

Agenda Item #:

3D1

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date: June 5, 2012 [X] Consent [ ] Regular  
[ ] Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For:

I. EXECUTIVE BRIEF

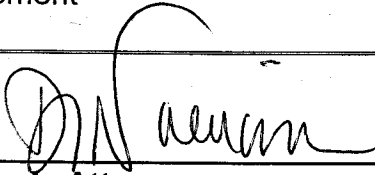
**Motion and Title:** Staff recommends motion to: approve a settlement in the amount of \$67,500, inclusive of attorney fees and costs, of the personal injury claim of Carlos Isaza, Claim 000103-009088-AB-01.

**Summary:** On May 6, 2011, a County pickup truck rear-ended a car driven by Carlos Isaza. Claimant was stopped in front of the County vehicle on southbound Haverhill Road near Nautica Isles Boulevard in the City of Greenacres at the time of the accident. Mr. Isaza suffered several disc herniations and underwent a cervical fusion. His medical bills exceeded \$138,000. Staff, including the Risk Management Roundtable Committee, recommend this settlement as in the County's best interests. Countywide (AJM)

**Background and Justification:** On May 6, 2011, a County pickup truck from the Water Utilities Department rear-ended a car driven by Carlos Isaza. Claimant was stopped in front of the County vehicle on southbound Haverhill Road near Nautica Isles Boulevard in the City of Greenacres. The County driver looked to his left, and when he saw the lane next to him begin to move, he accelerated without looking ahead of him and hit the rear of claimant's car. Claimant was transported from the scene, and had cervical spine and lumbar x-rays. MRI's showed six disk herniations, and he underwent a discectomy and fusion. He also treated with a chiropractor. Claimant's total medical bills were \$138,837. A doctor retained by the County reviewed the medical records, and agreed that the treatment was appropriate and that the injuries were caused by the accident. The County driver was assessed a traffic violation of two points. Proceeding to suit will require the County to incur additional expert witness fees, and a trial would expose the County to a significant damage award. As a result, staff recommends this pre-suit settlement in the amount of \$67,500.

**Attachments:**

1. Release of All Claims
2. Budget Availability Statement

Recommended by:  5/3/12  
County Attorney Date

Approved by: N/A  
Date

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

Fiscal Years	2012	2013	2014	2015	2016
Capital Expenditures					
Operating Costs	<u>\$67,500</u>				
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	<u>67,500</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:

N. Diaz 5/8/2012 Dr. J. Dandrea 5/9/12  
OFMB Contract Development and Control  
5/7/12 5/7/12 5/7/12 5/4/12 5-9-12 B40 Klein

### B. Legal Sufficiency:

Ancher m. carter  
Assistant County Attorney

### C. Other Department Review:

Department Director

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

**RELEASE OF ALL CLAIMS**

Claim #000103-009088-AB-01 (JA)

This Indenture Witnesseth that I, Carlos Isaza, Single person in consideration of the sum of Sixty Seven Thousand Five Hundred Dollars and 00/100 (\$67,500.00), do hereby for my heirs, personal representatives and assigns, release and forever discharge PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS, OUR DRIVER LEONARDO DE JESUS, LLOYDS OF LONDON, AND GALLAGHER BASSETT SERVICES, INC. and any other person, firm or corporation charged or chargeable with responsibility or liability, their heirs, representatives or assigns, from any and all claims, demands, damages, costs, expenses, loss of services, actions and causes of action arising from any act or occurrence up to the present time, and particularly on account of all personal injury, disability, property damages, loss or damages of any kind sustained or that I may hereafter sustain in consequence of an accident that occurred on or about the 6th day of May, 2011, at or near Haverhill Road & Nautica Isles Blvd, Greenacres, FL.

In reaching agreement on the terms of this Release, the parties acknowledge Releasor's possible entitlement to Social Security disability benefits pursuant to 42 U.S.C. § 423, and receipt of Medicare or Medicaid benefits under 42 U.S.C § 1395y, as well as the entitlement of the Centers for Medicare and Medicaid Services ("CMS") to subrogation and intervention, pursuant to 42 U.S.C. § 1395y(b)(2) to recover any overpayment made by CMS. The parties to this Release agree that this Release is not intended to shift to CMS the responsibility for payment of medical expenses for the treatment of injury related conditions. The parties agree that this settlement is intended to provide Releasor a lump sum payment which will foreclose Releasees' responsibility for future payment of all injury related medical expenses.

The parties to this Release understand that many common medical expenses are not payable or reimbursable under the Medicare program. These medical expenses, not covered by Medicare but necessary in the ongoing treatment of the Releasor's injury, and without an admission of liability on the part of the Releasees, have been taken into consideration in the calculation and settlement of Releasor's future medical expenses. Funds for these non-Medicare covered medical expenses have been included in the lump sum settlement amount and shall not be paid from any Medicare allocation amount.

Releasor acknowledges that any decision regarding entitlement to Social Security benefits or Medicare or Medicaid benefits, including the amount and duration of payments and offset reimbursement for prior payments is exclusively within the jurisdiction of the Social Security Administration, the United States Government, and the U.S. Federal Courts, and is determined by Federal law and regulations. As such, the United States Government is not bound by any of the terms of this Release.

Releasor has been apprised of her right to seek assistance from legal counsel of his/her choosing or directly from the Social Security Administration or other government agencies regarding the impact this Release may have on Releasor's current or future entitlement to Social Security or other governmental benefits. Releasor acknowledges that acceptance of these settlement funds may affect Releasor's rights to other governmental benefits, insurance benefits, disability benefits, or pension benefits. Notwithstanding this possibility, Releasor desires to enter into this Release agreement to settle her injury claim according to the terms set forth in this Release.

To procure payment of the said sum, I hereby declare: that I am more than 18 years of age; that no representation about the nature and extent of said injuries, disabilities or damages made by any physician, attorney or agent of any party hereby released, nor any representations regarding the nature and extent of legal liability or financial responsibility of any of the parties released, have induced me to make this settlement; that in determining said sum there has been taken into consideration not only the ascertained injuries, disabilities and damages, but also the possibility that the injuries sustained may be permanent and progressive and recovery therefrom uncertain and indefinite, so that consequences not now anticipated may result from the said accident; all information I have provided, including but not limited to name, date of birth, gender and social security number. In order to procure payment and set forth in this release has been true and accurate.

The Undersigned Agree(s), as a further consideration and inducement for this compromise settlement, that it shall apply to all unknown and unanticipated injuries and damages resulting from said accident, casualty or event, as well as to those now disclosed.



Gallagher Bassett Services, Inc.

Claim #000103-009088-AB-01 (JA)

I understand that the parties hereby released admit no liability of any sort by reason of said accident and that said payment and settlement in compromise is made to terminate further controversy respecting all claims for damages that I have heretofore asserted or that I or my personal representatives might hereafter assert because of said accident.

**FRAUD WARNING:** "Any person who, knowingly and with intent to injure, defraud, or deceive any employer or employee, insurance company, or self-insured program, files a statement of claim containing any false or misleading information is guilty of a felony of the third degree."

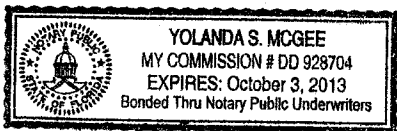
Signed and sealed this 1<sup>st</sup> day of May, 2012.  
 (CAUTION - READ BEFORE SIGNING)  
 Print name: Carlos Isaza Signature: Carlos Isaza (SEAL)  
Carlos Isaza (SEAL)

STATE OF Florida  
 COUNTY OF Palmer Beach SS

On this 1<sup>st</sup> day of May, 2012, before me personally appeared Carlos Isaza, to me known to be the person who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Yolanda S. McGee  
 Notary Public

My commission expires \_\_\_\_\_



## BUDGET AVAILABILITY STATEMENT

Risk Management - Carlos Isaza Claim - WUD

REQUEST DATE: 4/23/2012 REQUESTED BY: Risk ManagementAMOUNT: \$ 67,500 AGENDA DATE: 5/15/2012BUDGET ACCOUNT NUMBERFUND: 5010 DEPT: 700 UNIT: 7130 OBJ: 4511 *JK 5/1/12*

FUNDING SOURCE: Property and Casualty Insurance Fund

BAS APPROVED BY:

*Nancy L. Helm*DATE: 4/24/2012*Jessica Kells**5/7/12**AS-1*