

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 "D.O." 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.

On July 2, 2018, D.O., an employee in the Westchester County Department of Social Services (the "Department") with the title of Supervisor of Case Work, was on foot as a pedestrian traversing the intersection of Martin Luther King Jr. Blvd. and Quarropas Street in White Plains, New York when she was struck by motor vehicle that was operated by Brian T. Connolly, an independent contractor employed by the City of White Plains. As a result of the accident, D.O. sustained injuries to neck, both wrists, both shoulders, left hip, right knee, and back. D.O. also sustained a concussion, post-traumatic stress disorder, and pain disorder. Said injuries required surgery for an ACL reconstruction with lateral meniscectomy, synovectomy, and chondroplasty on D.O.'s right knee. D.O. was out of work for thirty-five (35) weeks and six (6) days.

D.O. filed a claim for her injury with the NYS Workers' Compensation Board, which was uncontroverted. On a parallel track to her Workers' Compensation claim, D.O. retained counsel and commenced a personal injury action against The City of White Plains and Brian T. Connolly. D.O.'s counsel is Lisa Lynn Grieco of BERNSTONE AND GRIECO, LLP. located at 295 Madison Avenue, 25th Floor, New York, NY 10017.

On or about October 13, 2022, D.O. agreed in principle to settle her personal injury claim after commencement of litigation for one million two hundred thousand and 00/100 dollars

(\$1,200,000.00), pending the consent of the County. In connection with the proposed settlement, D.O.'s counsel notified this Office that his costs and disbursements and legal fee totals four hundred eighteen thousand nine hundred forty-five and 56/100 dollars (\$418,945.56).

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 D.O.'s behalf in the amount of eighty-nine thousand twenty-six and 01/100 dollars (\$89,026.01) and indemnity (lost wage) benefits in the amount of thirty-two thousand ninety-one and 84/100 dollars (\$32,091.84) for a total expenditure of one hundred twenty-one thousand one hundred seventeen and 85/100 dollars (\$121,117.85). However, because D.O.'s injury was sustained in an automobile accident, the County's lien must be reduced by fifty thousand and 00/100 dollars (\$50,000.00) in lieu of first party no-fault benefits. Accordingly, the County's net lien for compensation and medical benefits in this matter is seventy-one thousand one hundred seven and 85/100 dollars (\$71,117.85)

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 34.92%, equaling a dollar reduction of twenty-four thousand eight hundred thirty-four and 35/100 dollars (\$24,834.35). The County would thereafter accept in satisfaction of its present lien a total of forty-six thousand two hundred eighty-three and 50/100 dollars (\$46,283.50). After the County is reimbursed and counsel fees are paid, D.O. would receive seven hundred thirty-four thousand seven hundred seventy and 94/100 dollars (\$734,770.94).

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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 D.O. from the settlement of her 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 22, 2023

Henry Zullo
Didat Jathri
Dominic J. Tubiolo
John
Catherine Parker
W.M.
Yusuf Sar

Didat Jathri
David Sar
Catherine Parker
W.M.
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Budget & Appropriations

Law & Major Contracts

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 her 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 "D.O.", from a settlement of her legal action against a third party. The County's reimbursement is \$46,283.50, representing a 34.92% reduction of its lien, with full reservation of the County's right to set off D.O.'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 (D.6)

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 \$ 46,283.50

Source of Funds (check one): Current Appropriations

Transfer of Existing Appropriations Additional Appropriations Other (explain)

Identify Accounts: 613-57-0018-4280

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: Lawrence C. Dwyer

Budget Department

5/10/23

If you need more space, please attach additional sheets.