



Kenneth W. Jenkins
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

September 10, 2025

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

Re: Request for authorization to settle the lawsuit of Leonard Mack v. Westchester County, et al. in the United States District Court for the Southern District of New York, in the amount of \$341,250., inclusive of attorney's fees

Dear Honorable Members of the Board:

Attached for your consideration is an Act which, if enacted by your Board, would authorize the settlement of the lawsuit entitled, *Leonard Mack v. Westchester County, et al.*, Case No. 7:24-cv-08990-KMK, against the County of Westchester, Officer Carol Kope, and Roger Stillman, as Administrator of the Estate of Marie Felgenhauer; and against the Town of Greenburgh, Officer John Schachinger, James Fleming, III as the Administrator of the Estate of James Fleming, Jack Roe 1, as the Administrator of the Estate of Robert Willard, Jack Roe 2, as the Administrator of the Estate of Gerrard Holley, and Jack Roe 3, as the Administrator of the Estate of Raphael Garofano.

The County defendants are the County of Westchester, Officer Carol Kope, Roger Stillman, as Administrator of the Estate of Marie Felgenhauer, and James Fleming, III as the Administrator of the Estate of James Fleming. The lawsuit continues against the remaining defendants, all of which are the Town of Greenburgh and its employees. A settlement has been reached to protect the County of Westchester from further liability regarding the claims still pending against the Greenburgh defendants.

Commercial general liability insurance policies issued to the County in 1975 will cover most of the settlement for this lawsuit. The total amount of the settlement to be recovered from the insurance companies will be \$11,658,750. The total amount due from the County for the settlement is \$316,250, inclusive of attorney's fees, because of insurance companies that became insolvent and were liquidated prior to the commencement of the plaintiff's lawsuit. There is also a \$25,000. self-insured retention due for the primary insurance policy applicable to the plaintiff's claim, so the total amount payable by the County is \$341,250.

This matter is pending in the United States District Court for the Southern District of New York. The law firm of Neufeld, Scheck, Brustin, Hoffmann & Freudenberger, 200 Varick Street, Suite 800, New York, New York is representing the plaintiff. The Quinn Law Firm, 399 Knollwood Road, Suite 220, White Plains, New York, is representing the County.

The matter tentatively settled on June 27, 2025 pending this Board's approval of a settlement in the amount of \$341,250, inclusive of attorney's fees.

This matter arises out of a lawsuit that alleges, among other things, that Leonard Mack was arrested on May 22, 1975 for an attack on two teenaged girls, and thereafter was wrongfully convicted in connection with the attack and a rape of one of the teenage girls. As a result of this wrongful conviction, Mack was subsequently incarcerated from May 1975 to December 1982. However, in 2022, new DNA testing that did not exist in 1975 established conclusively that Mack was not the rapist. A search of a law enforcement DNA database identified the actual perpetrator of the crime. The perpetrator has since admitted his responsibility for the crime and that he acted alone. Consequently, on September 5, 2023, a court granted a motion to vacate Mack's conviction and dismissed the indictment.

The settlement takes into consideration the uncertainty of litigation and the potential costs of trial, subsequent proceedings, and potential appeal as well as the potential for any future claims against the County defendants by the Greenburgh defendants. Both outside counsel and our insurance companies recommend this settlement.

The accompanying Act will authorize settlement of the lawsuit entitled, Leonard Mack v. Westchester County, et al, United States District Court for the Southern District of New York, Case No. 7:24-cv-08990-KMK, on behalf of the County defendants in the amount of \$341,250, inclusive of attorney's fees, to be paid by the County.

Very truly yours,



John M. Nonna
County Attorney

JMN/mg

BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Act, which if enacted by your Board, would authorize the settlement of the County's potential liability in the lawsuit entitled, Leonard Mack v. Westchester County, et al, United States District Court for the Southern District of New York, Case No. 7:24-cv-08990-KMK, in the amount of \$341,250, inclusive of attorney's fees.

This matter is pending in the United States District Court for the Southern District of New York. The matter tentatively settled on June 27, 2025 pending this Board's approval of a settlement in the amount of \$341,250, inclusive of attorney's fees.

This matter arises out of a lawsuit that alleges, among other things, that Leonard Mack was arrested on May 22, 1975 for an attack on two teenaged girls, and thereafter was wrongfully convicted in connection with the attack and a rape of one girl, and as a result was subsequently incarcerated from May 1975 to December 1982. However, in 2022, as a result of DNA testing that did not exist in 1975, DNA testing established conclusively that Mack was not the rapist. A search of a law enforcement DNA database identified the actual perpetrator of the crime; that perpetrator has since admitted his responsibility for the crime and that he acted alone. Consequently, on September 5, 2023, a court granted a motion to vacate Mack's conviction and dismissed the indictment.

The settlement takes into consideration the uncertainty of litigation and the potential costs of trial, subsequent proceedings, and potential appeal, as well as the potential for any future claims against the County defendants by the Greenburgh defendants. Both outside counsel and our insurance companies recommend this settlement.

Your Committee has carefully considered the subject matter, the settlement proposal, the attached Act and recommends authorizing the County Attorney or his designee to settle the lawsuit entitled, Leonard Mack v. Westchester County, et al, United States District Court for the Southern District of New York, Case No. 7:24-cv-08990-KMK, in the amount of \$341,250, inclusive of attorney's fees.

An affirmative vote of a majority of the Board is required to pass this legislation.

Dated: White Plains, New York
 , 2025

ACT NO. -2025

AN ACT authorizing the County Attorney to settle the lawsuit entitled, Leonard Mack v. Westchester County, et al, United States District Court for the Southern District of New York, Case No. 7:24-cv-08990-KMK, in the amount of \$341,250, inclusive of attorney's fees.

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

Section 1. The County Attorney is authorized to settle the lawsuit entitled Leonard Mack v. Westchester County, et al, United States District Court for the Southern District of New York, Case No. 7:24-cv-08990-KMK, in the amount of \$341,250, inclusive of attorney's fees.

Section 2. The County Attorney or his designee is hereby authorized and empowered to execute and deliver all documents and take such actions as the County Attorney deems necessary or desirable to accomplish the purpose of this Act.

Section 3. This Act shall take effect immediately.

FISCAL IMPACT STATEMENT

SUBJECT: Lawsuit Settlement:Mack, Leonard

☐ 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 \$ 341,250

Total Current Year Revenue \$ -

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

☐ Additional Appropriations

☒ Other (explain)

Identify Accounts: 6N Fund: 615 59 0510 1050 4280 04

Potential Related Operating Budget Expenses: Annual Amount N/A

Describe: Public Official Liability Settlement of Mack, Leonard G860219

Potential Related Operating Budget Revenues: Annual Amount N/A

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: N/A

Next Four Years: N/A

Prepared by: Mark L Gardner

Title: Senior Assistant County Attorney

Department: Law

Date: September 10, 2025

Reviewed By: 

Budget Director

Date: 9/11/25