

George Latimer  
County Executive

Department of Law

John M. Nonna  
County Attorney

May 10, 2023

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

Re: An Act authorizing the County of Westchester (the “County”) to compromise its claim to be reimbursed for health care expenditures and wage benefits paid to or on behalf of a County employee from a settlement of his legal action against a third-party tortfeasor.

Dear Honorable Members of the Board:

Attached for your consideration is an Act which, if approved, would authorize the County of Westchester (the “County”) to compromise its claim to be reimbursed for health care expenditures and wage benefits paid to or on behalf of a County employee, identified as “L.C.,” from the settlement of his legal action against a third-party tortfeasor. Consistent with prior practice in similar cases, I have 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.

When an individual is injured in the course of his or her employment, the County’s self-insured Workers’ Compensation program, administered by Triad Group, LLC, provides medical and lost wage benefits in accordance with NYS Workers’ Compensation Law. If the individual is injured as a result of some alleged tortious act or omission of a third party, the County pays for the immediate health care for the insured, subject to the right to be reimbursed if the insured recovers in a settlement with or legal action against a third party. The employee is entitled to compensation and medical benefits under the NYS Workers’ Compensation Law. Section 29 of the NYS Workers’ Compensation Law entitles the County to a lien against the proceeds of any recovery from the third party liable for the injury, after the deduction of the reasonable and necessary expenditures—including attorney’s fees incurred in effecting such recovery—to the extent of the amount of compensation and medical benefits awarded or provided under NYS Workers’ Compensation Law.

Accordingly, I seek authorization to compromise the following claim:

On February 17, 2021, L.C.—a Senior Social Case Worker in the Westchester County Department of Social Services (“DSS”)—conducted a home visit in Mount Kisco. After completing the visit, at around noon, he fell down the home’s front steps. In his fall, L.C. injured the left side of his back.



L.C. filed a claim for his injury with the NYS Workers' Compensation Board, which was uncontroverted. On a parallel track to his Workers' Compensation claim, L.C. retained counsel and commenced a personal injury action against the owners of the property where he fell (the "Property Owners"). L.C. is represented in that action by LAW OFFICES OF MICHAEL S. LAMONSOFF, P.L.L.C., Financial Square at 32 Old Slip – 8th Floor, New York, NY 10005. The Property Owners are represented by Miranda Slone Sklarin Verveniotis LLP, 570 Taxter Road, Suite 695, Elmsford, NY 10523.

On or about February 10, 2023, L.C. agreed in principle to settle his personal injury claim after commencement of litigation for thirty-three thousand nine hundred one and 27/100 dollars (\$33,901.27), pending the consent of the County. In connection with the proposed settlement, L.C.'s counsel notified this Office that his costs, disbursements, and legal fee total eleven thousand eight hundred six and 37/100 dollars (\$11,806.37).

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 L.C.'s behalf in the amount of five thousand nine hundred eighty-six and 30/100 dollars (\$5,986.30). No indemnity payments were made.

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 34.83%, equaling a dollar reduction of two thousand eighty-five and 03/100 dollars (\$2,085.03). The County would thereafter accept in satisfaction of its present lien a total of three thousand nine hundred one and 27/100 dollars (\$3,901.27). After the County is reimbursed and counsel fees are paid, L.C. would receive eighteen thousand one hundred ninety-three and 63/100 dollars (\$18,193.63).

*[Remainder of Page Intentionally Left Blank]*

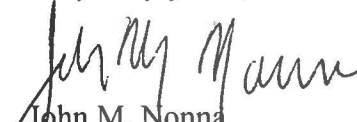
For the convenience of the reader, a chart of the aforementioned figures appears below:

<b>Worker's Comp Award</b>	
Medical Expenses	\$ 5,986.30
Indemnity (Lost Wage) Payments	\$ -
Worker's Comp, SUB-TOTAL	\$ 5,986.30
MVA ("Basic Economic Loss") Reduction	\$ -
Worker's Comp, TOTAL	\$ 5,986.30

<b>Litigation Amounts &amp; Reduced Lien</b>	
Third-Party Settlement (Gross Amt)	\$ 33,901.27
Disbursements	\$ 1,806.37
Attorney's Fees	\$ 10,000.00
Cost of Litigation (COL)	\$ 11,806.37
Net Proceeds of Third-Party Settlement	\$ 22,094.90
Percentage COL	34.83%
Carrier's COL	\$ 2,085.03
Carrier's Net Lien	\$ 3,901.27
Claimant's Net Recovery	\$ 18,193.63

I respectfully request authority from this Board 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 L.C. from his recovery against a third-party tortfeasor. I therefore recommend passage of the accompanying Act.

Very truly yours,

  
 John M. Nonna  
 County Attorney

JMN/stc

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 “L.C.” 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.

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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 L.C. from the settlement of his 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  
May \_\_, 2023

ACT NO. 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 his 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 "L.C.", from a settlement of his legal action against a third party. The County's reimbursement is \$3,901.27, representing a 34.83% reduction of its lien, with full reservation of the County's right to set off L.C.'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 (L.C.)

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 \$ 3,901.27

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: Sr. Assistant County Attorney

Department: Law

Reviewed By: 

Budget Department

5/16/23

If you need more space, please attach additional sheets.