

OnBase ID #: 109875

PRIVILEGED & CONFIDENTIAL

Date: October 22, 2024
To: Honorable Members of the Board of Acquisition & Contract Administration
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 (J.G.).

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

Relevant Background

On June 4, 2019, J.G.— a police officer in the Westchester County Department of Public Safety—was injured during his attendance at an unexploded ordnance classroom training for New York based bomb technicians at an FBI facility located in the Bronx, New York while acting within the scope of his County employment.

As of the date of this resolution, the County has expended medical benefits through workers' compensation to or on J.G.'s behalf (medical and lost wages) totaling fifty-six thousand four hundred ninety-one and 51/100 dollars (\$56,491.51). The County's lien in this matter is fifty-six thousand four hundred ninety-one and 51/100 dollars (\$56,491.51).

Third Party's Offer to Settle Third-Party Action

Recently, J.G. received an offer to settle his litigated claim for six-hundred thousand and 00/100 dollars (\$600,000.00), pending the County's consent. J.G. also notified this Office that (i) the disbursements in this matter total nineteen thousand five hundred forty-nine and 29/100 dollars

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.

(\$19,549.29); and (ii) the attorney's fee totals two hundred thousand and 00/100 dollars (\$200,000.00).

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 36.60%, equaling a dollar reduction of twenty thousand six hundred seventy-five and 89/100 dollars (\$20,675.89). The County shall thereafter accept in satisfaction of its present lien a total of thirty-five thousand eighty hundred fifteen and 62/100 dollars (\$35,815.62). Pursuant to this reduction and after attorney's fees, J.G. would recover three hundred forty-four thousand six hundred thirty-five and 09/100 dollars (\$344,635.09).

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

| Worker's Compensation Amounts | |
|--|----------------------|
| Medical Expenses | \$28,987.41 |
| Indemnity (Lost Wage) Payments | \$27,504.10 |
| Worker's Comp, SUB-TOTAL | \$ 56,491.51 |
| MVA ("Basic Economic Loss") Reduction | \$ - |
| Worker's Comp, TOTAL | \$ 56,491.51 |
| Litigation Amounts | |
| Third-Party Settlement (Gross Amt) | \$600,000.00 |
| Disbursements | \$19,549.29 |
| Attorney's Fees | \$200,000.00 |
| Cost of Litigation (COL) | \$219,549.29 |
| Net Proceeds of Third-Party Settlement | \$380,450.71 |
| Percentage COL | 36.60% |
| Carrier's COL | \$ 20,675.89 |
| Carrier's Net Lien | \$ 35,815.62 |
| Claimant's Net Recovery | \$ 344,635.09 |

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

RESOLVED, that the County's reimbursement is \$35,815.62, representing a 36.60% reduction of its lien, with full reservation of the County's right to set off J.G.'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 | <u>\$</u> |
| 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 | | \$35,815.62 |
| | | | | | |

Budget Funding Year(s) 2024 Start Date 1/1/2024 End Date 12/31/2024
(must match resolution)

Funding Source

Tax Dollars _____

State Aid _____

\$ 35,815.62

Federal Aid _____

(must match resolution)

Other __ 6J fund \$35,815.62

APPROVED BOARD OF ACQUISITION & CONTRACT - 11/20/2024 - RAYMOND SCULKY, SECRETARY