

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: October 4, 2011

Consent

Regular

Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For:

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to: approve a Settlement and Release, inclusive of attorney's fees and costs, in the total amount of \$66,000 in the personal injury Claim # 000103-008801-AB-01, submitted by Angelo DePolo.

Summary: This is a personal injury claim arising from a rear-end motor vehicle accident on April 7, 2010, between a Water Utilities truck and claimant's vehicle on Jog Road in West Palm Beach, Florida. The County employee admits that he saw claimant was braking his vehicle to slow down for two dogs crossing the street in front of his car, but the employee turned his head away momentarily and when he turned back, claimant's vehicle had come to a final stop. Staff, including the Risk Management Roundtable, concurs that this settlement is in the best interest of Palm Beach County. Countywide (PGE)

Background and Justification: On April 7, 2010, a Water Utilities employee rear-ended the claimant's vehicle because he was following too closely, despite acknowledging that he saw claimant was slowing down for two dogs crossing the street in front of his car. The County employee was unable to stop before colliding with Claimant's vehicle and causing significant damage. The County paid a total loss to the claimant for his vehicle in the amount of \$9,134, as the trunk area was pushed through the rear windshield. In November 2010, Claimant underwent back surgery and to date has incurred \$141,253 in medical bills. He has received an 8% permanent impairment rating by his treating physician. He has no history of prior back problems. Claimant also has a lost wage claim.

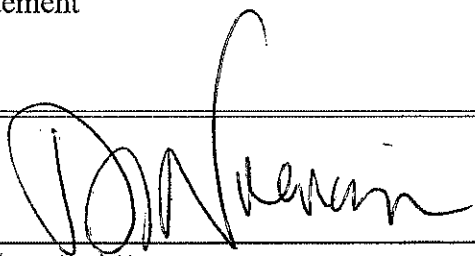
The original pre-suit demand from Claimant's attorney was \$100,000. The negotiated settlement is for \$66,000. Considering the foregoing, the negotiated settlement is reasonable and in the County's best interest. It is recommended the County approve the settlement in the amount of \$66,000.

Attachments:

1. Budget Availability Statement
2. Settlement and Release

Recommended by: _____

County Attorney



Date

9/22/11

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	<u>\$66,000</u>	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>\$66,000</u>	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes No _____

Budget Account No.: Fund 5010 Department 700 Unit 7130 Object 4511

Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

SW 9/15/11 OFMB 9/15/11 Contract Development and Control 9/23/11

B. Legal Sufficiency:

Assistant County Attorney

C. Other Department Review:

Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

BUDGET AVAILABILITY STATEMENT
RISK MANAGEMENT

REQUEST DATE: 9/14/2011 REQUESTED BY: County Attorney's Office


AMOUNT: \$ 66,000

AGENDA DATE: 10/4/2011

BUDGET ACCOUNT NUMBER (IF KNOWN)

FUND: 5010 DEPT: 700 UNIT: 7130 OBJ: 4511

FUNDING SOURCE:

BAS APPROVED BY:  DATE: 9/14/11
Scott Marting

Revised 03/30/04

Attachment # 1

SETTLEMENT AND RELEASE

KNOW ALL MEN BY THESE PRESENTS that Angelo DePolo, for the sole consideration of the sum of \$66,000.00 paid by Palm Beach County, receipt of which is hereby acknowledged, does hereby release, acquit and forever discharge Palm Beach County, its officers, directors, agents, attorneys, employees, associated companies, affiliates, and subsidiary companies, of and from any and all claims, causes of action costs and demands of whatever name or nature and any matter arising or growing out of or on account of a loss which occurred as a result of motor vehicle accident at or near Jog Road, Palm Beach County, Florida on or about April 7, 2010.

THE UNDERSIGNED ACKNOWLEDGE that the consideration shown above is in full payment and satisfaction of the claim or cause of action described above and that no other promise has been made by Palm Beach County, any of its officers, directors, agents, attorneys or employees, and that this is a compromise settlement of any and all liability of Palm Beach County and its officers, directors, agents, attorneys and employees, and all persons who may jointly and severally be liable with them.

The undersigned agrees to be responsible for, and to satisfy any and all liens including Medicare liens, all known or unknown liens, and/or subrogated interests, for medical treatment, health care and related expenses, and attorney's fees, incurred by, or on behalf of the undersigned, for any injuries arising from the accident described herein above. The undersigned agrees to indemnify, defend and hold harmless Releasees from and against any and all claims, demands, losses, costs and expenses, including but not limited to, attorney's fees, arising from such liens and/or subrogated interests.

This release and the payment made are not to be construed as an admission of liability by Palm Beach County, all liability being expressly denied.

SIGNED AND SEALED this 15th day of September, 2011.

IN THE PRESENCE OF:

Ramona G. Sawyer
WITNESS

[Signature]
ANGELO DEPOLO - RELEASOR

STATE OF FLORIDA
COUNTY OF PALM BEACH

Sworn to and subscribed before me this 15th day of Sept, 2011 by Angelo DePolo who is personally known to me or has produced _____ as identification.

Adelaida Davila
Notary Public, State of Florida

Print, Type or Stamp
Commissioned Name of Notary



Attachment # 2