision is aware of and has reviewed the Settlement Agreement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Settling Subdivision elects to participate in the Settlement Agreement and become a Releasor as provided therein.
2. The Settling Subdivision through its counsel shall promptly move to dismiss with prejudice any Released Claims that it has filed.
3. The Settling Subdivision agrees to the terms of the Settlement Agreement pertaining to Releasors as defined therein, and specifically the Settling Subdivision acknowledges and agrees that it is the intent of the Parties that the Settlement Amount be for Opioid Remediation, as defined in the Settlement Agreement, and that in no event may less than eighty-five percent (85%) of the Settlement Amount (less any amounts used to pay attorneys' fees, investigation costs, or litigation costs) be spent on Opioid Remediation. Settling Subdivision agrees to either maintain the Settlement Amount in an account designated for Opioid Remediation, or at its discretion, shall cooperate with any reasonable request by Target for a report accounting for the disbursement of the settlement funds.
4. By agreeing to the terms of the Settlement Agreement and becoming a Releasor, the Settling Subdivision is entitled to monetary payments.

5. The Settling Subdivision hereby becomes a Releasor for all purposes in the Settlement Agreement, along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Settling Subdivision hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Settlement Agreement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Settling Subdivision to release claims. The Settlement Agreement shall be a complete bar to any Released Claim.

6. Nothing herein is intended to modify in any way the terms of the Settlement Agreement, to which Settling Subdivision hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Settlement Agreement in any respect, the Settlement Agreement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Settling Subdivision.

Signature: _____

Name: _____

Title: _____

Date: _____

EXHIBIT

B

Exhibit B

Henry Schein Inc. and Henry Schein Medical Systems, Inc.
Subdivision Participation and Release Form

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement, and acting through the undersigned authorized official, hereby elects to participate in the Settlement Agreement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Settlement Agreement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Settlement Agreement and become a Releasor as provided therein.
2. The Governmental Entity through its counsel shall promptly move to dismiss with prejudice any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Settlement Agreement pertaining to Releasors as defined therein.
4. By agreeing to the terms of the Settlement Agreement and becoming a Releasor, the Governmental Entity is entitled to monetary payments.
5. The Governmental Entity hereby becomes a Releasor for all purposes in the Settlement Agreement, along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Settlement Agreement are intended by the Parties to be broad and shall be interpreted so as to give the Released

Subject to Federal Rule of Evidence 408 and State Equivalents

Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Settlement Agreement shall be a complete bar to any Released Claim.

6. Nothing herein is intended to modify in any way the terms of the Settlement Agreement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Settlement Agreement in any respect, the Settlement Agreement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

EXHIBIT

C

Exhibit B

Local Government Participation and Release Form

Local Government entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above ("*Local Government*"), in order to obtain and in consideration for the benefits provided to the Local Government pursuant to the Settlement Agreement dated _____, 2024 ("*Shop-Rite Supermarkets, Inc. Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the Shop-Rite Supermarkets, Inc. Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Local Government is aware of and has reviewed the Shop-Rite Supermarkets, Inc. Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Shoprite Supermarkets Inc Settlement and become a Participating Subdivision as provided therein.
2. The Local Government through its counsel shall promptly move to dismiss with prejudice any Released Claims that it has filed in accordance with the terms and timeline in the Settlement Agreement.
3. The Local Government agrees to the terms of the Shop-Rite Supermarkets, Inc. Settlement pertaining to Participating Subdivisions as defined therein.
4. By agreeing to the terms of the Shop-Rite Supermarkets, Inc. Settlement and becoming a Releasor, the Local Government is entitled to monetary payments.
5. The Local Government, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Shop-Rite Supermarkets, Inc. Settlement, along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Local Government hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever.

Subject to Federal Rule of Evidence 408 and State Equivalents

The releases provided for in the Shop-Rite Supermarkets, Inc. Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Local Government to release claims. The Shop-Rite Supermarkets, Inc. Settlement shall be a complete bar to any Released Claim.

6. Nothing herein is intended to modify in any way the terms of the Shop-Rite Supermarkets, Inc. Settlement, to which the Local Government hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Shop-Rite Supermarkets, Inc. Settlement in any respect, the Shop-Rite Supermarkets, Inc. Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Local Governmental.

Signature: _____

Name: _____

Title: _____

Date: _____

FISCAL IMPACT STATEMENT

SUBJECT: Opioid Lawsuit

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 \$ _____

Total Current Year Revenue \$ 820,000

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

Additional Appropriations

Other (explain)

Identify Accounts: County Direct Opioid Settlement Trust: 263-26-X068-9856

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: Christina Rampata

Title: Deputy Budget Director

Department: Budget

Date: November 13, 2024

Reviewed By: 

Budget Director

Date: 11/13/24