

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 "J.V." 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 17, 2017, J.V., a police officer in the Westchester County Department of Public Safety (the "Department"), slipped on ice in the driveway of 21 New Castle Drive, Mount Kisco, NY (the "Subject Property"). As a result of the fall, he injured his back, neck, and left wrist in the fall. J.V. never returned to work following his injury, and he retired from service on February 9, 2021.

J.V. filed a claim for her injury with the NYS Workers' Compensation Board, which was uncontroverted. On a parallel track to his Workers' Compensation claim, J.V. retained counsel of commence a personal injury action against those responsible for maintaining the Subject Property, including Wells Fargo Bank, N.A. ("Wells Fargo"), Select Portfolio Servicing, Inc. ("SPS"), and Home Loan Services, Inc. d/b/a First Franklin Mortgage Loan Trust ("HLS").

On or about May 1, 2021, J.V. agreed in principal to settle his personal injury claim with *HLS only* for five thousand and 00/100 dollars (\$5,000.00), pending the consent of the County. In connection with the proposed settlement, J.V.'s counsel notified this Office that if the settlement is approved, he will place the settlement funds in escrow pending full resolution of this matter; until this matter is fully resolved, there will be no disbursements or accounting of attorney's fees, costs, and disbursements.

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 J.V.'s behalf in the amount of sixty-six thousand six hundred seventy-five and 49/100 dollars (\$66,675.49), paid indemnity (lost wage) benefits in the amount of thirty-three thousand eight hundred eighty-one and 34/100 dollars (\$33,881.34)—bringing the County's total expenditures in this matter to one hundred thousand five hundred fifty-six and 83/100 (\$100,556.83).

Based upon a review of the facts and circumstances of this matter, this Office seeks the authority to accept the proposed settlement while deferring collection of this lien. A deferral is warranted because (i) if the County were to recover immediately on the proposed settlement, such recovery would absorb the entire settlement; and (ii) if the County's full lien were imposed, the County would be forced to incur the full cost of litigation—a possibility that could be avoided depending on the recovery, if any, against the remaining defendants.

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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 J.V. 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
June 28, 2021

William M...
Catherine Parker
Alfreda Williams
Dedat Jasri
Nancy Bay
Margaret A. Cyio
David J. Iubio
Ruth Walker
Benjamin Boykett
Catherine Borgia *(AU)*
COMMITTEES ON

Colin OAS
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Benjamin Boykett

Budget & Appropriations

Law & Major Contracts

ACT NO. 2021

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 "J.V.", from a settlement of her legal action against a third party. The County's reimbursement is deferred pending resolution of the third party action as against the remaining defendants, with full reservation of the County's right to set off J.V.'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 (J.V.)

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 \$ 0

Source of Funds (check one): Current Appropriations

Transfer of Existing Appropriations Additional Appropriations Other (explain)

Identify Accounts: 613-57-0017-4280

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: Sr. Assistant County Attorney

Department: Law

Reviewed By: 

Budget Department

4/3/21

If you need more space, please attach additional sheets.