

May 22, 2018 - Regular Meeting
Agenda Item #15

Approved in Open Session 5/22/18,
Manatee County
Board of County Commissioners

Subject

Karen Wolf v. Manatee County, Case No. 2016-CA-0710

Briefings

Briefing Provided Upon Request

Contact and/or Presenter Information

Christopher M. De Carlo, Assistant County Attorney, ext. 3750

Action Requested

Motion to approve settlement in the matter of Karen Wolf v. Manatee County, for \$45,000.

Enabling/Regulating Authority

Florida Statutes 125.01 and 768.28.

Background Discussion

This is a personal injury claim for damages allegedly sustained as a result of a motor vehicle accident. On February 12, 2013, a Manatee County Utilities Department employee was driving a County vehicle eastbound on SR 70 approaching the intersection of Tara Boulevard. Traffic had stopped for the red light.

Our County employee was distracted and did not notice the traffic stopping ahead. He was unable to stop his vehicle (V1) before it collided with the rear of a vehicle stopped immediately in front of him (V2) which was then pushed forward into the rear of the Plaintiff's vehicle (V3). Plaintiff's vehicle was at a complete stop at the moment of impact. Plaintiff claims personal injuries as a result of this accident.

Based on our investigation, the County admitted negligence (fault) for the accident. Accordingly, the issues remaining for determination were the extent of Plaintiff's injuries and their causal relation to the subject accident.

As a result of the accident, Plaintiff claimed the following injuries: left shoulder pain, partial left rotator cuff tear of supraspinatus tendon, neck pain, upper back pain, a herniated disc at C4-5, and bulging discs at C5-6 and C6-7, lumbar and cervical facet trauma, cervical spine pain, thoracic spine pain, lumbar spine pain, left hip and knee pain and spasms, numbness/lack of feeling in left hand, numbness at the base of her neck, and headaches.

Plaintiff incurred \$131,967.86 in medical expenses related to this accident.

Plaintiff's original demand was \$200,000.00. The County Attorney's Office recently participated in mediation with counsel for the Plaintiff and agreed to settle this matter for \$45,000.00, subject to approval by the Board of County Commissioners.

Based on our employee's fault for the accident, the nature of Plaintiff's claimed injuries, her documented medical expenses, and potential claim for non-economic damages, the County Attorney's Office recommends the Board settle the case for \$45,000.00 in exchange for which Plaintiff will dismiss her claims against

Manatee County with prejudice.

County Attorney Review

Other (Requires explanation in field below)

Explanation of Other

This is a County Attorney item.

Reviewing Attorney

DeCarlo

Instructions to Board Records

E-mail an approved copy of this agenda item to:
Christopher M. De Carlo, Assistant County Attorney
christopher.decarlo@mymanatee.org;; and
Tracy Hanrahan, County Attorney's Office,
tracy.hanrahan@mymanatee.org

Distributed 5/23/18, RT

Cost and Funds Source Account Number and Name

Fund: 5050001400; Object Code 549102

Amount and Frequency of Recurring Costs

\$45,000.00 – One-time payment

Attachment: [Signed Mediated Settlement Agreement.pdf](#)

Attachment: [Executed Settlement Agreement and Release of All Claims Against Manatee County.pdf](#)

Attachment: [Signed HIPPA Authorization.pdf](#)

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA

KAREN WOLF,

Plaintiff,

v.

Case No. 2016-CA-0710

MANATEE COUNTY, a political
subdivision of the State of Florida,

Defendant.
_____ /

MEDIATED SETTLEMENT AGREEMENT

THIS MEDIATED SETTLEMENT AGREEMENT is executed by the parties, KAREN WOLF and MANATEE COUNTY, on this the 12TH day of April 2018. The parties agree as follows:

1. The Defendant, MANATEE COUNTY, shall pay and Plaintiff, KAREN WOLF, shall accept the sum of Forty - Five Thousand Dollars and Zero Cents (\$ 45,000.00) as a full and complete settlement of all claims, liens, potential liens, subrogated claims, attorney's fees and costs of any nature arising out of the above referenced claim and this cause of action conditioned upon the terms set forth below.

2. The settlement payment shall be made payable to Plaintiff's attorney, SYPRETT, MESHAD, RESNICK, LIEB, DUMBAUGH, JONES, KROTEC & WESTHEIMER, P.A., TRUST ACCOUNT f/b/o KAREN WOLF, for full and final settlement under the condition that KAREN WOLF satisfy from the settlement proceeds and be solely responsible for any and all outstanding liens of any kind related to this case, including, but not limited to, Medicare and Medicaid.

3. MANATEE COUNTY, has agreed to issue the settlement check to SYPRETT, MESHAD, RESNICK, LIEB, DUMBAUGH, JONES, KROTEC & WESTHEIMER, TRUST ACCOUNT f/b/o KAREN WOLF, for the full settlement amount under the condition that counsel for Plaintiff agrees to hold back in trust the full amount of the original Medicare, Medicaid or other liens in said trust account until the liens are satisfied. Plaintiff and Plaintiff's counsel agree to fully comply with and satisfy all legal requirements of any Medicare, Medicaid, or other applicable liens.

4. Defendant, MANATEE COUNTY, agrees to make this settlement payment to counsel for KAREN WOLF within thirty (30) days of final approval of the settlement by the Manatee County Board of County Commissioners.

5. KAREN WOLF agrees, as conditions of the settlement, to:

- 1) execute Manatee County's Settlement Agreement and Release of Claims,
- 2) execute and authorize counsel for Manatee County to file with the court a joint stipulation for dismissal with prejudice,
- 3) be solely responsible to satisfy any and all outstanding liens of any kind related to this case from the settlement proceeds,
- 4) provide to counsel for Defendant, MANATEE COUNTY, a copy of correspondence received from Medicare, Medicaid and any other lienholders showing that the lien(s) were satisfied within 30 days of receipt of said verification that the lien(s) have been satisfied.
- 5) execute Manatee County's HIPAA authorization form authorizing the disclosure of Plaintiff's medical records and health information to the BCC for the purpose of the BCC reviewing, discussing and considering settlement of this litigation.

6. PAYMENT OF LIENS. As further consideration for this compromise and settlement, KAREN WOLF agrees to satisfy, pay, reimburse, settle, or otherwise legally resolve, any liens, potential liens, or subrogated interest for Medicare, Medicaid, workers' compensation or health care benefits paid or payable to or on behalf of KAREN WOLF as a consequence of the occurrence settled pursuant to this agreement. KAREN WOLF. also agrees to defend, indemnify (including fines, attorney's fees and costs), protect and hold Defendant, MANATEE COUNTY, harmless from any causes of action of any kind or nature, including, but not limited to, a cause of action provided in the MSP, 42 U.S.C. Section 1395y (b) (3) (A) and/or 42 CFR Section 411.24, in the event KAREN WOLF fails to satisfy, pay, reimburse, settle or otherwise legally resolve Medicare's, Medicaid's, and any other lienholders' interest.

7. Upon the closing of the settlement and payment of all sums herein, KAREN WOLF shall dismiss the Complaint with prejudice.

8. Each party will bear their own attorney's fees and costs.

9. The Plaintiff acknowledges that regardless of the issuance of any IRS Form 1099, by Defendant, MANATEE COUNTY, Plaintiff will obtain Plaintiff's own advice on the taxable status of the payments listed in paragraphs 1, 2, and 3 above, and be responsible for any tax liability related thereto. Plaintiff agrees to furnish an IRS Form W-9 if required by counsel for Defendant, MANATEE COUNTY.

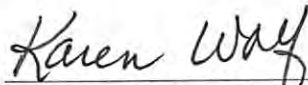
10. The Plaintiff hereby warrants and represents that Plaintiff has not relied upon any representations by Defendant, MANATEE COUNTY, or its counsel, in deciding to settle this litigation. In entering into this agreement, the Plaintiff represents that Plaintiff has relied solely upon the advice of Plaintiff's attorney, who is the attorney of Plaintiff's own choice, concerning all legal and tax consequences of this settlement; that the terms and effects of this settlement have

been completely read and explained to Plaintiff by Plaintiff's attorney; and that the terms and effects of this settlement are fully understood and voluntarily accepted by Plaintiff.


11. BINDING AGREEMENT/SCRIVENER. This agreement is intended to be a valid and binding agreement under the laws of the State of Florida, effective upon its execution despite the need for any further documentation. By executing this Mediated Settlement Agreement, each party hereto acknowledges that they have read and understand the terms of this agreement; that they have freely and voluntarily entered into this agreement; and, that they have been represented in this matter by legal counsel of their own selection or have voluntarily declined said representation. In the event that the mediator has typed or written the text of any part of this agreement, the parties acknowledge that he has done so solely as an accommodation to them and solely as a scrivener recording the terms which they have agreed upon in language which they have read and approved.

12. COUNTERPARTS/FACSIMILE SIGNATURES. This agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute a single instrument. Facsimile signatures shall suffice to bind the parties.

13. This Mediated Settlement Agreement is subject to approval by the Manatee County Board of County Commissioners and is not enforceable until that approval has occurred.


KAREN WOLF, Plaintiff


For MANATEE COUNTY


Derek W. Eisemann, Esq.
Syprett, Meshad, Resnick, Lieb, Dumbaugh,


Christopher M. De Carlo, Esquire
Assistant County Attorney

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Florida Bar No. 0092735
Attorney for PLAINTIFF

Manatee County Attorney's Office
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Telephone: (941) 745-3750
Facsimile: (941) 749-3089
Florida Bar No. 155454
Attorney for MANATEE COUNTY

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA
CIVIL DIVISION**

KAREN WOLF,

Plaintiff,

v.

MANATEE COUNTY, a political subdivision
of the State of Florida,

Case No. 2016-CA-0710

Defendant.

**SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS
AGAINST MANATEE COUNTY**

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned Plaintiff, Karen S. Wolf, hereinafter the "RELEASOR," being of lawful age, for the sole consideration of Forty - FIVE THOUSAND Dollars and Zero Cents (\$ 45,000.00) to the undersigned in hand paid, receipt of which is hereby acknowledged, does hereby for herself and for her heirs, executors, administrators, successors and assigns, release, acquit and forever discharge MANATEE COUNTY, a political subdivision of the State of Florida, hereinafter "MANATEE COUNTY" or "RELEASEE," and its agents, attorneys, servants, successors, employees and other representatives, of and from any and all claims, demands, damages, actions, third-party actions, causes of action or suits at law or in equity of whatever nature, known and unknown, both to person and property, which have resulted or may in the future develop, and any claims raised or which could have been raised in connection with this claim against MANATEE COUNTY brought by the RELEASOR in Manatee County, Florida, Circuit Court Case No. 2016-CA-0710, *Karen Wolf v. Manatee County, a political subdivision of the State of Florida*, as a result of an accident which occurred on or about the 12th

day of February 2013, on State Road 70, at or near its intersection with Tara Boulevard, Bradenton, Manatee County, Florida. This "SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS AGAINST MANATEE COUNTY" and all of the terms herein are collectively referred to hereinafter as the "AGREEMENT." RELEASOR and RELEASEE are collectively referred to hereinafter as the "PARTIES."

The PARTIES have agreed to settle in order to avoid the inconvenience, distractions, and inherent uncertainties associated with any legal proceeding, and the additional legal fees and expenses of continuing this dispute. This AGREEMENT represents a compromise of a doubtful and disputed claim, and any liability, wrongdoing, malfeasance, misfeasance, or negligence on the part of the RELEASEE is expressly denied.

Each party hereto shall bear all of their own attorneys' fees and costs arising from the action or in connection with this matter.

Upon receipt of this fully executed and fully notarized AGREEMENT, counsel for MANATEE COUNTY shall submit a request to the Manatee County Clerk of Court for payment of the settlement draft to the trust account of counsel for RELEASOR. Following the execution of this AGREEMENT, counsel for the RELEASOR will also deliver to counsel for MANATEE COUNTY an executed Joint Stipulation for Dismissal with Prejudice for all of RELEASOR's claims that have been brought or could be brought in this action against MANATEE COUNTY. Upon notification that the settlement funds have been transmitted to counsel for the RELEASOR, MANATEE COUNTY shall file the Joint Stipulation for Dismissal with Prejudice. The RELEASOR has authorized his/her counsel to execute the Joint Stipulation for Dismissal with Prejudice on his/her behalf and hereby authorizes counsel for MANATEE COUNTY to file the Joint Stipulation for Dismissal with Prejudice with the court and enter it as a matter of record.

This AGREEMENT shall not release any health, disability, or other insurance carrier or self-insured from its obligation to provide any personal injury protection coverage, medical payment coverage, uninsured/underinsured motorist coverage, health insurance coverage, major medical insurance coverage, workers' compensation benefits/insurance, and/or disability insurance coverage from all claims and demands, rights and causes of action of any kind the undersigned now has or hereafter may have, on account of personal injuries known or unknown to the undersigned arising from the subject accident. It is the intention of the PARTIES to this AGREEMENT to release and discharge the RELEASEE only, and to reserve all rights of RELEASOR to obtain all first party benefits to which RELEASOR may be entitled.

As further consideration for this compromise and settlement, the RELEASOR agrees to satisfy, pay, reimburse, settle, or otherwise legally resolve, any liens, potential liens, or subrogated interests for Medicare, Medicaid, workers' compensation, or health care benefits paid or payable to or on behalf of the RELEASOR as a consequence of the occurrence settled pursuant to this AGREEMENT. RELEASOR also agrees to defend, indemnify (including fines, attorney's fees and costs), protect and hold RELEASEE harmless from any causes of action of any kind or nature, including, but not limited to, a cause of action provided in the MSP, 42 U.S.C. Section 1395y (b) (3) (A) and/or 42 CFR Section 411.24, in the event RELEASOR fails to satisfy, pay, reimburse, settle or otherwise legally resolve Medicare's, Medicaid's, and any other lienholders' interest. RELEASOR has been identified as a Medicare and/or Medicaid recipient. Therefore, the PARTIES have fully considered and protected Medicare's and/or Medicaid's interests as a secondary payer in this settlement for any incurred bills paid by Medicare and/or Medicaid. The PARTIES also acknowledge that Medicare's and Medicaid's interests in reimbursement for any incurred medical expenses that have been paid by Medicare and/or Medicaid have either already

been satisfied, and Medicare and/or Medicaid have acknowledged such satisfaction, or will be satisfied from the settlement proceeds payable under this AGREEMENT. Satisfaction of Medicare's, Medicaid's and any other lienholders' interest from the proceeds payable under this AGREEMENT shall be the sole and exclusive responsibility of RELEASOR. RELEASOR agrees, upon request from RELEASEE, to provide proof of payment or satisfaction of any lien for medical expenses or treatment incurred in connection with RELEASOR's claims, including Medicare and/or Medicaid, to the RELEASEE within 30 days of receipt of said verification that the lien(s) have been satisfied. RELEASOR agrees that the duties stated in this paragraph are non-delegable and failure to perform such duties shall provide the RELEASEE with a right to recover any monies paid by RELEASEE caused by the failure to satisfy Medicare's, Medicaid's, or any other lienholder's interests, including any additional expenses incurred, attorneys' fees and costs.

The PARTIES acknowledge and understand that RELEASEE is required to report any payment to a Medicare and/or Medicaid beneficiary in settlement of a claim under a liability insurance policy or self-insurance to Medicare (CMS) and Medicaid. Settlement proceeds payable under this AGREEMENT shall be reported to Medicare (CMS) and Medicaid.

RELEASOR represents and warrants that she has the sole right and exclusive authority to execute this AGREEMENT and to receive the sums specified in it; and that there has not been, nor will there be, an assignment or other transfer of any claim, interest or right which the RELEASOR may have arising in whole or in part out of incident which is the subject of the Complaint.

In entering into this AGREEMENT, the RELEASOR warrants and represents that she has not relied upon any representations by MANATEE COUNTY, or its counsel, in deciding to settle this litigation. In entering into this AGREEMENT, RELEASOR represents that she has relied solely upon the advice of her attorney, who is the attorney of her own choice, concerning all legal

and tax consequences of this settlement; that the terms and effects of this AGREEMENT have been completely read and explained to her by her attorney; and that the terms and effects of this AGREEMENT are fully understood and voluntarily accepted by her.

To the extent that any term or provision of the AGREEMENT is deemed void or not in compliance with the applicable law, that term or provision alone will be void, while all other terms or provisions will be enforceable.

THE UNDERSIGNED ACKNOWLEDGES THAT SHE HAS READ THIS SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS AGAINST MANATEE COUNTY, AND UNDERSTANDS AND VOLUNTARILY ACCEPTS THE TERMS OUTLINED HEREIN.

Signed, sealed and delivered this 10 day of May, 2018.

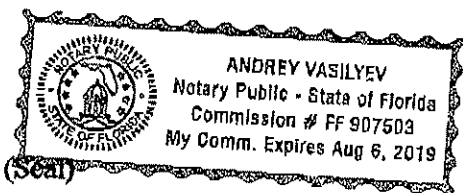
Barbara A. Scott
WITNESS

Karen S Wolf
KAREN S. WOLF, RELEASOR

Barbara A Scott
Typed or printed name of witness

STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 10 day of MAY, 2018, by KAREN S. WOLF, who is personally known to me or who has produced DL as identification.



Andrey Vasilyev
Notary Public, State of Florida
Print Name: Andrey Vasilyev
Expiration Date: Aug 6, 2019

**AUTHORIZATION FORM (HIPAA)
FOR RELEASE OF MEDICAL, EMPLOYMENT, INSURANCE
AND WORKERS' COMPENSATION INFORMATION**

By signing this Authorization form, I hereby authorize the Manatee County Board of County Commissioners ("BOCC") to use and/or have disclosed to it certain medical, employment, insurance and workers' compensation information as set forth below pertaining to the following individual:

Name: Karen Wolf

Birth Date: May 14, 1950

Date of Accident: February 12, 2013

Karen Wolf v. Manatee County
Case No.: 2016-CA-0710

Information to be Disclosed: A copy of the entire medical, claim, employment, insurance and workers' compensation records related to KAREN WOLF to be used or disclosed as set forth in this Authorization, including but not limited to records regarding any psychological/psychiatric diagnoses, conditions, illnesses or treatment provided which are directly related to the personal injury or damage claim noted above.

I understand 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 personal injury or damage litigation 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 will become a public record under Florida law, 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 personal injury or damage claim.

This Authorization shall expire upon the conclusion of the legal matters related to the above-referenced personal injury 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 written revocation to the Manatee County Attorney's Office, P.O. Box 1000, Bradenton, FL 34206-1000, Attention: Risk Manager.

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

Karen Wolf
Karen Wolf

Date: 4/12/18