



George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

September 13, 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 Lisa Palmieri v. County of Westchester, in Supreme Court, Westchester County, Index No. 51408/2021, in the amount of \$325,000.00, 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 settlement of the lawsuit of Lisa Palmieri v. County of Westchester, in the amount of \$325,000.00, inclusive of attorney’s fees.

Plaintiff Lisa Palmieri, a former nurse practitioner and Well Path employee at the Westchester County Jail, commenced this lawsuit alleging that the County was negligent through its failure to prevent an assault as against her by an inmate incarcerated at the Jail. Plaintiff alleges that on March 15, 2020, while she was examining an inmate at the jail clinic, the inmate suddenly and without provocation got up from his wheelchair and began punching her in the face and body, subsequently causing them to fall to the floor, whereupon he continued his assault upon her by continuously kicking her and punching her up until she was pulled away from him by other medical personnel, and ultimately County Correction Officers. Though the Correction Officers assigned to the clinic to both watch and observe the inmate prior to the assault responded quickly in tackling the inmate to the floor, plaintiff alleges that the County failed to require that the inmate be restrained as he sat in the wheelchair prior to the assault, failed to designate the inmate on “Enhanced Security Protocol” (ESP) status, that the Suicide Watch Officer assigned to him should have been standing prior to the assault and not sitting, and that the Officers failed to timely prevent the further assault of the plaintiff once they tackled the inmate to the floor. As a result of the assault, plaintiff sustained a broken nose, head contusion, cuts and bruises to her body, nightmares, post-traumatic stress syndrome, lost wages, and psychological injuries requiring psychological treatment as a consequence of the assault.

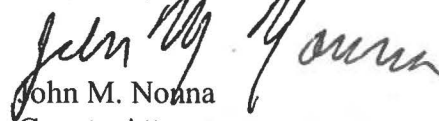
Though the County would argue that the Correction Officers followed Department of Correction (“DOC”) procedures as they discharged their duties both leading up to the assault and during the continued assault, plaintiff will argue that the County’s DOC procedures



inadequate to prevent a surprise assault as happened under the circumstances of this case. The settlement takes into consideration the uncertainty of litigation and the potential costs of trial. In addition to the above legal arguments, plaintiff will focus upon the fact that the inmate had an underlying mental health condition requiring medication while he was an inmate at the jail, was a detox patient and was also a suicide watch inmate prior to the assault. In this regard, plaintiff contends that the inmate should have been restrained/handcuffed in his wheelchair with an ESP designation and that the Officer assigned to the inmate's suicide watch status should have been standing next to him prior to the assault, which would have provided a likely deterrent to the inmate and at the very least, a quicker response time for the Officer to tackle the inmate to the ground as the assault was in progress. Also, because the inmate was on suicide watch, the Officer was required to document the inmate's actions in fifteen minute intervals in a log book, plaintiff will contend that this required function should have been performed while standing or that the Jail should have had another Officer assigned to the clinic under these circumstance in order that the clinic responsibilities and suicide watch duties were adequately distributed/covered. Plaintiff will argue that DOC policies and procedures were inadequate. Though the County retained two experts to defend this matter, the expert costs for preparation leading up to the trial, and trial testimony during the trial, coupled with the uncertainty of litigation and the plaintiff's extensive injuries and loss of work from the assault, rendered the within settlement practicable and reasonable. The accompanying act will authorize settlement of the lawsuit titled Lisa Palmieri v. County of Westchester, in the amount of \$325,000.00 inclusive of attorney's fees. There is also a Worker's Compensation Lien, totaling \$108, 305.43, comprised of \$85,067.92 in indemnity and \$23, 237.51 in medical benefits paid on behalf of the plaintiff.

Plaintiff is represented by Steven H. Cohen of Feldman, Kleidman, Coffey & Sappe, LLP, 995 Main Street, P.O. Box A, Fishkill, New York, 12524.

Very Truly Yours,


John M. Nonna
County Attorney

JMN/tal

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 Lisa Palmieri v. County of Westchester, in the amount of \$325,000.00., inclusive of attorney's fees.

This matter is pending in the Westchester County Supreme Court before the Honorable Lewis J. Lubell. The lawsuit tentatively settled, pending this Board's approval, is for a total amount of \$325,000.00.

Steven H. Cohen of Feldman, Kleidman, Coffey & Sappe, LLP, 995 Main Street, P.O. Box A, Fishkill, New York, 12524, is representing the plaintiff, Lisa Palmieri.

Plaintiff Lisa Palmieri, a former nurse practitioner and Well Path employee at the Westchester County Jail, commenced this lawsuit alleging that the County was negligent through its failure to prevent an assault as against her by an inmate incarcerated at the Jail. Plaintiff alleges that on March 15, 2020, while she was examining an inmate at the Jail clinic, the inmate suddenly and without provocation got up from his wheelchair and began punching her in the face and body, subsequently causing them to fall to the floor, whereupon he continued his assault upon her by continuously kicking her and punching her up until she was pulled away from him by other medical personnel, and ultimately County Correction Officers. Though the Correction Officers assigned to the clinic to both watch and observe the inmate prior to the assault responded quickly in tackling the inmate to the floor, plaintiff alleges that the County failed to require that the inmate be handcuffed/restrained as he sat in his wheelchair prior to the assault, failed to designate the inmate on "Enhanced Security Protocol" (ESP) status, that the Suicide Watch Officer assigned to him should have been standing and not sitting prior to the assault, and that the Officers subsequently failed to prevent the further assault of the plaintiff once they tackled the inmate to the floor. As a

result of the assault, plaintiff sustained a broken nose, head contusion, cuts and bruises to her body, nightmares, post-traumatic stress syndrome, lost wages, and psychological injuries requiring psychological treatment as a consequence of the assault.

Plaintiff will argue that the inmate that assaulted her had an underlying mental health condition requiring medication, was a detox patient and was also a suicide watch inmate prior to the assault. In this regard, plaintiff contends that the inmate should have been restrained/handcuffed as he sat in the wheelchair during his visit to the clinic, with an ESP designation, and that the Officer assigned to his suicide watch status should have been standing next to him which would have provided a likely deterrent to the inmate and at the very least, provided for a quicker response time for the Officer to tackle the inmate to the ground as the assault began and was in progress. Also, because the inmate was on suicide watch, the Officer was required to document the inmate's actions in fifteen minute intervals in a log book, and plaintiff will argue that this required function could have been performed while standing or that, in the alternative, the Jail should have had another Officer assigned to the clinic under these circumstances in order that the clinic responsibilities were adequately distributed/covered. Plaintiff will argue that the DOC policies and procedures were inadequate.

The settlement takes into consideration the uncertainty of litigation and the potential costs of trial. Though the County retained two experts to defend this matter, the expert costs for preparation leading up to the trial for both experts, and trial testimony during the trial, coupled with the uncertainty of litigation and the plaintiff's extensive injuries, including a fractured nose, post-traumatic stress syndrome and loss wages as a result of the assault, rendered the within settlement practicable and reasonable.

ACT NO. -2024

AN ACT authorizing the County Attorney to settle the lawsuit of Lisa Palmieri v. County of Westchester, Westchester County Supreme Court, Index No. 51408/2021, in the amount of \$325,000.00., 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 Lisa Palmieri v. County of Westchester, Westchester County Supreme Court, Index No. 51408/2021, in the amount of \$325,000.00, 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: Lisa Palmieri G20032 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 \$ 325,000

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 0700 4450 4280 04

Potential Related Operating Budget Expenses: Annual Amount N/A

Describe: Settlement of Public Official Liability Claim G200032 Palmieri, Lisa

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: Taryn A Chapman-Langrin

Title: Deputy County Attorney

Department: Law

Date: September 10, 2024

Reviewed By: *Larrence C. Jones*

Budget Director

Date: 9/13/24