

OnBase ID #: 111157

PRIVILEGED & CONFIDENTIAL

Date: May 15, 2025

To: Honorable Members of the Board of Acquisition & Contract

From: John M. Nonna
County Attorney

Re: Request for authorization to settle workers' compensation lien
on a County employee's proposed settlement of a legal action against
a third-party tortfeasor (A.B.).

Attached for your consideration is a resolution 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 "A.B.,"¹ from the settlement of his legal claim against a third-party tortfeasor.

Relevant Background

On September 4, 2021, A.B.—a police officer in the Westchester County Department of Public Safety—was directing traffic at the intersection of the Saw Mill River Parkway and Marble Avenue in Hawthorne, New York, because the traffic light at that location (the "Traffic Signal") was not cycling properly. At approximately 7:30 a.m., the owner/operator (the "Owner/Operator") of a 2020 Dodge Ram (the "Subject Vehicle") struck A.B., breaking his left wrist, fracturing his right wrist, chipping his front teeth, and injuring his torso, head, neck, and back.

As of the date of this resolution, the County has expended medical benefits through workers' compensation to or on your client's behalf in the amount of forty-three thousand sixty-five and 90/100 dollars (\$43,065.90) and paid indemnity (lost wage) benefits in the amount of eighteen thousand seventy-one and 85/100 dollars (\$18,071.85)—bringing the County's total expenditures in this matter to sixty-one thousand one hundred thirty-seven and 75/100 dollars (\$61,137.75). However, because A.B. was injured 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 in this matter totals eleven thousand one hundred thirty-seven and 75/100 dollars (\$11,137.75).

On a separate track from his workers' compensation claim, on April 3, 2023, A.B. commenced a plenary action against the Owner/Operator and two companies that had allegedly contracted with the New York State Department of Transportation to maintain the Traffic Signal: Verde Electric Maintenance Corporation and Halmar International, LLC (the "Corporate Defendants"). A.B. is represented by SCHWAB & GASPARINI, PLLC, located at 1441 Route 22,

¹ Consistent with prior practice, I have deleted the name of the employee to protect the individual's privacy. The name, of course, will be disclosed to the Board if that is desired.

Suite 206, Brewster, NY 10509. The Owner/Operator is represented by WILSON, BAVE, CONBOY, COZZA & COUZENS, P.C., located at 707 Westchester Ave, Suite 213, White Plains, NY 10604. The Corporate Defendants are represented by AHMUTY, DEMERS & MCMANUS, 2424 Route 52, Suite 2D, Hopewell Junction, NY 12533.

Global Settlement Offer

Recently, A.B. received an offer to settle the action for three hundred seventy-five thousand and 00/100 dollars (\$375,000.00) pending the County's consent. A.B. also notified this Office that (i) the attorney's fee in this matter totals one hundred twenty-five thousand and 00/100 dollars (\$125,000.00); and (ii) the costs and disbursements in this matter total six thousand four hundred one and 65/100 dollars (\$6,401.65).

Proposed Settlement of County Lien

In accordance with applicable statutory and decisional law, this Office seeks the authority to compromise the County's claim for reimbursement by reducing its lien by 35.05%, equaling a dollar reduction of three thousand nine hundred three and 78/100 dollars (\$3,903.78). The County shall thereafter accept in satisfaction of its present lien a total of seven thousand two hundred thirty-three and 97/100 dollars (\$7,233.97). Pursuant to this reduction and after attorney's fees, your client will recover two hundred thirty-six thousand three hundred sixty-four and 38/100 dollars (\$236,364.38).

For the reader's convenience, a chart of the previously mentioned figures is set forth below:

Worker's Compensation Amounts	
Medical Expenses	\$43,065.90
Indemnity (Lost Wage) Payments	\$18,071.85
Worker's Comp, SUB-TOTAL	\$ 61,137.75
MVA ("Basic Economic Loss") Reduction	\$ 50,000.00
Worker's Comp, TOTAL	\$ 11,137.75
Litigation Amounts	
Third-Party Settlement (Gross Amt)	\$375,000.00
Disbursements	\$125,000.00
Attorney's Fees	\$6,401.65
Cost of Litigation (COL)	\$131,401.65
Net Proceeds of Third-Party Settlement	\$243,598.35
Percentage COL	35.05%
Carrier's COL	\$ 3,903.78
Carrier's Net Lien	\$ 7,233.97
Claimant's Net Recovery	\$ 236,364.38

Summation

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 A.B. from his recovery against a third-party tortfeasor. I therefore recommend passage of the accompanying resolution.

JMN/stc

RESOLUTION

Upon the communication of the County Attorney, it is hereby:

RESOLVED, that the County Attorney is hereby authorized to compromise the County of Westchester's right to be reimbursed for health care and wage benefits paid or owing to or on behalf of a County employee, identified as "A.B.", from a settlement of his legal claim against several third parties; and it is further

RESOLVED, that the County's reimbursement is \$7,233.97, representing a 35.05% reduction of its lien, with full reservation of the County's right to set off A.B.'s net recovery against any future compensation in accordance with the provisions of New York State Workers' Compensation Law; and it is further

RESOLVED, that the County Attorney or his designee is authorized to execute any documents necessary to implement this resolution.

Original Agreement	\$
First Amendment	\$
This Amendment	\$ _____
TOTAL	\$ _____

Account to be
Charged/Credited

Fund	Dept.	Major Program, Program & Phase Or Unit/Sub Unit	Object/ Sub- Object	Trust Account	Dollars
613	57	0021	4280		\$7,233.97

Budget Funding Year(s) 2025 Start Date 1/1/2025 End
Date 12/31/2025
(must match resolution)

Funding Source

Tax Dollars _____

State Aid _____

\$ 7,233.97 _____

Federal Aid _____

(must match resolution)

Other __ 6J

fund _____ \$7,233.97 _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 05/29/2025 - RAYMOND SCULKY, SECRETARY