

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: 8/17/2021 [] Consent [] Regular
[] Ordinance [] Public Hearing
Department:
Submitted By: COUNTY ATTORNEY

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve a Settlement Agreement, inclusive of attorney’s fees and costs, in the total amount of \$90,000.00 in the personal injury action styled Tatyana Bell, et al. vs. Palm Beach County, Case No. 50-2018-CA-010424-XXXX-MB.

Summary: This is a personal injury lawsuit arising from a bicycle accident on a Palm Beach County sidewalk in Jupiter Farms that occurred on September 4, 2014, while Palm Beach County’s Road and Bridge employees were performing tree maintenance. Plaintiff fell off her bike after contact with the debris on the sidewalk from the tree maintenance and sustained injuries to her neck, back, right shoulder and right hip. Countywide (AMC)

Background and Justification (or Policy Issues): On September 4, 2014, Plaintiff was riding her bike on an asphalt path parallel to Randolph Sliding Rd. between 121st Ter. N. and Alexander Run in Jupiter, Florida at approximately 9:00 a.m. At that time, a road and bridge crew was performing maintenance and trimming trees along the asphalt path. The crew placed a “crew working sign” on the west side of the path, visible for pedestrians walking west to east. However, there was no “crew working sign” on the east side of the path for pedestrians walking east to west. Plaintiff entered the asphalt path from the east side on her bike and proceeded to bike around the first curve in that path. When Plaintiff came around the second curve, her bike struck a pile of tree trimmings that obstructed the asphalt path. The tree trimmings were placed there by our crew. Upon impact, Ms. Bell fell out of her bike over the handle bars. She sustained injuries to her neck, back, right shoulder and right hip. An MRI performed on Plaintiff revealed “a right paracentral disc herniation displacing the right S1 root mildly” and “disc bulging broadly at L4-5, with a finding of a “left lateral recess stenosis compressing the left L5 root in Image 17.” Additionally, Plaintiff had hip injuries and a hip MRI revealed “severe right hip abductor tendinosis affecting the anterolateral footprint of the gluteus medius as well as the gluteus minimus insertion albeit to a lesser extent.” Post-accident to date, Plaintiff has received 14 epidural injections in her lumbar spine; a provocative diskogram; a percutaneous discectomy; 10 hip injections and two hip bone marrow aspirations. Medicals incurred to date total \$173,760.83. Plaintiff has received continuous treatment since the accident. Plaintiff’s doctors, and our expert, expect Plaintiff to need future ongoing treatment.

Attachments:

- 1. Settlement Agreement
- 2. Release of All Claims
- 3. Budget Availability Statement

Recommended By: DMNeman 8/27/21
Department Director Date

Approved By: N/A
County/Deputy/Asst. County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures					
Operating Costs	\$90,000.00				
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	\$90,000.00				
# ADDITIONAL FTE POSITIONS (CUMULATIVE)					

Is Item included in current budget? Yes No

Does this Item include the use of federal funds? Yes No

Budget Account No.:

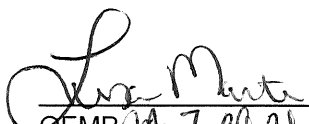
Fund 5010 Agency 700 Organization 7130 Object 4511


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

C. Departmental Fiscal Review:

III. REVIEW COMMENTS

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

 7/29/21
OFMB 7/29/21 8/1/21

 8/11/21
Contract Dev. & Control
8-11-21 TW

B. Legal Sufficiency



Assistant County Attorney

C. Other Department Review

Department Director

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

SETTLEMENT AGREEMENT

THIS AGREEMENT made and entered into this _____ day of _____, 2021, by and between PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS, (hereinafter referred to as the "COUNTY"), a political subdivision of the State of Florida, TATYANA BELL (hereinafter referred to as "BELL"), and D.L.B., a now adult son of BELL.

WHEREAS, BELL sued the COUNTY in a lawsuit presently styled Tatyana Bell v. Palm Beach County, Case No. 50-2018-CA-010424-XXXX-MB in the Circuit Court of Palm Beach County, Florida (hereinafter referred to as "Pending Lawsuit"), for damages arising from an incident that occurred on or about September 4, 2014 at or near Palm Beach County (hereinafter referred to as "Accident");

WHEREAS, the COUNTY has denied liability and raised several affirmative defenses to the Accident in the Pending Lawsuit; and

WHEREAS, the parties hereto wish to amicably resolve the Pending Lawsuit without further litigation of the claims made and defenses raised therein.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, the sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference.
2. Within thirty (30) days after the COUNTY receives a fully executed original of this Settlement Agreement, and subject to final administrative/Board of County Commissioners approval, the COUNTY shall pay to BELL the amount of **NINETY THOUSAND DOLLARS (\$90,000.00)**, by a check made payable to M. Daniel Logan, PLLC f/b/o Tatyana Bell , Tax I.D 27-3077649.
3. Within ten (10) days of receipt of the COUNTY'S payment, M. Daniel Logan, Esq. shall execute and deliver to the Palm Beach County Attorney's Office (i) a Release of All Claims in the form of the attached hereto as Exhibit A, and (ii) the Stipulation and Final Order of Dismissal with Prejudice, in the form of the attached hereto as Exhibit B, which, in turn, the Palm Beach County Attorney's Office will file with the court.
4. M. Daniel Logan, Esq. shall not disburse, and BELL shall not accept, any proceeds from the settlement check described in Paragraph 2 above unless and until the Release of All Claims has been delivered to the COUNTY and the Final Order of Dismissal with Prejudice has been signed by the Circuit Court Judge assigned to the Pending Lawsuit.
5. BELL acknowledges and agrees that she is responsible for the payment of any and all medical bills and liens concerning, pertaining, or relating to the accident and pending lawsuit that the COUNTY shall not be responsible for any portion of said liens. BELL, on behalf of herself and her officers, agents, employees, heirs, executors, administrators and assigns, further agrees to

indemnify, defend, and hold the COUNTY and its officers, commissioners, agents, elected officials, employees, heirs, executors, administrators and assigns, harmless from and against all suits, actions, proceedings, claims, demands, and damages, including attorney's fees, arising out of or related to such liens or claims of lien.

6. Each party shall bear its respective attorney's fees and costs.

7. This Settlement Agreement does not constitute an admission of liability by any party. Rather, the COUNTY expressly denies liability, and has entered into this Settlement Agreement in order to buy its peace.

8. In any litigation brought to enforce the terms or remedy a violation of this Settlement Agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees in addition to any other recovery.

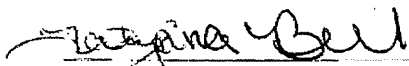
9. BELL declares and acknowledges that the terms of this Settlement Agreement have been completely read, fully understood, discussed with counsel, and voluntarily accepted as a full and final compromise of any and all claims that she may have against the COUNTY arising out of or relating to the Accident and Pending Lawsuit.

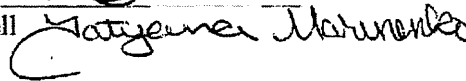
10. D.L.B. declares and acknowledges that the terms of this Settlement Agreement have been completely read, fully understood, discussed with counsel, and voluntarily accepted as a full and final compromise of any and all claims that he may have against the COUNTY arising out of or relating to the Accident and Pending Lawsuit.


11. This Settlement Agreement shall be binding on the parties hereto, their assigns, transferees, heirs, and other successors in interest.


12. The parties represent that no claim that has been, or could have been, raised in the Pending Lawsuit, and no claim to which this Settlement Agreement applies, has been assigned or otherwise transferred to any other person or entity not a party hereto.

IN WITNESS WHEREOF, the parties have caused this Settlement Agreement to be executed as of the date first set forth above.


Tatyana Bell


Tatyana Marinova


Adam Faustini, Director
Palm Beach County Engineering and Public
Works, Road and Bridge


D.L.B.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: 
Assistant County Attorney

ATTEST:
JOSEPH ABRUZZO, Clerk and Comptroller

By: _____

PALM BEACH COUNTY,
a Political Subdivision of the State of Florida

By: _____
Mayor, Board of County Commissioners

RELEASE OF ALL CLAIMS

KNOW ALL MEN BY THESE PRESENTS:

That the undersigneds, Tatyana Bell and D.L.B, being both of lawful age, for the sole consideration of **NINETY THOUSAND DOLLARS (\$90,000.00)**, to the undersigneds in hand paid, the receipt and sufficiency whereof is hereby acknowledged, does hereby and for their executors, administrators, successors and assigns, release, acquit and forever discharge **PALM BEACH COUNTY** (hereinafter "COUNTY"), and their officers, agents, employees, heirs, executors, administrators, successors and assigns (together "Releasees"), none of whom admit any liability to the undersigned, but all of whom expressly deny any such liability, from any and all claims, demands, rights, damages, costs, loss of service, expenses, compensation, actions, causes of action or suits of any kind or nature whatsoever, which the undersigned may now have or which may hereafter accrue or develop, on account of or in any way growing out of any and all known and unknown, foreseen and unforeseen, bodily and personal injuries, and property damages, and any and all consequences thereof, relating to or resulting from an alleged accident that occurred on or about September 4, 2014 in Palm Beach County, Florida.

FURTHERMORE, the undersigneds agree that each party shall bear their own costs and attorney's fees, and the undersigneds shall bear sole responsibility for any and all property damage, hospital, physician, diagnostic, rehabilitation, training, maintenance, medical or pharmaceutical expenses, bills, statements, liens or subrogable interests, of any nature whatsoever, which are or may be outstanding and payable on the date of execution of this release, or which may be incurred and payable in the future. The undersigned further agrees to indemnify and save harmless the Releasees from any requests for payment or attempts for collection therefrom. Should legal action be instituted against the Releasees for payment or collection of the aforementioned expenses, the undersigneds agree to indemnify and save harmless the Releasees for any attorney's fees, costs and/or judgments which may be entered against the Releasees with respect to the collection of the medical bills.

FURTHERMORE, the undersigned Plaintiff, Tatyana Bell, agrees to hold harmless and indemnify the Defendant for any pre-settlement Medicare conditional payments and/or reimbursements demanded or required by the Medicare Secondary Payer Recovery Contractor (MSPRC), CMS, collection agencies, or any other governmental entity, currently known,

discovered, or demanded in the future.

FURTHERMORE, the undersigneds understand and agree that this settlement is the compromise of a doubtful and disputed claim, and that the payment made shall not be construed as an admission of liability on the part of the Releasees, and that the Releasees deny any liability therefore and merely intend to avoid further litigation and buy their peace.

FURTHERMORE, the undersigneds hereby declare and represent that any injuries sustained may be permanent and progressive and that recovery therefrom is uncertain and indefinite and in making this Release the undersigned understands and agrees that the undersigned relied wholly upon the undersigned's own judgment, belief and knowledge of the nature, extent, effect and duration of any injuries and liability therefore, without reliance upon any statement or representation by the Releasees, or by their representatives or by any physician or surgeon employed by them.

FURTHERMORE, the undersigneds state that while they hereby release any and all claims against the Releasees, and their officers, agents, employees, heirs, executors, administrators, successors and assigns, for both past and future losses, including medical expenses, health care expenses and related expenses, the necessity for future medical treatment and expenses incurred is speculative and unknown at this time and therefore, as a result, the undersigned reserve the right to pursue and recover all future medical expenses, health care expenses and related expenses, from any person, firm, or organization who may be responsible for payment of such expenses, including any first-party health or automobile insurance coverage, but such reservation specifically does not include the Releasees.

FURTHERMORE, notwithstanding the language contained in this Release, this release shall not be construed as releasing any medical providers for potential claims which may arise based upon treatment and care rendered as a result of the accident which is the subject of this Release. Moreover, this Release shall not be construed as releasing any health insurance carrier or other insurer from medical and lost wage benefits to which the Releasor is entitled.

THE UNDERSIGNEDS hereby declare that the undersigneds have completely read, fully understood and voluntarily accepted the foregoing Release of All Claims for the purpose of making a full and final compromise settlement and adjustment of any and all claims, disputed or otherwise, on account of the injuries and damages set forth above, and for the express purpose of precluding

forever any further or additional claims against the Releasees arising out of the aforementioned incident.

THE UNDERSIGNEDS hereby accept the tendered settlement draft as final payment of the consideration set forth above.

IN WITNESS HEREOF, I, Tatyana Bell, have hereunto set my hand and seal this _____ day of _____ 2021.

IN THE PRESENCE OF:

_____)
 WITNESS SIGNATURE

_____)
 TATYANA BELL

_____)
 (PRINT WITNESS' NAME)

STATE OF _____)
)
 COUNTY OF _____)

ss.

The foregoing two-page Release of All Claims was acknowledged before me, an officer duly authorized in the State and County aforesaid, to take acknowledgments, this _____ day of _____ 2021, by _____, in person / or virtually (circle on) who:

- is personally known to me; OR
- has produced _____, as identification;

and who

- did take an oath; OR
- did not take an oath.

and who executed the within Release of All Claims, and who acknowledged the within Release of All Claims to be freely and voluntarily executed for the purposes therein recited.

[seal]

_____)

_____)
 Notary Public in and for
 _____ County, _____)

My commission expires: _____)

STATEMENT OF ATTORNEY FOR RELEASOR

I, **M. Daniel Logan, Esq.** state that I am the attorney for Plaintiff, **Tatyana Bell** (hereinafter, "Plaintiff"), the above-signed Releasor; that I have explained to Plaintiff all the terms of this Release and the Settlement Agreement upon which it is based; and that Plaintiff has represented to me that he understands all the terms and their significance. Plaintiff has signed this Release knowingly, voluntarily and on my advice.

DATED this _____ day of _____ 2021.

M. Daniel Logan, Esquire
Florida Bar No.:
360 Columbia Drive, Suite 100
West Palm Beach, Florida 33409

BUDGET AVAILABILITY STATEMENT
RISK MANAGEMENT

REQUEST DATE: July 26, 2021

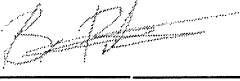
REQUESTED BY: County Attorney

REQUESTED FOR: Tatyana Bell vs. Palm Beach County

REQUESTED AMOUNT: \$90,000.00 AGENDA DATE: August 17, 2021

BUDGET ACCOUNT NUMBER:

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

BAS APPROVED BY:  DATE: 07/26/2021