

July 30, 2013 - Regular Meeting
Agenda Item #15

Subject

John O'Reilly v. Manatee County BOCC OJCC# 11006344DBB

Briefings

None

Contact and/or Presenter Information

Raymond Carter, Risk Manager
JoAnn Gallo, Adjuster
x 3750

APPROVED in Open Session
July 30, 2013
Manatee County Board of County
Commissioners

Action Requested

Motion to approve a settlement in the matter of John O'Reilly v. Manatee County, in the amount of \$45,000 and to authorize the County Attorney or his designee to execute all related documents.

Enabling/Regulating Authority

Manatee County Ordinance 08-49; Chapter 440, Florida Statutes

Background Discussion

The claimant is 50 years old. He was hired on 8/11/2008. He was in the course and scope of his employment when he suffered an injury on 8/27/2008. A trailer dropped on his right leg resulting in a fracture of his tibia/fibula.

Medical treatment:

Open reduction and internal fixation was performed by Dr. Connolly, orthopedic surgeon. Due to the subsequent non-union healing of the fracture, the claimant came under the care of Dr. Herscovici, orthopedic surgeon, who performed surgery in order to graft and plate the non-union. Because Mr. O'Reilly was experiencing chronic pain, treatment was later transferred to Dr. Rivera and Dr. Bundschu, pain management specialists. The diagnosis was still chronic neuropathic pain, secondary to neuropraxia (loss of motor and sensory function). Claimant continues prescribed medication for chronic pain. A trial cord stimulator was recommended and provided by Dr. Bundschu. The claimant was not pleased with the results of the trial and refused a permanent stimulator. Dr. Bundschu discharged him.

Litigation:

The claimant's counsel is Allyson Battaglia. A Petition for Benefits was filed requesting a new physician. The claimant refused to see him. The claim was mediated with both parties present on 6/11/2013. The parties agreed to a global settlement in the amount of \$45,000, contingent upon Board of County Commissioners' approval. This includes a general release for \$100.

Exposure analysis:

Indemnity: 14 weeks of temporary benefits = \$4,211.48.

Medical: The annual medical expense has averaged \$17,215.15. His life expectancy is approximately 24.8

years which provides for full value of medical at \$426,936.

The County Attorney's Office believes this settlement is in the best interest of the County. Medical and litigation costs continue, in the absence of a settlement.

County Attorney Review

Other (Requires explanation in field below)

Explanation of Other

This is a County Attorney item.

Reviewing Attorney

N/A

Instructions to Board Records

Please return a copy of the approved agenda to Risk Management, attention Ray Carter (raymond.carter@mymanatee.org). 7/31/13 QA Emailed stamped memo to Ray Carter

Cost and Funds Source Account Number and Name

\$45,000, Fund 5050001300 Object code 524000 Workers' Compensation

Amount and Frequency of Recurring Costs

One time payment

Attachment: [O'Reilly Settlement.pdf](#)

Attachment: [O'Reilly General Release.pdf](#)

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

EMPLOYEE/CLAIMANT:

John O'Reilly, Jr.
11506 Walden Loop
Parrish, FL 34219-7565

EMPLOYER:

Manatee County
P.O. Box 1000
Bradenton, FL 34206-1000

CARRIER/SERVICING AGENT:

Commercial Risk Management, Inc.
P.O. Box 18366
Tampa, FL 33679-8366

ATTORNEY FOR EMPLOYEE/CLAIMANT:

Alyson Battaglia, Esq.
Legler & Flynn
2027 Manatee Avenue West
Bradenton, FL 34205-5836

ATTORNEY FOR EMPLOYER/CARRIER/
SERVICING AGENT:

Daniel J. DeMay, Esq.
Pallo, Marks, Hernandez, Gechijian & DeMay, P.A.
5652 Marquesas Circle
Sarasota, FL 34233-3331

D/A: August 27, 2008
OJCC Case No.: 11-006344DBB
VENUE: Manatee County
JUDGE: Diane B. Beck

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

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 **JOHN O'REILLY, JR.** (hereinafter "Employee," "Claimant," or "Employee/Claimant"), **MANATEE**

COUNTY, MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS and COMMERCIAL RISK MANAGEMENT, INC. (hereinafter "Employer/Carrier/Service Agent"). The parties are *sui juris*.

2. **DESCRIPTION OF ACCIDENT:** On or about 8/27/08, the Employee contends he 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 he was connecting a trailer to a truck. The trailer slid off, causing an I-beam to fall onto the Claimant's right lower leg, and thereby causing injuries to his right calf, ankle and foot. 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 against the Employer. The parties further stipulate that as additional consideration for the payment of the settlement amount by the Employer/Carrier/Service 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 8/27/08 injury specifically identified in paragraph 2, above, the Claimant's average weekly wage was \$451.20, thus making the compensation rate \$300.82 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 his medical condition may not yet be stable and that he may not yet be fully recovered from the effects of his 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/Service Agent, the Employer/Carrier/Service Agent will pay and the Claimant agrees to accept the sum of \$44,900 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 \$5,240, is \$39,660, less costs, which shall be allocated as follows:

(a)	Past and future compensation benefits	: \$ 14,660
(b)	Past medical expenses	: -0-
(c)	Future medical expenses	: 25,000
(d)	Rehabilitation expenses	: -0-
(e)	Other	: -0-
	NET TO CLAIMANT	: \$ 39,660

Notwithstanding this Release of the Employer/Carrier/Service Agent, the Claimant understands that he retains the right to apply for training and education provided by the State of Florida.

The parties agree that upon the date the Judge of Compensation Claims enters the Order approving the attorney's fees and child support allocation herein, the Employer/Carrier/Service 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, both past and future, which may result from the claim herein as well as any additional or new workers' compensation claims that the Claimant may pursue against any past or subsequent employers that involve(s) injury, reinjury, aggravation of the injuries claimed in this case, whether they are of a temporary or permanent basis, and for which a claim for contribution, reimbursement and/or exoneration is made pursuant to § 440.42(4), Fla. Stat.

Should any claims be made against the Employer/Carrier/Service Agent for contribution, exoneration or apportionment pursuant to § 440.42(4), Fla. Stat., the Claimant agrees to indemnify

and hold the Employer/Carrier/Servicing Agent harmless from and against any such claims and agrees to reimburse the Employer/Carrier/Servicing Agent for any and all costs, expenses, including attorney's fees and/or sums that the Employer/Carrier/Servicing Agent may incur or be compelled to pay by way of court order and/or settlement.

In any such action by any person, party, employer, carrier or servicing agent, the Employer/Carrier/Servicing Agent herein will have the right to defend themselves and/or settle such actions that may arise from a claim pursuant to § 440.42(4), Fla. Stat., and the Claimant herein agrees that these actions undertaken by the Employer/Carrier/Servicing Agent herein shall not affect the Claimant's duty to indemnify and hold the Employer/Carrier/Servicing Agent harmless for their costs and/or attorney's fees, or for any amounts paid, including any settlement.

7. **ATTORNEY'S FEES PAYABLE BY CLAIMANT AND WAIVER**: The Claimant has been represented by ALYSON BATTAGLIA, ESQ., LEGLER & FLYNN, in connection with this matter, who is entitled to a fee for legal services rendered. The parties agree that \$5,240 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 his own attorney's fees and costs because this settlement was made under § 440.20(11)(c), (d) & (e). The fee shall be paid from the settlement proceeds, thereby making the net settlement amount \$39,660, less costs.

The Claimant further affirms that he has not been represented by any other attorneys in connection with this workers' compensation matter. However, the Claimant stipulates that he 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 he 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. The Employer/Carrier/Servicing Agent owe no attorney's fees or costs to the Claimant's attorneys.

8. **WAIVER OF RIGHT TO HAVE CASE HEARD BY JUDGE OF COMPENSATION CLAIMS AND RIGHT TO BRING PETITION FOR MODIFICATION:**

The Claimant understands that he 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.

9. **CLAIMANT RESPONSIBLE FOR HEALTH INSURANCE LIENS**

AND CLAIMS: The Claimant agrees that he is and will remain responsible for any claims for reimbursement made by any group health insurance carriers and/or administrators. The Claimant further agrees to release, hold harmless and indemnify the Employer/Carrier/Servicing Agent with respect to any such liens and claims.

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 12/19/60 and his life expectancy is 27.4 years or 1424.8 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 \$31.51 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 \$31.51 per week over his expected lifetime. The same is true for the lump-sum payment of future medical benefits which, when reduced to present value, the parties agree is equal to \$25,000. 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 \$17.55 per week over his 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 he 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 his right to seek assistance from legal counsel of his 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/Servicing 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. It is not the purpose of this settlement agreement to shift to Medicare the responsibility for payment of medical expenses for the treatment of work-related conditions. Instead, this settlement agreement is intended to provide the Claimant a lump sum that will foreclose the Employer/Carrier/Service Agent's responsibility for future payments of all work-related medical and indemnity benefits.

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/Service 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 alone is responsible for funding a Medicare Set-Aside allocation, if same is required by the Centers for Medicare & Medicaid Services. The Claimant further agrees to indemnify, release and hold harmless the Employer/Carrier/Service Agent and their attorneys in the event the Claimant fails or refuses to fund and properly administer a Medicare Set-Aside allocation, in the event same is required by the Centers for Medicare & Medicaid Services.

Further, the Claimant acknowledges that his attorney has made no representation whatsoever that the Claimant will ever receive Social Security Disability, Medicaid and/or Medicare Benefits. The Claimant further 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 also certifies that he is not receiving Social Security benefits of any type whatsoever, is not receiving Medicare benefits, does not reasonably anticipate receipt of Social Security or Medicare benefits within the next 30 months, and does not presently have an application(s) for these benefits pending with any state or federal agency.

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

11. **WAIVER OF PENALTIES AND INTEREST**: The Claimant does hereby waive any right he may have to any and all penalties or interest on account of the alleged accidents, injuries, exposures or occupational diseases referenced herein.

12. **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 his 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.

13. **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.

14. **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 he should not undertake financially binding actions until formal approval is obtained.

In the event this Stipulation & Release is 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 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.

15. **CLAIMANT HAS RECEIVED ADVICE AND COUNSEL:** The

Claimant hereby represents and acknowledges that he has had ample opportunity to consult with and has been fully advised by his attorney of the binding nature and import, expressed and implied, of

the contents of this Stipulation & Release and that he has freely and voluntarily executed this Stipulation & Release without compulsion whatsoever. The Claimant represents that nothing has been promised to him, other than the lump sum described hereinabove, in exchange for his Stipulation & Release of the Employer/Carrier/Service Agent. The Claimant has had an opportunity to fully review this Stipulation & Release and has had the opportunity to discuss all aspects of its legal significance with his attorney. The Claimant fully and completely understands the legal significance of this agreement.

16. **ENTIRE AGREEMENT**: This Stipulation & Release contains 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 supersede the terms and provisions of the prior agreement(s).

17. **APPROVAL REQUIRED BY OFFICE OF MANATEE COUNTY ATTORNEY**: The parties agree and understand that this Stipulation & Release is contingent upon approval of the 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*.

18. **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*.

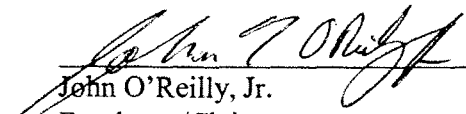
19. **OBLIGATION UNDER FLORIDA PUBLIC RECORDS LAWS:** Upon execution of this Stipulation & Release, the Claimant warrants, represents, understands and agrees that any information contained within will be subject to disclosure by the parties herein and subject to further disclosure by others, under the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

20. **PAYMENT DUE:** The Employer/Carrier/Servicing Agent shall issue the aforementioned lump sum payment to the Claimant in care of his attorney no later than 30 days after the Office of the Judge of Compensation Claims electronically mails to the parties a signed and conformed Order Under § 440.20(11)(c), (d) & (e), Fla. Stat. (2003). 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.

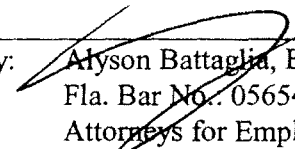
21. **COUNTERPARTS:** This Agreement may be executed in counterparts and all so executed shall constitute an agreement binding on all the parties hereto, notwithstanding that all the parties hereto are not signatories to the original or to the same counterpart. Facsimile signatures shall be as effective as original signatures.

Dated: 6-20-13 Dated: 6/20/13

Legler & Flynn
2027 Manatee Avenue West
Bradenton, FL 34205-5836
941-723-8786



John O'Reilly, Jr.
Employee/Claimant

By: 

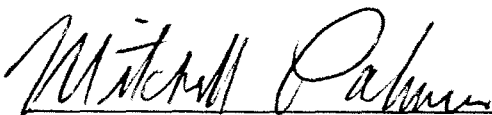
Alyson Battaglia, Esq.
Fla. Bar No. 056548
Attorneys for Employee/Claimant

Dated: 7-15-13

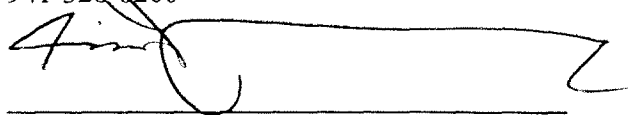
Dated: June 24, 2013

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: Mitchell O. Palmer, Esq.
County Attorney
(or his designee)
Fla. Bar No.: 351873
Attorney for Employer



By: Daniel J. DeMay, Esq.
Fla. Bar No.: 764728
Attorneys for Employer/Carrier/
Servicing Agent

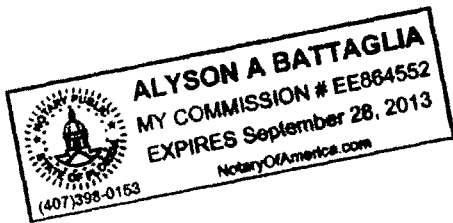
AFFIDAVIT

State of Florida

County of Monroe

BEFORE ME, the undersigned authority duly authorized to administer oaths and take acknowledgments, personally appeared JOHN O'REILLY, JR., who is personally known to me or was identified by driver's license number _____ on this 20 day of June, 2013, and who, upon being duly sworn, certifies that the information furnished by him as incorporated in the foregoing Stipulation & Release is true and correct and that he has read the Stipulation & Release or had the Stipulation & Release read to him and believes the lump sum settlement to be in his best interest.

(SEAL)



Notary Public

State of _____

Printed Name: _____

Commission No.: _____

My commission expires: _____

GENERAL RELEASE

JOHN O'REILLY, JR., (hereinafter referred to as "O'REILLY") and **MANATEE COUNTY and MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS** (hereinafter referred to as "MANATEE COUNTY") do hereby enter into this Release ("Agreement") with the intention to release each other from any and all claims and liability arising out of or in any way connected with the employment of O'REILLY by MANATEE COUNTY, any aspects of the employment relationship, and termination of employment of O'REILLY with MANATEE COUNTY.

1. For and in consideration of the sum of \$100.00, the receipt and sufficiency of which is hereby acknowledged, the undersigned O'REILLY does hereby fully, absolutely and unconditionally release, acquit, and forever discharge MANATEE COUNTY and any and all predecessors, successors, assigns, all affiliates, the Board of County Commissioners, all political and quasi-political subdivisions, all subsidiaries, as well as all their respective officers, directors, corporate members, employees, agents, appointees, elected officials, attorneys and representatives, past or present, from any and all claims, losses, liabilities, demands, actions, causes of action, equitable remedies, remedies at law, costs, interest, expenses, fees, including attorney's fees, contribution, compensation, right of reinstatement or any other obligations or liabilities, known or unknown, whether heretofore asserted or unasserted, arising out of, pertaining to or in any way relating to O'REILLY'S employment by MANATEE COUNTY or any other violation of the rights of O'REILLY or any facts or claims arising under the U.S. Civil Rights Act of 1964 (as amended), the Age Discrimination in Employment Act (ADEA), the Rehabilitation Act of 1973, Americans with Disabilities Act (ADA), United States Constitution, the Constitution of the State of Florida, the Florida Civil Rights Act, or any and all federal, state, or local statutes, ordinances, rules, or regulations dealing with equal employment opportunity or any other aspect of the employment relationship, all from the beginning of time to the date of this Agreement.

2. O'REILLY acknowledges that no taxes of any type were, or will be, deducted from the payment made herein. O'REILLY understands that he shall be liable for any taxes due and owing to any governmental agency in association with payments received under this Agreement, and agrees to hold MANATEE COUNTY harmless and to indemnify it against such claims, inclusive of attorney's fees and costs.

3. By the acceptance of the consideration of this Agreement, O'REILLY specifically waives any right to future employment at any time with MANATEE COUNTY, its affiliates, or successors, and waives all rights under law to contest, challenge or reverse any action taken to date.

4. By the acceptance of the consideration of this Agreement, O'REILLY specifically releases MANATEE COUNTY from all liability for retaliatory discharge as defined by federal, state, or local statute or regulation; by federal, state, or local case law precedent; or by any other legal official, quasi-judicial, or executive or administrative body, including, but not limited to, the Equal Employment Opportunity Commission (EEOC), Florida Commission on Human Relations (FCHR), and any and all county and municipal organizations charged with enforcing or interpreting any employment laws, regulations, statutes or ordinances.

5. This Agreement does not constitute an admission by MANATEE COUNTY of a violation of the Age Discrimination in Employment Act (ADEA), Americans with Disabilities Act (ADA), or any federal or state law(s) and MANATEE COUNTY expressly denies any such violation.

6. In any event of breach of this Release by any party, any party shall have as its exclusive remedy an action for breach of contract, injunctive relief, and attorney's fees to enforce this Release. In no case shall breach of this Agreement serve to revive any claims or alleged claims

arising out of employment of O'REILLY by MANATEE COUNTY, which are forever waived, discharged and abandoned.

7. O'REILLY hereby represents and acknowledges that he has had ample opportunity and has been advised to consult counsel of his choice to fully advise him of the binding nature and import, expressed and implied, of the contents of this Agreement and that he has freely and voluntarily executed this Agreement without compulsion whatsoever.

8. In addition, O'REILLY acknowledges that he has been given at least twenty-one (21) days within which to consider this Agreement and all rights that he may have under any and all federal and state laws relating to employment discrimination (particularly but not limited to the ADEA) and that he fully understands these rights which he waives by execution of this document.

9. O'REILLY has had an opportunity to fully review this Agreement and had the opportunity to discuss all the aspects of the legal significance with his attorney, and he fully and completely understands the legal significance of this Agreement.

10. Specifically regarding the releasing of his rights under the ADEA, as amended, 29 U.S.C. Subsection 601-634, O'REILLY acknowledges that the law provides for a period of at least twenty-one (21) days within which to review any waiver of rights under the ADEA and allows seven (7) days after signing this agreement for him to revoke a settlement agreement.

11. This Agreement constitutes a complete understanding between O'REILLY and MANATEE COUNTY and the provisions of this Agreement may not be modified or superseded except upon express written mutual consent of the parties. The parties further agree that in the event that any provision of this Agreement is invalidated or found to be unenforceable by a court of

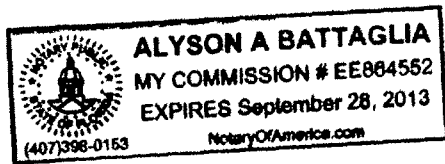
competent jurisdiction, all remaining provisions of this Agreement shall continue unabated in full force and effect.

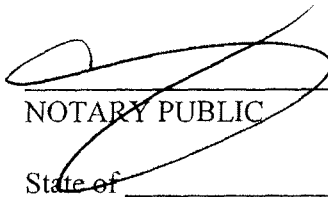
12. The parties also specifically agree that the terms of this Agreement are wholly contingent upon the Judge of Compensation Claims' entry of an Order under § 440.20(11), Fla. Stat. (2003).

13. O'REILLY acknowledges that he has entered into this Agreement under seal.

By: 
JOHN O'REILLY, JR.

The foregoing instrument was acknowledged before me this 20 day of June, 2013, by John O'Reilly, Jr., who was personally known to me or who has produced driver's license number _____ as identification, and who did take an oath.




NOTARY PUBLIC
State of _____

Printed Name: _____

Commission No.: _____

My commission expires: _____

(SEAL)