

George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

May 7, 2024

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 Thomas Dalton v Orange County and Westchester County in Supreme Court Westchester County, Index No. 55146/2020, in the amount of \$590,000.00, with the County of Westchester contributing \$295,000.00, 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 of Thomas Dalton v County of Westchester et al., in the amount of \$590,000.00, with the County of Westchester contributing \$295,000.00 inclusive of attorney's fees.

This matter is pending in the Westchester County Supreme Court before the Honorable Paul Marx. The lawsuit tentatively settled, pending this Board's approval, for a total amount of \$590,000.00. The County of Westchester and the County of Orange will each contribute \$295,000.00, inclusive of attorney's fees.

Hillary Nappi, Esq. of Hach Rose Schirripa & Cheverie, LLP, 112 Madison Avenue, 10th Floor, New York, New York 10016, is representing the plaintiff, Thomas Dalton.

This lawsuit is brought pursuant to the Child Victims Act ("CVA"), CPLR Section 214-g which revived the statute of limitations for victims of childhood sexual abuse. The Plaintiff was placed in foster care by the Orange County Department of Social Services (hereinafter "OCDSS") after being abandoned by his mother. By Order dated October 8, 1986 the Family Court Judge of Orange County, terminated the parental rights of plaintiff's natural parents and committed guardianship and custody rights to the OCDSS empowering OCDSS to consent to the adoption of plaintiff subject to the order of a court of competent jurisdiction. On September 1, 1988 an Adoptive Placement Agreement was executed by George Dalton (hereinafter referred to as "Dalton") and OCDSS for the placement of plaintiff in the home of Dalton. The Dalton home



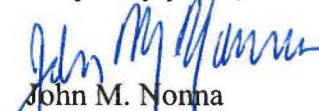
was located in Westchester County. Sometime after the plaintiff was placed with Dalton, Westchester County Department of Social Services (hereinafter referred to as "WCDSS") and OCDSS executed an Agreement Between Agencies, wherein OCDSS authorized WCDSS to provide adoptive care to Dalton and plaintiff and to report back to OCDSS until plaintiff is legally adopted by Dalton. OCDSS signed the agreement on October 21, 1988 and WCDSS signed the agreement on December 5, 1988. An Affidavit of Agency Investigation, dated October 27, 1989, was submitted to the Westchester County Family Court, by WCDSS, for consideration in the adoption of the Plaintiff. On January 23, 1990 the Westchester County Family Court Judge granted the petition of Dalton to adopt the plaintiff. The plaintiff alleges that soon after he was placed in the Dalton home when he was 10 years old, he became the victim of sexual abuse. He alleges that the abuse continued on a regular basis until weeks prior to his 18th birthday in 1995 when Dalton was arrested for the sexual abuse he perpetrated on plaintiff. Dalton is not a defendant in this action and is deceased. Plaintiff claims that he reported the abuse to both the Orange County and Westchester County caseworkers. The Orange County worker is deceased and the Westchester County worker denies knowledge of the abuse.

Plaintiff graduated from Eastchester High School in 1995. He joined the Army and failed basic training. He has held numerous jobs that he had difficulty keeping due to his inability to follow direction. He married and later divorced. He is addicted to both alcohol and opiates and has been in outpatient and inpatient programs. He has been convicted of numerous crimes for which he has spent time in New York State Correctional Facilities. He has spent years in therapeutic treatment programs and continues to participate in a drug treatment program to date.

The plaintiff will argue that the WCDSS was negligent in its investigation, selection and supervision of the Dalton home as an adoptive home. The OCDSS will also argue that the WCDSS was negligent and both the plaintiff and Orange County will argue that Westchester County's negligence contributed to the injuries allegedly suffered by the plaintiff.

The settlement takes into consideration the uncertainty of litigation and the potential costs of trial, subsequent proceedings and potential appeal. The accompanying Act will authorize settlement of the lawsuit entitled of Thomas Dalton v Orange County and Westchester County, in the amount of \$590,000.00, with the County of Westchester contributing \$295,000.00 inclusive of attorney's fees.

Very truly yours,


John M. Nonna
County Attorney

JMN/jhf

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 lawsuit of Thomas Dalton v Orange County and Westchester County, in the amount of \$295,000.00 inclusive of attorney's fees.

This matter is pending in the Westchester County Supreme Court before the Honorable Paul Marx. The lawsuit tentatively settled, pending this Board's approval, for a total amount of \$590,000.00. The County of Westchester and the County of Orange will each contribute \$295,000.00, inclusive of attorney's fees.

Hillary Nappi, Esq. of Hach Rose Schirripa & Cheverie, LLP, 112 Madison Avenue, 10th Floor, New York, New York 10016, is representing the plaintiff, Thomas Dalton.

This lawsuit is brought pursuant to the Child Victims Act ("CVA") CPLR Section 214-g which revived the statute of limitations for victims of childhood sexual abuse. The Plaintiff was placed in foster care by the Orange County Department of Social Services (hereinafter "OCDSS") after being abandoned by his mother. By Order dated October 8, 1986 the Family Court Judge of Orange County, terminated the parental rights of plaintiff's natural parents and committed guardianship and custody rights to the OCDSS empowering OCDSS to consent to the adoption of plaintiff subject to the order of a court of competent jurisdiction. On September 1, 1988 an Adoptive Placement Agreement was executed by George Dalton (hereinafter referred to as "Dalton") and OCDSS for the placement of plaintiff in the home of Dalton. The Dalton home

was located in Westchester County. Sometime after the plaintiff was placed with Dalton, Westchester County Department of Social Services (hereinafter referred to as "WCDSS") and OCDSS executed an Agreement Between Agencies, wherein OCDSS authorized WCDSS to provide adoptive care to Dalton and plaintiff and to report back to OCDSS until plaintiff is legally adopted by Dalton. OCDSS signed the agreement on October 21, 1988 and WCDSS signed the agreement on December 5, 1988. An Affidavit of Agency Investigation, dated October 27, 1989, was submitted to the Westchester County Family Court, by WCDSS, for consideration in the adoption of the Plaintiff. On January 23, 1990 the Westchester County Family Court Judge granted the petition of Dalton to adopt the plaintiff. The plaintiff alleges that soon after he was placed in the Dalton home when he was 10 years old, he became the victim of sexual abuse. He alleges that the abuse continued on a regular basis until weeks prior to his 18th birthday in 1995 when Dalton was arrested for the sexual abuse he had perpetrated on plaintiff. Plaintiff claims that he reported the abuse to both the Orange County and Westchester County caseworkers. The Orange County worker is deceased and the Westchester County worker denies knowledge of the abuse.

Plaintiff graduated from Eastchester High School in 1995. He joined the Army and was kicked out of basic training. He has held numerous jobs that he had difficulty keeping due to his inability to follow direction. He married and later divorced. He is addicted to both alcohol and opiates. He has been convicted of numerous crimes for which he has spent time in New York State Correctional Facilities. He has spent years in therapeutic treatment programs and continues to participate in a drug treatment program to date.

The plaintiff will argue that the WCDSS was negligent in its investigation, selection and supervision of the Dalton home as an adoptive home. The OCDSS will also argue that the WCDSS was negligent and both the plaintiff and Orange County will argue that Westchester County's negligence contributed to the injuries allegedly suffered by the plaintiff.

The settlement takes into consideration the uncertainty of litigation and the potential costs of trial, subsequent proceedings and potential appeal. The accompanying Act will authorize settlement of the lawsuit entitled of Thomas Dalton v Orange County and Westchester County, in the amount of \$590,000.00, with the County of Westchester contributing \$295,000.00 inclusive of attorney's fees.

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 Thomas Dalton v Orange County and Westchester County., in the amount of \$295,000.00, Westchester County Supreme Court Index No. 55146/2020, 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

, 2024

COMMITTEE ON

ACT NO. -2024

AN ACT authorizing the County Attorney to settle the lawsuit of Thomas Dalton v Orange County and Westchester County, Westchester County Supreme Court Index No. 55146/2020, in the amount of \$295,000.00, 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 of Thomas Dalton v. Orange County and Westchester County, Westchester County Supreme Court Index No. 55146/2020, in the amount of \$295,000.00, 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: Thomas Dalton G 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 \$ 295,000

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 0530 1250 4280 04

Potential Related Operating Budget Expenses: Annual Amount N/A

Describe: Settlement of CVA Claim G880211 Dalton, Thomas

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: Jane Hogan-Felix

Title: Deputy County Attorney

Department: Law

Date: April 29, 2024

^{DJO} Reviewed By: 
Budget Director

Date: 4/29/24