

Department of Law
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DATE: September 23, 2025

TO: Board of Acquisition and Contract

FROM: John M. Nonna
County Attorney

SUBJECT: Authority for the County of Westchester to enter into a Coverage Settlement Agreement with and among Ms. Carol Kope, and Mr. Roger Stillman, as Administrator of the Estate of Marie Felgenhauer (the "County Defendants"); Lloyd's of London and certain solvent London Market Companies; Liberty Mutual Insurance Company; and Lexington Insurance Company, in connection with the civil matter entitled *Leonard Mack v. Westchester County, et al.*, Case No. 7:24-cv-08990-KMK, pursuant to which the aforesaid insurance companies will agree to remit payment of their respective settlement amounts totaling \$11,658,750 directly to plaintiff's attorney, in exchange for which the County Defendants will release them from and against any obligation to defend and/or indemnify any claims against the County Defendants that were or could have been raised against the County Defendants in the lawsuit.

Authority is requested for the County of Westchester to enter into a Coverage Settlement Agreement (the "CSA") with and among Ms. Carol Kope, and Mr. Roger Stillman, as Administrator of the Estate of Marie Felgenhauer (the "County Defendants"); Lloyd's of London and certain solvent London Market Companies (collectively, "London Market Insurers" or "LMI"); Liberty Mutual Insurance Company ("Liberty Mutual"); and Lexington Insurance Company ("Lexington"), in connection with the civil matter entitled *Leonard Mack v. Westchester County, et al.*, Case No. 7:24-cv-08990-KMK (the "Civil Matter"), pursuant to which the parties will agree, among other things, that in exchange for LMI, Lexington and Liberty Mutual remitting payment of their respective settlement amounts totaling \$11,658,750 directly to plaintiff's attorney, the County Defendants will release, covenant not to sue and forever discharge LMI, Lexington and Liberty Mutual, together with their officers, directors, employees, affiliates, subsidiaries, parent companies, successors, and reinsurers, against any obligation to defend and/or indemnify any claims against the County Defendants that were or could have been raised against the County Defendants in the Civil Matter.

By way of background, the Civil Matter arises out of a lawsuit brought by plaintiff Leonard Mack that alleges, among other things, that he was arrested on May 22, 1975 for an attack on two teenaged girls, and thereafter was wrongfully convicted in connection with the attack and a rape, and as a result was subsequently incarcerated from May 1975 to December 1982. In his complaint, Mr. Mack alleges that he was only prosecuted and convicted based on misconduct by the County Defendants, including officer Kope of the Westchester County Department of Public Safety, and Marie Felgenhauer of the Westchester County Department of Labs and Research, as well as officers of the Greenburgh Police Department. However, in 2022, as a result of DNA testing that did not exist in 1975, it was established conclusively that Mack was not the rapist. A search of a law enforcement DNA database identified the actual perpetrator of the crime. The perpetrator has since admitted his responsibility for the crime and that he acted alone. Consequently, on September 5, 2023, a court granted a motion to vacate Mack's conviction and dismissed all charges.

Subject to approval by the Board of Legislators, the County has reached a settlement with plaintiff in this matter in the total amount of \$12,000,000. Commercial general liability insurance policies issued to the County in 1975 by the aforesaid insurance companies will cover most of the County's settlement costs for this lawsuit. The total amount of the settlement to be recovered from the insurance companies will be \$11,658,750. The total amount due from the County because of insurance companies that became insolvent and were liquidated prior to the commencement of the plaintiff's lawsuit, is \$316,250, inclusive of attorney's fees. There is also a \$25,000 self-insured retention due for the primary insurance policy applicable to the plaintiff's claim, so the total amount payable by the County is only \$341,250.

In order to protect themselves from future exposure in connection with the Civil Matter, the insurance companies have asked the County Defendants to execute a CSA, which essentially adopts, by way of compromise, a full and final settlement of the insurers indemnification obligations to the County Defendants.

It should be noted that the authority granted by this Resolution shall not take effect, unless and until the County Board of Legislators adopts an Act approving the settlement of the Civil Matter.

Accordingly, your favorable action on the annexed Resolution is most respectfully urged and recommended.

enc.

JMN/KD/jpg

RESOLUTION

Upon a communication from the County Attorney, be it hereby

RESOLVED, that the County of Westchester is hereby authorized to enter into a Coverage Settlement Agreement with and among Ms. Carol Kope, and Mr. Roger Stillman, as Administrator of the Estate of Marie Felgenhauer (the "County Defendants"); Lloyd's of London and certain solvent London Market Companies (collectively, "London Market Insurers" or "LMI"); Liberty Mutual Insurance Company ("Liberty Mutual"); and Lexington Insurance Company ("Lexington), in connection with the civil matter entitled *Leonard Mack v. Westchester County, et al.*, Case No. 7:24-cv-08990-KMK (the "Civil Matter"), pursuant to which the parties will agree, among other things, that in exchange for LMI, Lexington and Liberty Mutual remitting payment of their respective settlement amounts totaling \$11,658,750 directly to plaintiff's attorney, the County Defendants will release, covenant not to sue and forever discharge LMI, Lexington and Liberty Mutual, together with their officers, directors, employees, affiliates, subsidiaries, parent companies, successors, and reinsurers, against any obligation to defend and/or indemnify any claims against the County Defendants that were or could have been raised against the County Defendants in the Civil Matter; and be it further

RESOLVED, that the authority granted by this Resolution shall not take effect, unless and until the County Board of Legislators adopts an Act approving the settlement of the Civil Matter; and be it further

RESOLVED, that the County Executive or his authorized designee is hereby authorized to execute all instruments and take all actions reasonably necessary to implement this Resolution.

Account to be
Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub- Object	Trust Account	Dollars
615	59	0510/1050	4280/04		\$341,250.00

Budget Funding Year(s) 1986 Start Date 1/1/1986 End Date 12/31/1986
(must match resolution)

Funding Source

Tax Dollars _____

State Aid _____

Federal Aid _____

Other (6N) \$341,250.00