

# Law & Major Contracts

## BOL Meeting Minutes - Published Draft



Committee Chair: Damon Maher

800 Michaelian Office Bldg.  
148 Martine Avenue, 8th Floor  
White Plains, NY 10601  
[www.westchesterlegislators.com](http://www.westchesterlegislators.com)

---

**Monday, May 22, 2023**

**10:00 AM**

**Committee Room**

---

### CALL TO ORDER

Joint with Budget & Appropriations committee

Please note: Meetings of the Board of Legislators and its committees are held at the Michaelian Office Building, 148 Martine Avenue, White Plains, New York, 10601, and remotely via the WebEx video conferencing system. Legislators may participate in person or via Webex. Members of the public may attend meetings in person at any of its locations, or view it online on the Westchester County Legislature's website: <https://westchestercountyny.legistar.com/> This website also provides links to materials for all matters to be discussed at a given meeting.

Legislator Colin Smith will be participating remotely from 1132 Main Street, Suite 1, Peekskill, NY 10566.

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

*With a quorum present, Chair Maher called the meeting to order at 10:10 a.m.*

*Others in Attendance: BOL: Legislators: Jewel Williams Johnson, Erika Pierce, David Tubiolo, and Tyrae Woodson Samuels; Committee Coordinator: James Silverberg; Guest: Law Dept.: Sean Carey (Remote)*

**Present:** Committee Chair Maher, Legislator Barr, Legislator Gashi, Legislator Imamura and Legislator Parker

**Absent:** Legislator Smith

### MINUTES APPROVAL

Monday, April 17, 2023 at 10:00 a.m.

On motion of Legislator Imamura, seconded by Legislator Parker, the minutes were approved. The motion carried unanimously.

### I. ITEMS FOR DISCUSSION

1. [2023-211](#) **ACT - Settlement of Workers Comp Lien (D.O.)**

Guest: Law Dept.: Senior Assistant County Attorney Sean Carey

*Mr. Carey explained that there are two types of workers compensation cases that the County regularly sees. First is a case in which the County has a lien on the proceeds of a third part*

settlement, and the second is a matter where there is a lump sum settlement to offset future expenses that the County will owe to the employee. Mr. Carey said this item is essentially the same principle as the second item with more money at stake and with the additional wrinkle that the inciting incident was a pedestrian knocked down. Mr. Carey explained that pursuant to statutory law, this is considered a motor vehicle accident. The employee received significant injuries when they were struck by an independent contractor working for the City of White Plains, and was out of work for 35 weeks and 6 days. The employee agreed in principal to settle her personal injury claim for \$1.2 million pending the consent of the County. In connection with the proposed settlement, her counsel notified the County that his costs, disbursements, and legal fees totaled \$418,945.56. The expenses that the County incurred with regard to the Workers Comp claim between the date of the accident and the date of the proposed settlement are \$89,026.01 and indemnity lost wage benefits in the amount of \$32,091.84, for a total of \$121,117.85. However, since the employee's injury was sustained in an automobile accident, the County's lien must be reduced by \$50,000; so the County's net lien is \$71,117.85. The County wants to compromise the lien for reimbursement by reducing the lien by 34.92%, equaling a dollar reduction of \$24,834.35, and accept a total of \$46,285.50.

On motion of Legislator Imamura, seconded by Legislator Barr, the above item was signed by committee and referred to Board of Legislators. The motion carried.

2. [2023-212](#) **ACT - Settlement of Workers Comp Lien (L.C.)**

Guest: Law Dept.: Senior Assistant County Attorney Sean Carey

Mr. Carey explained that there are two types of workers compensation cases that the County regularly sees. First is a case in which the County has a lien on the proceeds of a third part settlement, and the second is a matter where there is a lump sum settlement to offset future expenses that the County will owe to the employee. This case is the first type with an accident that occurred where the County laid out money as part of its workers compensation program and is more capable of recovering it in the settlement of that third party action. Mr. Carey said this incident occurred in 2021 when a senior case worker at DSS fell down the steps of a home that he was visiting for a site visit, within the scope of his employment. He filed a workers compensation claim, which was uncontroversial and on a parallel track to the claim to commence a personal injury action against the owners of the property where he fell. In February 2023, they agreed in principle to settle the personal injury claim for \$33,901.27. In connection with the proposed settlement, counsel notified the County Attorney's office that the cost disbursements and legal fees totalled \$11,806.37. Mr. Carey noted that the County's expenditures in this matter were relatively slight. Between the date of the accident and the date of the proposed settlement, the County expended medical benefits, pursuant to the compensation law, in the amount of \$5,986.30. No indemnity payments were made so the employee did not miss any time. The County seeks to compromise the County's claim for reimbursement by reducing its lean 34.83%, equaling a dollar reduction of \$2,085.03. The County would accept a total of \$3,901.27. After the County is reimbursed and counsel fees are paid, the employee will receive \$18,193.63.

On motion of Legislator Imamura, seconded by Legislator Parker, the above item was signed by committee and referred to Board of Legislators. The motion carried.

**II. OTHER BUSINESS**

**III. RECEIVE & FILE**

## ADJOURNMENT

Moved by Legislator Parker, seconded by Legislator Barr, the Committee adjourned at 10:26 a.m.

DRAFT