

# MANATEE COUNTY GOVERNMENT

## AGENDA MEMORANDUM

<b>SUBJECT</b>	Evelyn Liberator v. Manatee County Date of accident: 2/5/2010	<b>TYPE AGENDA ITEM</b>	Consent
<b>DATE REQUESTED</b>	November 8, 2011	<b>DATE SUBMITTED/REVISED</b>	November 1, 2011
<b>BRIEFINGS? Who?</b>	No	<b>CONSEQUENCES IF DEFERRED</b>	Litigation will continue.
<b>DEPARTMENT/DIVISION</b>	County Attorney Office/ Risk Management Division	<b>AUTHORIZED BY TITLE</b>	Tedd N. Williams Jr., County Attorney <i>TNW</i>
<b>CONTACT PERSON TELEPHONE/EXTENSION</b>	Michael D. Terrell, Risk Manager <i>MDT</i> Ext. 3750	<b>PRESENTER/TITLE TELEPHONE/EXTENSION</b>	James R. Cooney, Assistant County Attorney Ext. 3750 <i>JRC</i>
<b>ADMINISTRATIVE APPROVAL</b>		<i>JNW 11/1/11</i>	

<b>ACTION DESIRED</b> INDICATE WHETHER 1) REPORT; 2) DISCUSSION; 3) FORM OF MOTION; OR 4) OTHER ACTION REQUIRED
Motion to authorize the County Attorney's Office to settle the claim of Evelyn Liberator for \$28,000.00 and allow the County Attorney or his designee to execute all related documents.

<b>ENABLING/REGULATING AUTHORITY</b> Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy
Florida Statute 768.28 or Florida Statute 440 and Manatee County Ordinance 08-49

<b>BACKGROUND/DISCUSSION</b>
<p>Evelyn Liberator is 57 years old and was employed as a custodian. She has a ninth grade education. On 2/5/10, she injured her low back while lifting trash out of a trash can. She was employed with Manatee County for 21 years. She was terminated on 5/19/2010.</p> <p>Ms. Liberator has been treated and evaluated by several physicians and medical personnel. Initially, she saw Dr. Cory Repp with U.S. Healthworks. The employee complained of low back pain. She had similar back pain in the past, having prior work related claims with the County. In this instance, the back pain was more severe. Dr. Repp's diagnosis was lumbar strain, left hip strain, sciatica and muscle spasms. Conservative treatment was provided consisting of medications, lumbar support, and moist heat application. Her MRI of 3/2/10 reflected positive findings including disc protrusion and annular tears. She was referred to an orthopedic spine surgeon, Dr. Michael Feiertag. His impression was bilateral lower extremity pain and right sciatica. His recommended treatment was back exercises, medication and a series of epidural steroid injections. The injections provided little relief and Ms. Liberator did not tolerate the pain medications. Dr. Feiertag opined that the industrial accident was the major contributing cause of her complaints, aggravating a preexisting back condition. Although Dr. Feiertag did not recommend surgery, it cannot be ruled out in the future. Dr. Feiertag placed Ms. Liberator at MMI on 8/30/10 with a 7% permanent impairment rating. She is receiving Social Security Disability benefits.</p> <p>Due to the employee's age, education and restrictions, she could pursue a Permanent Total Disability Claim. Although she had pre-existing back problems, none predate her employment with Manatee County. This would be a difficult claim to defend.</p> <p>The County Attorney's Office believes this settlement for \$27,900 (plus \$100 general release) is in the best interest of the Board and requests authorization to settle the claim. Authorization is also requested to allow the County Attorney or his designee to execute all related documents.</p>

<b>COUNTY ATTORNEY REVIEW</b>		<b>APPROVED IN OPEN SESSION</b>
<b>Check appropriate box</b>		NOV 08 2011
<input type="checkbox"/>	<b>REVIEWED</b> Written Comments:	<b>BOARD OF COUNTY COMMISSIONERS</b> MANATEE COUNTY, FLORIDA

Check appropriate box	
<input type="checkbox"/>	<b>REVIEWED</b> Written Comments: <input type="checkbox"/> Attached <input type="checkbox"/> Available from Attorney (Attorney's initials: _____)
<input type="checkbox"/>	<b>NOT REVIEWED (No apparent legal issues.)</b>
<input type="checkbox"/>	<b>NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)</b>
<input checked="" type="checkbox"/>	<b>OTHER This is a County Attorney item</b>

<b>ATTACHMENTS: (List in order as attached)</b>		<b>INSTRUCTIONS TO BOARD RECORDS:</b>	
HIPPA-Compliant Release		Please return a copy of the approved agenda to Risk Management ✓ 11-9-11 vq	
<b>COST:</b>	\$	<b>SOURCE (ACCT # &amp; NAME):</b>	
<b>COMMENTS:</b>		<b>AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)</b>	

**HIPAA-COMPLIANT AUTHORIZATION  
FOR RELEASE OF MEDICAL, PERSONNEL  
AND EMPLOYMENT INFORMATION**

By signing this Authorization, I hereby authorize the MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS ("BOCC") to use and/or have disclosed to it certain medical, personnel and employment information as set forth below pertaining to the following individual:

Name: EVELYN LIBERATOR

DOB: 12/29/53

SSN: [REDACTED]

Claim: Evelyn Liberator v. Manatee County  
OJCC Case No.:10-020783DBB

Description of medical, personnel and employment information to be released:

**A copy of the entire medical, personnel and employment records related to EVELYN LIBERATOR to be used or disclosed as set forth in this Authorization, including but not limited to records regarding any and all psychological/psychiatric diagnoses, conditions, illnesses, or treatment; provided, however, that those records are directly related to the workers' compensation claim as noted above.**

**A copy of the entire personnel and employment records and/or workers' compensation files related to the above-named Employee to be used or disclosed as set forth in this Authorization, including but not limited to records regarding any and all applications for employment, wages and benefits, disciplinary matters, job description(s), physical examination reports, medical records, correspondence, notes, and every other document pertaining to the above-named employee.**

I understand that this Authorization is voluntary.

I authorize this information to be disclosed to the BOCC and its attorneys for the purposes of the BOCC's review, discussion and consideration of my proposed workers' compensation settlement. I authorize the BOCC to discuss these records and matters in open session.

I understand the information used or disclosed pursuant to this Authorization will be subject to re-disclosure by the recipient and no longer subject to applicable privacy laws or regulations.

This Authorization shall be effective for the entire duration of the legal matters related to the above-referenced workers' compensation claim.

This Authorization shall expire upon the conclusion of the legal matters related to the above-referenced workers' compensation claim.

I understand that I have the right to revoke this Authorization at any time in writing, except to the extent that the BOCC and or its attorneys has/have already acted in reliance on the Authorization. I can revoke this Authorization by providing a written revocation to the Manatee County Attorney's Office, P.O. Box 1000, Bradenton, FL 34206-1000, Attention: Privacy Officer.

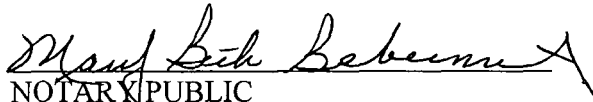
A photocopy, facsimile, or electronically transmitted version of the signed original of this Authorization shall have the same validity as the original.

Signature:

  
EVELYN LIBERATOR

STATE OF FLORIDA  
COUNTY OF MANATEE

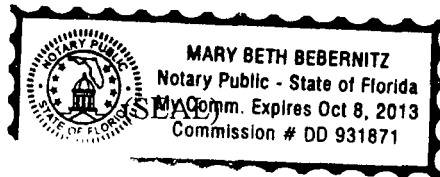
BEFORE ME, the undersigned authority duly authorized to administer oaths and take acknowledgments, personally appeared **EVELYN LIBERATOR**, who  is personally known to me or  was identified by driver's license number \_\_\_\_\_ on this 20 day of April, 2011, who, upon being duly sworn, signed the foregoing in my presence.

  
NOTARY PUBLIC  
State of Florida

Printed Name: MARY BETH BEBERWITZ

Commission Number: 931871

My Commission Expires: Oct 8, 2013



STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS  
OFFICE OF THE JUDGE OF COMPENSATION CLAIMS  
SARASOTA DISTRICT OFFICE

EMPLOYEE/CLAIMANT:	ATTORNEY FOR EMPLOYEE/CLAIMANT:
Evelyn Liberator 4029 27th Ave. W. Bradenton, FL 34205-1202	Heather H. Jones, Esq. Morgan & Morgan, P.A. 201 N. Franklin St., 7th Floor Tampa, FL 33602-5182
EMPLOYER:	ATTORNEY FOR EMPLOYER/CARRIER/ SERVICING AGENT:
Manatee County P.O. Box 1000 Bradenton, FL 34206-1000	Daniel J. DeMay, Esq. Pallo, Marks, Hernandez, Gechijian & DeMay, P.A. 5652 Marquesas Circle Sarasota, FL 34233-3331
CARRIER/SERVICING AGENT:	
Commercial Risk Management, Inc. P.O. Box 18366 Tampa, FL 33679-8366	D/A: February 5, 2010 OJCC Case No.: 10-020783DBB VENUE: Manatee County JUDGE: Diane B. Beck

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**STIPULATION & RELEASE IN EXCHANGE FOR LUMP SUM SETTLEMENT  
UNDER § 440.20(11)(c), (d) & (e), FLORIDA STATUTES (2003)**

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THE ABOVE-NAMED PARTIES hereby seek approval of the following agreement made for the specific purpose of discharging the Employer/Carrier/Servicing Agent from any further liability for all past and future benefits under the Florida Workers' Compensation Law in exchange for the payment of a lump sum of money to the Claimant. The parties, therefore, stipulate as follows:

1. **PARTIES:** The parties to this Stipulation & Release are **EVELYN LIBERATOR** (hereinafter "Employee," "Claimant," or "Employee/Claimant"), **MANATEE COUNTY, MANATEE COUNTY BOARD OF**

COUNTY COMMISSIONERS, and COMMERCIAL RISK MANAGEMENT, INC., (hereinafter "Employer/Carrier/Servicing Agent"). The parties are sui juris. The parties acknowledge that counsel for the Employer/Carrier/Servicing Agent is authorized to execute this Stipulation & Release on behalf of the Employer/Carrier/Servicing Agent.

2. DESCRIPTION OF ACCIDENT: On or about 2/5/10 the Employee contends she was injured by accident as contemplated under § 440.02(1), Fla. Stat. (2003), arising out of and in the course of employment with the Employer in Manatee County, Florida, when she was lifting a bag of trash and felt pain in her back, thereby injuring her low back. However, the parties hereby stipulate and agree that it is their express intent that this instant Stipulation & Release shall pertain to and cover any and all industrial accidents, injuries, exposures and occupational diseases that the Claimant sustained while in the employ of the Employer from the beginning of time up to and inclusive of the date that the last party hereto executes this Stipulation & Release, regardless of whether the parties have specifically identified each and every accident, injury, exposure and occupational disease in this instant Stipulation & Release. References in this Stipulation & Release to a specific accident or injury shall mean any and all accidents, injuries, exposures and occupational diseases that the Claimant may have sustained while in the employ of the Employer.

3. ELECTION OF REMEDY AND RELEASE OF EMPLOYER

LIABILITY: By entering into this settlement agreement, the parties stipulate that the Claimant has elected workers' compensation, and not tort liability, as the exclusive remedy. The parties further stipulate that as additional consideration for the payment of the settlement amount by the Employer/Carrier/Servicing Agent, the Claimant releases, waives, and settles any and all Employer liability (Coverage B and Coverage 2) causes of action.

4. AVERAGE WEEKLY WAGE AND COMPENSATION RATE: At the time of the injury specifically identified in paragraph 2, above, the Claimant's average weekly wage was \$553.20, thus making the compensation rate \$368.82 per week.

5. MAXIMUM MEDICAL IMPROVEMENT: According to the 2001 amendments to the Workers' Compensation Act, the parties may enter into this Stipulation & Release without the Claimant having reached maximum medical improvement as a condition precedent. Therefore, the parties have not undertaken an effort to determine whether the Claimant has reached MMI. Nonetheless, the Claimant desires to enter into this Stipulation & Release and the Claimant fully understands that her medical condition may not yet be stable and that she may not yet be fully recovered from the effects of her industrial accidents, injuries, exposures or occupational diseases. With that express understanding, the Claimant nevertheless wishes to enter into this Stipulation & Release.

6. SETTLEMENT AMOUNT AND DISCHARGE FROM LIABILITY FOR

PAST AND FUTURE COMPENSATION AND MEDICAL BENEFITS: In consideration for the Claimant's release of the Employer/Carrier/Servicing Agent, the Employer/Carrier/Servicing Agent will pay and the Claimant agrees to accept the sum of \$27,900 in full and final satisfaction of the obligation or liability to pay all benefits of whatever kind or classification available under the Florida Workers' Compensation Law including, but not limited to, future medical benefits, monetary compensation as contemplated under § 440.15, Fla. Stat., impairment benefits, death benefits, attorney's fees, past medical benefits and rehabilitation temporary total disability benefits under § 440.491, Fla. Stat., on account of all alleged accidents, injuries, exposures and occupational diseases referenced herein. The net settlement, after deduction of attorney's fees in the amount of \$3,540, is \$24,360, less costs, which shall be allocated as follows:

(a) Past and future compensation benefits	:	\$ 6,360
(b) Past medical expenses	:	-0-
(c) Future medical expenses	:	3,612
(d) Medicare Set-Aside Arrangement	:	14,388
(e) Rehabilitation expenses	:	-0-
(f) Other	:	-0-
<b>TOTAL</b>	:	<b>\$24,360</b>



Notwithstanding this Release of the Employer/Carrier/Servicing Agent, the Claimant understands that she retains the right to apply for training and education provided by the Division of Workers' Compensation.

Upon the date the Judge of Compensation Claims enters the Order approving the attorney's fees and child support allocation herein, the Employer/Carrier/Servicing Agent will be forever released and discharged from the obligation or liability to pay any and all benefits of whatever kind or classification payable under the Florida Workers' Compensation Law.

7. **ESTABLISHMENT OF MEDICARE SET-ASIDE TRUST:** The parties agree that the Claimant will allocate a portion of the foregoing lump sum payment for the purpose of establishing and funding a separate Workers' Compensation Medicare Set-Aside Arrangement ("WCMSA"). The parties agree that the Claimant will allocate \$14,388 of the lump sum settlement for that purpose. The parties agree and understand that this Stipulation & Release is contingent upon approval of the WCMSA by the Centers for Medicare & Medicaid Services (CMS), except as otherwise noted in this section. The parties also agree that the Claimant will self-administer the WCMSA. Attached hereto and incorporated herein is Exhibit "A," which describes in greater detail the parties' rights and obligations under said WCMSA. In addition, the Claimant acknowledges that she has received, reviewed and agrees with the

"Terms and Conditions for Beneficiary-Administered Medicare Set-Aside Arrangement," as more particularly described in Exhibit "B," which is attached hereto and incorporated herein. The parties understand that the Centers for Medicare & Medicaid Services ("CMS") will not give final approval of the proposed WCMSA until after CMS has received fully executed copies of this instant Stipulation & Release, Exhibits "A" and "B," and such other documentation that CMS may require.

In addition, the Claimant agrees that she will fully cooperate with the Employer/Carrier/Servicing Agent and their attorneys as regards the execution of any and all releases that they may require in order to communicate with the Claimant's physicians, CMS, the Social Security Administration, and any other persons or entities, in connection with the preparation of a WCMSA allocation report, and also in order to obtain final CMS approval of a proposed WCMSA. A copy of the proposed WCMSA is attached hereto as Exhibit "C".

The Claimant agrees to release, hold harmless and indemnify the Employer/Carrier/Servicing Agent in the event the Claimant fails to properly establish, fund and/or properly self-administer the WCMSA. The Claimant further agrees to reimburse the Employer/Carrier/Servicing Agent for any and all sums that Medicare, CMS, or any of its/their agencies, may seek from the Employer/Carrier/Servicing Agent for the Claimant's failure to

properly establish, fund and/or properly self-administer the WCMSA, including any court costs and attorneys' fees.

The Claimant accepts full responsibility for reimbursing Medicare for any and all conditional or provisional payments that Medicare has made or may make on the Claimant's behalf for services and/or other expenses causally related to the industrial accident. The Claimant further agrees to indemnify, release and hold harmless the Employer/Carrier/Servicing Agent and their attorneys with regard to reimbursement to Medicare for any and all conditional or provisional payments made by Medicare or to be made by Medicare on the Claimant's behalf for services and/or other expenses causally related to the industrial accident.

The parties further agree to be bound by the terms of this Stipulation & Release in the event that CMS fails or refuses to approve a WCMSA in an amount up to \$14,388 on the basis that the negotiated settlement does not meet the current review threshold criteria as established by CMS. In that case, the parties agree to waive the above-described contingency that requires CMS approval of the WCMSA. Nevertheless, the Claimant acknowledges her responsibility to protect Medicare's interests and agrees to release, hold harmless and indemnify the Employer/Carrier/Servicing Agent in the event that she fails to do so.

8. **ATTORNEY'S FEES PAYABLE BY CLAIMANT AND WAIVER:** The Claimant has been represented by HEATHER H. JONES, ESQ., MORGAN &

MORGAN, P.A., in connection with this matter, who is entitled to a fee for legal services rendered. The parties agree that \$3,540 is a reasonable fee for such services and is within the guidelines for the determination of a reasonable fee as set forth in § 440.34(1), Fla. Stat. Notwithstanding the provisions of § 440.34(3)(a)-(d), Fla. Stat., the Claimant alone and not the Employer/Carrier/Servicing Agent is responsible for the payment of her own attorney's fees and costs because this settlement was made under § 440.20(11)(c), (d) & (e). The Employer/Carrier/Servicing Agent owe no attorney's fees or costs to the Claimant's attorney. The fee shall be paid from the gross settlement proceeds, thereby making the net settlement amount \$24,360, less costs and less the CMS approved amount to be used by the Claimant to fund a WCMSA.

The Claimant further affirms that she has not been represented by any other attorneys in connection with this workers' compensation matter. However, the Claimant stipulates that she alone, and not the Employer/Carrier/Servicing Agent, shall be responsible for the satisfaction of any attorney fee liens which have been maintained or asserted by any and all attorneys and law firms who or which may have represented the Claimant in connection with this workers' compensation matter. The Claimant further agrees that she shall release, hold harmless and indemnify the Employer/Carrier/Servicing Agent with regard to any and all liens for attorneys' fees and costs in this matter.

9. CLAIMANT RESPONSIBLE FOR HEALTH INSURANCE LIENS: The Claimant agrees that she is and will remain responsible for any and all liens imposed by group health insurance carriers and administrators. The Claimant further agrees to release, hold harmless and indemnify the Employer/Carrier/Servicing Agent with respect to any such liens.

10. PRESENT WORTH AND POSSIBLE OFFSET FOR SOCIAL SECURITY DISABILITY BENEFITS CONSIDERED: In reaching this agreement, the parties have considered the present value of all future payments of indemnity benefits, impairment benefits, medical benefits and death benefits potentially payable to the Claimant under the Florida Workers' Compensation Act on account of the accidents, injuries, exposures or occupational diseases referenced herein. The Claimant was born on 12/29/53 and her life expectancy is 26.7 years or 1388.4 weeks. When the lump sum payment herein is prorated on a weekly basis over the Claimant's life expectancy, the lump sum is equal to payment of future benefits at a rate of \$20.10 per week. This periodic repayment schedule results in a substantial loss to the Claimant on a consistent basis. Taking that into consideration, the parties hereby agree that those weekly payments are the same as if the lump sum would have been paid to the Claimant at a rate of \$20.10 per week over her expected lifetime. The same is true for the lump-sum payment of future medical benefits which, when reduced to present value, the parties

from legal counsel of her choosing or directly from the Social Security Administration or other governmental agencies regarding the impact this Stipulation & Release may have on the Claimant's present or future entitlement to Social Security or other governmental benefits. Notwithstanding the foregoing, the Claimant desires to enter into the terms of this Stipulation & Release.

This settlement agreement represents a compromise of both undisputed and controverted entitlement to future workers' compensation medical care at the expenses of the Employer and/or Carrier/Service Agent pursuant to §§ 440.13 and 440.134, Fla. Stat. Considerable attention has been given to the Claimant's entitlement to Social Security Disability Benefits pursuant to 42 U.S.C. § 423 and receipt of Medicare benefits under 42 U.S.C. § 1395, as well as the Healthcare Financing Administration's entitlement to subrogation and intervention rights pursuant to 42 C.S.R. subpart C, to recover any overpayment made by Medicare.

Further, the Claimant acknowledges that there may be some type of Social Security Disability, Medicaid and/or Medicare offset with respect to any sum of medical or indemnity benefits that the Claimant is receiving.

The Claimant accepts full responsibility for reimbursing Medicare for any and all conditional or provisional payments that Medicare has made or may make on the Claimant's behalf for services and/or other expenses causally related to the industrial accident.

agree is equal to \$18,000. The lump-sum consideration given for the settlement of future medical benefits is the same as if the lump sum would have been paid to the Claimant at a rate of \$12.96 per week over her expected lifetime. The Employer/Carrier/Servicing Agent's right to offset workers' compensation indemnity and medical benefits due under Florida Workers' Compensation Act against benefits payable on account of total disability under Chapter 42, *United States Code*, including benefits payable under Medicare, also is included in these calculations and has been considered by the parties in reaching this agreement.

The Claimant acknowledges that she has not relied on any representations, advice or counsel of the Employer or Carrier/Servicing Agent, their attorneys, agents or adjusters regarding the Claimant's entitlement to Social Security, Medicare or Medicaid benefits or the impact the terms of this Stipulation & Release may have on such benefits. The Claimant further acknowledges that any decision regarding entitlement to Social Security, Medicare or Medicaid benefits, including the amount and duration of payments and offset or reimbursement for prior payments, is exclusively within the jurisdiction of the Social Security Administration, the United States Government, and the United States federal courts and is determined by federal law. As such, the United States Government is not bound by any terms of this Stipulation & Release. The Claimant has been apprised of her right to seek assistance

The Claimant further agrees to indemnify, release and hold harmless the Employer/Carrier/Servicing Agent and their attorneys with regard to reimbursement to Medicare for any and all conditional or provisional payments made by Medicare or to be made by Medicare on the Claimant's behalf for services and/or other expenses causally related to the industrial accident.

The Claimant further acknowledges that if Chapter 440, Florida Statutes, as amended effective October 1, 2003, is found to be unconstitutional, her benefits could be greater than the benefits available to her at the time of this instant settlement. Knowing this, the Claimant nevertheless chooses to settle her case as set forth herein in this instant Stipulation & Release.

11. WAIVER OF PENALTIES AND INTEREST: The Claimant does hereby waive any right she may have to any and all penalties or interest on account of the alleged accident, injury, exposure or occupational disease referenced herein. The Claimant does not waive penalties and interest on late payment of the settlement proceeds.

12. WAIVER OF RIGHT TO HAVE CASE HEARD BY JUDGE OF COMPENSATION CLAIMS AND RIGHT TO BRING PETITION FOR MODIFICATION: The Claimant understands that she does hereby relinquish the right to have any unresolved conflicts or disputes involving the right to monetary compensation benefits, impairment benefits, death benefits, attorney's fees, past medical benefits, future medical



benefits and rehabilitation benefits heard and decided by a Judge of Compensation Claims. The Judge will only retain the authority to hear and decide any issues involving disputes regarding this agreement.

This agreement shall not be subject to modification under § 440.28, Fla. Stat., or under any other statutory or case law authority. In the event this Stipulation & Release is later set aside, overturned, or reopened for any reason, then the Employer/Carrier/Servicing Agent are entitled to an offset of the benefits provided according to this Stipulation against any past or future monetary compensation or medical benefits or any category deemed to be due or to be paid for any past or future time period, without the limitations imposed by § 440.15(12), Fla. Stat. (2005). In the event that any part of this Stipulation & Release is ruled unconstitutional or contrary to statute or public policy, then only that part of the Stipulation & Release shall be stricken or severed from the Stipulation & Release without affecting the remaining portions of the Stipulation & Release.

The Claimant further acknowledges that if Chapter 440, Florida Statutes, as amended effective October 1, 2003, is found to be unconstitutional, her benefits could be greater than the benefits available to her at the time of this instant settlement. Knowing this, the Claimant nevertheless chooses to settle her case as set forth herein in this instant Stipulation & Release.

13. ALL KNOWN ACCIDENTS, INJURIES, AND OCCUPATIONAL DISEASES REVEALED AND ALL PENDING CLAIMS WITHDRAWN: The Claimant represents and affirms that all accidents, injuries, exposures and occupational diseases known to have occurred to or been sustained by her while in the employ of the Employer herein have been revealed. All known claims or pending claims pertaining to any and all such accidents, injuries, exposures and occupational diseases are voluntarily withdrawn with prejudice and all notices of denial pertaining thereto are hereby voluntarily withdrawn.

14. EMPLOYER GIVEN FORMAL NOTICE OF PROPOSED LUMP-SUM SETTLEMENT: The parties represent that the terms and conditions of this settlement have been disclosed to the Employer as is required under § 440.20(11)(b), Fla. Stat. (2003). A copy of the letter giving the Employer notice of the terms and conditions of this settlement is attached.

15. STIPULATION NOT SUBJECT TO APPROVAL OF JUDGE OF COMPENSATION CLAIMS: The parties clearly understand that this Stipulation & Release will neither be submitted to nor considered by a Judge of Compensation Claims. However, the parties will seek the Judge of Compensation Claims' approval of a Joint Motion for Approval of Attorney's Fees and Allocation of Child Support Arrearage, which Joint Motion the parties agree will be filed by counsel for the Employer/Carrier/Servicing Agent after this Stipulation & Release has been executed by all parties, subject

also to the Claimant's execution of additional documents as may be required by the Employer/Carrier/Servicing Agent. The Claimant understands that motions for attorneys' fees have been routinely disapproved by Judges in the past and that she should not undertake financially binding actions until formal approval is obtained.

In the event this Stipulation & Release are later set aside, overturned, or reopened for any reason, then the Employer/Carrier/Servicing Agent reserve the right to assert any and all defenses available to them, and are entitled to an offset of the benefits provided according to this Stipulation against any past or future monetary compensation or medical benefits or any category deemed to be due or to be paid for any past or future time period, without the limitations imposed by § 440.15(12), Fla. Stat. (2005). In the event that any part of this Stipulation & Release are ruled unconstitutional or contrary to statute or public policy, then only that part of the Stipulation & Release shall be stricken or severed from the Stipulation & Release, without affecting the remaining portions of the Stipulation & Release.

16. CLAIMANT HAS RECEIVED ADVICE AND COUNSEL: The Claimant hereby represents and acknowledges that she has had ample opportunity to consult with and has been fully advised by her attorney of the binding nature and import, expressed and implied, of the contents of this Stipulation & Release and that she has freely and voluntarily executed this Stipulation & Release without

compulsion whatsoever. The Claimant represents that nothing has been promised to her, other than the sums described hereinabove, in exchange for her Stipulation & Release of the Employer/Carrier/Servicing Agent. The Claimant has had an opportunity to fully review this Stipulation & Release and has had the opportunity to discuss all aspects of their legal significance with her attorney. The Claimant fully and completely understands the legal significance of this agreement.

17. **ENTIRE AGREEMENT:** This Stipulation & Release contain the entire agreement between the parties and all previous negotiations leading to execution of this Stipulation & Release. In the event of a conflict between the terms or provisions of this Stipulation & Release and the terms or provisions of any prior agreement(s), the terms and provisions of this Stipulation & Release shall control and supercede the terms and provisions of the prior agreement(s).

18. **APPROVAL REQUIRED BY OFFICE OF MANATEE COUNTY ATTORNEY:** The parties agree and understand that this Stipulation & Release is contingent upon approval of its terms by the Office of the Manatee County Attorney. If the Manatee County Attorney or his designee fails or refuses to approve the terms of the agreement, then this Stipulation & Release and any prior agreement pertaining to same shall be deemed to be null and void *ab initio*.

19. **BOARD APPROVAL REQUIRED:** The parties agree and understand that this agreement is contingent upon approval of its terms by the Manatee County Board of County Commissioners. If the Board fails or refuses to approve the terms of the agreement, then this Stipulation & Release and any prior agreement pertaining to same shall be deemed to be null and void *ab initio*.

20. **OBLIGATION UNDER FLORIDA PUBLIC RECORDS LAWS:** Upon execution of this Stipulation & Release, the Claimant warrants, represents, understands and agrees that any information contained within will be subject to disclosure by the parties herein and subject to further disclosure by others, under the Florida Public Records Laws and the Constitution of the State of Florida, and is not protected by any privacy laws or regulations.

21. **PAYMENT DUE:** The Employer/Carrier/Servicing Agent shall issue the aforementioned lump sum payment to the Claimant in care of her attorney no later than 30 days after the Judge of Compensation Claims has entered a signed and conformed Order Under § 440.20(11)(c), (d) & (e), Fla. Stat. (2003) with DOAH. Payment shall be deemed complete upon mailing via the United States Postal Service or its substantial equivalent, or via hand delivery, or via electronic banking deposit, at the election of the Employer/Carrier/Servicing Agent.

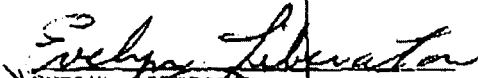
22. **COUNTERPARTS:** This Agreement may be executed in counterparts and all so executed shall constitute an agreement

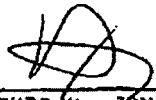
binding on all the parties hereto, notwithstanding that all the parties hereto are not signatories to the original or to the same counterpart. Facsimile signatures shall be as effective as original signatures.

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Morgan & Morgan, P.A.  
201 N. Franklin St.  
7th Floor  
Tampa, FL 33602-5182  
813-223-5505

  
EVELYN LIBERATOR  
Employee/Claimant

  
By: HEATHER H. JONES, ESQ.  
Fla. Bar No.: 118974  
Attorneys for Employee/  
Claimant

Dated: \_\_\_\_\_

Dated: Oct 5, 2011

Manatee County Attorney's Office  
P.O. Box 1000  
Bradenton, FL 34206-1000  
941-745-3750

Pallo, Marks, Hernandez,  
Gechijian & DeMay, P.A.  
5652 Marquesas Circle  
Sarasota, FL 34233-3331  
941-328-6200

By: TEDD N. WILLIAMS, JR., ESQ.  
County Attorney  
(or his designee)  
Fla. Bar No.: 176930  
Attorney for Employer

By: DANIEL J. DEMAY, ESQ.  
Fla. Bar No.: 764728  
Attorneys for Employer/  
Carrier/Servicing Agent

A F F I D A V I T

State of Florida  
County of Hillsborough

BEFORE ME, the undersigned authority duly authorized to administer oaths and take acknowledgments, personally appeared EVELYN LIBERATOR, who  is personally known to me or  was identified by driver's license number \_\_\_\_\_ on this 28 day of September, 2011, and who, upon being duly sworn, certifies that the information furnished by her as incorporated in the foregoing Stipulation & Release is true and correct and that she has  read the Stipulation & Release or  had the Stipulation & Release read to her and believes the lump sum settlement to be in her best interest.

  
\_\_\_\_\_  
Notary Public

**SAMANTHA LUMPKIN**  
Notary Public, State of Florida  
My Comm. Expires Nov. 17, 2012  
No. DD838912

State of: Florida  
Printed name: Samantha Lumpkin  
Commission No.: DD838912  
My commission expires: 11/17/2012

(SEAL)

## Pati Kopke

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**From:** james.cooney@mymanatee.org  
**Sent:** Monday, November 07, 2011 9:06 AM  
**To:** marianne.lopata@mymanatee.org  
**Cc:** Pati Kopke; Susan Romine; Vicki Tessmer  
**Subject:** RE: Agenda Items 10 & 11

Thank you all.

James R. Cooney  
Deputy County Attorney  
Manatee County, Florida

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**From:** Marianne Lopata/MCG  
**To:** Susan Romine <susan.romine@ManateeClerk.com>  
**Cc:** "james.cooney@mymanatee.org" <james.cooney@mymanatee.org>, Pati Kopke <Pati.Kopke@ManateeClerk.com>, Vicki Tessmer <vicki.tessmer@ManateeClerk.com>  
**Date:** 11/07/2011 07:45 AM  
**Subject:** RE: Agenda Items 10 & 11

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Thanks Susan.

The page with the SSN is redacted and the DL page is deleted from the online docs.

Jim, back to you...

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**From:** Susan Romine <susan.romine@ManateeClerk.com>  
**To:** "marianne.lopata@mymanatee.org" <marianne.lopata@mymanatee.org>  
**Cc:** Vicki Tessmer <vicki.tessmer@ManateeClerk.com>, "james.cooney@mymanatee.org" <james.cooney@mymanatee.org>, Pati Kopke <Pati.Kopke@ManateeClerk.com>  
**Date:** 11/07/2011 06:03 AM  
**Subject:** RE: Agenda Items 10 & 11

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Marianne,

First -are the images out of the online agenda documents?

11/7/2011



The first package (10) - You can submit, ASAP, a new package with the SSN redacted.

The second package (11) - you can submit, ASAP, a new package without the DLs.

We will exchange those pages, or you can watch us shred those pages (Juvenile has a shredder).

Jim, does that meet your requirements?

Thanks you,  
Susan Romine  
Board Records Director  
For R.B. "Chips" Shore  
Manatee County Clerk of the Circuit Court & Comptroller  
[www.ManateeClerk.com](http://www.ManateeClerk.com)  
susan.romine@manateeclerk.com  
941.741.4018  
"Pride in Service with a Vision to the Future"

**From:** marianne.lopata@mymanatee.org [<mailto:marianne.lopata@mymanatee.org>]  
**Sent:** Friday, November 04, 2011 4:52 PM  
**To:** Susan Romine  
**Cc:** Vicki Tessmer; james.cooney@mymanatee.org  
**Subject:** Agenda Items 10 & 11

Hi Susan, it was discovered that documents within these two agenda items contained personal information that may not be appropriate for inclusion in the official record.

Item 10: The document "HIPAA-Compliant Authorization..." lists the claimant's SSN  
Item 11: Copies of Driver's Licenses (used as ID for the notary) are included

Could you please review these packets and provide your thoughts on these items?

Thank you,  
Marianne

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Florida has a very broad Public Records Law. This agency is a public entity and is subject to Chapter 119 of the Florida Statutes, concerning public records. E-mail communications are covered under such laws & therefore e-mail sent or received on this entity's computer system, including your e-mail address, may be disclosed to the public or media upon request.