

Kenneth W. Jenkins
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

OnBase ID #: 112108

PRIVILEGED & CONFIDENTIAL

Date: September 26, 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 (D.O.).

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 "D.O.,"¹ from the settlement of his legal claim against a third-party tortfeasor.

Relevant Background

On February 15, 2021, D.O., a worker at the Department of Environmental Facilities' tripped and fell on the property located at the Brockway Place Transfer Station in White Plains, New York. D.O. commenced a personal injury action against City Carting Inc. and City Carting & Recycling for injuries allegedly sustained in his employment.

As of the date of this resolution, the County has expended medical and indemnity benefits through workers' compensation to or on D.O.'s behalf (medical and lost wages) totaling seventeen thousand thirty and 55/100 dollars (\$17,030.55) – the amount of the County's lien in this matter.

¹ Consistent with prior practice in similar cases, 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.

Third Party's Offer to Settle Third-Party Action

Recently, D.O. received an offer to settle his litigated claim for sixty thousand and 00/100 dollars (\$60,000.00), pending the County's consent. D.O. also notified this Office that (i) the disbursements in this matter total three thousand two hundred thirty-four and 83/100 dollars (\$3,234.83); and (ii) the attorney's fee totals twenty thousand and 00/100 dollars (\$20,000.00).

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 38.73%, equaling a dollar reduction of six thousand five hundred ninety-five and 93/100 (\$6,595.93). The County shall thereafter accept in satisfaction of its present lien a total of ten thousand four hundred thirty-four and 62/100 dollars (\$10,434.62). Pursuant to this reduction and after attorney's fees, D.O. would recover twenty-six thousand three hundred thirty and 55/100 dollars (\$26,330.55).

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

Worker's Compensation Amounts	
Medical Expenses	\$2,700.52
Indemnity (Lost Wage) Payments	\$14,330.03
Worker's Comp, SUB-TOTAL	\$17,030.55
MVA ("Basic Economic Loss") Reduction	\$ -
Worker's Comp, TOTAL	\$ 17,030.55

Litigation Amounts	
Third-Party Settlement (Gross Amt)	\$60,000.00
Disbursements	\$3,234.83
Attorney's Fees	\$20,000.00
Cost of Litigation (COL)	\$23,234.83
Net Proceeds of Third-Party Settlement	\$36,765.17
Percentage COL	38.73%
Carrier's COL	\$ 6,595.93
Carrier's Net Lien	\$ 10,434.62
Claimant's Net Recovery	\$ 26,330.55

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

JMN/jfc

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 "D.O.", from a settlement of his legal claim against a third party; and it is further

RESOLVED, that the County's reimbursement is \$10,434.62, representing a 38.73% 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; 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	0024	4280		\$10,434.62

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

Funding Source

Tax Dollars _____

State Aid _____

\$ 10,434.62

Federal Aid _____

(must match resolution)
fund \$10,434.62

Other__6J

APPROVED BOARD OF ACQUISITION & CONTRACT - 10/24/2025 - RAYMOND SCULKY, SECRETARY