



Approved in Open Session 3/23/21  
Manatee County  
Board of County Commissioners

## Board of County Commissioners March 23, 2021 - Regular Meeting

### **SUBJECT**

DIANE JOHNSTON V. RICK WELLS IN HIS CAPACITY AS SHERIFF OF MANATEE COUNTY; CASE NO.: 2020-CA-4432; MOTION TO ALLOW PLAINTIFF'S PROPOSAL FOR SETTLEMENT IN THE AMOUNT OF \$200,000.00 TO RICK WELLS, SHERIFF OF MANATEE COUNTY TO EXPIRE AND TAKE NO ACTION REGARDING THE PROPOSAL FOR SETTLEMENT.

### **Category**

CONSENT AGENDA

### **Briefings**

Briefing Provided Upon Request

### **Contact and/or Presenter Information**

Douglas E. Polk, Jr., Esq.  
Assistant County Attorney  
Ext. 3750

### **Action Requested**

Motion to Allow Plaintiff's Proposal for Settlement in the amount of \$200,000.00 to Rick Wells, in his official capacity as Sheriff of Manatee County to expire and take no action regarding the Proposal for Settlement.

### **Enabling/Regulating Authority**

Sections 125.01 and 768.79, Florida Statutes, and Florida Rule of Civil Procedure 1.442.

### **Background Discussion**

This is a personal injury case emanating from an automobile accident that occurred on March 21, 2020. Diane Johnston, the Plaintiff in this matter, was traveling East on Ranch Lake Blvd. Robin Draper, a Community Service Officer, in the course and scope of her employment was exiting a parking lot and stopped for the stop sign of Ranch Lake Blvd. Officer Draper states she looked both ways prior to proceeding to cross Ranch Lake Blvd when Ms. Johnston came around the bend at a fast rate of speed causing a collision. Ms. Johnston claims that Officer Draper went through the stop sign and caused the collision.

In her answers to interrogatories, Ms. Johnston states she sustained injuries to her “head, neck and shoulders”.

The medical bills in our possession that Ms. Johnston relates to this incident total \$37,487. Of this amount \$10,000 was paid by Ms. Johnston’s PIP insurance, \$2,240.62 has been written off leaving a balance of \$25,246.38.

Plaintiff further claiming loss of earnings and loss of earning capacity and future medical expenses estimated at \$157,000.

On February 25, 2021, Plaintiff served Rick Wells, in his official capacity as Sheriff of Manatee County, with a Proposal for Settlement in the amount of \$200,000.00. The Sheriff has 30 days to accept this Proposal. The County Attorney’s Office recommends allowing this Proposal for Settlement to expire, with no additional action on the part of the Sheriff based upon the fact that we are early in the case and do not have sufficient discovery to justify payment of \$200,000.00 at this time. If the Commissioners have questions regarding this item, we respectfully advise that they request private briefings with the County Attorney's Office and refrain from discussing it publicly.

**Attorney Review**

Other (Requires explanation in field below)

**Other (if applicable)**

This is a County Attorney item.

**Reviewing Attorney**

Polk

**Instructions to Board Records**

Please e-mail an approved copy of this agenda item to:

Douglas E. Polk, Jr., Assistant County Attorney, at: douglas.polk@mymanatee.org; and

Diane Hajek, Legal Assistant, County Attorney’s office, at: diane.hajek@mymanatee.org

Distributed 3/25/21, RT

**Cost and Funds Source Account Number and Name**

N/A

**Amount and Frequency of Recurring Costs**

N/A

DIANE JOHNSTON,

Plaintiff,

-vs-

CASE NO.: 2020 CA 004432 AX

RICK WELLS, in his official capacity as  
Sheriff of Manatee County,

Defendant.

**NOTICE OF SERVICE OF PROPOSAL FOR SETTLEMENT**

PLEASE TAKE NOTICE that Plaintiff, DIANE JOHNSTON, by and through the undersigned counsel, hereby notifies the Court that, pursuant to Rule 1.442 of the Florida Rules of Civil Procedure and Florida Statutes §768.79, has served a Proposal for Settlement upon Defendant, RICK WELLS, in his official capacity as Sheriff of Manatee County, this 25th day of February, 2021.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by E-Mail this 25th day of February, 2021 to: Douglas E. Polk, Jr., Esquire, Manatee County Attorney's Office, 1112 Manatee Avenue West Suite 969, Bradenton, FL 34205, douglas.polk@mymanatee.org; lisa.spain@mymanatee.org; diane.hajek@mymanatee.org.



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Florida Bar #: 032713  
Attorney for Plaintiff

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

DIANE JOHNSTON,

Plaintiff,

-v-

CASE NO.: 2020 CA 004432 AX

RICK WELLS, in his official capacity as  
Sheriff of Manatee County,

Defendant.

**PROPOSAL FOR SETTLEMENT AND DEMAND FOR JUDGMENT**

Plaintiff, DIANE JOHNSTON, by and through the undersigned counsel offers to settle the claim or claims identified below against Defendant, RICK WELLS, in his official capacity as Sheriff of Manatee County with reference to the above-styled case. Plaintiff's proposal for settlement is as follows:

1. BASIS FOR PROPOSAL. This proposal is made pursuant to Rule 1.442 of the Florida Rules of Civil Procedure and section 768.79 of the Florida Statutes.

2. PARTY MAKING THIS PROPOSAL. This Proposal for Settlement is made by: Plaintiff, DIANE JOHNSTON.

3. PARTIES TO WHOM PROPOSAL IS BEING MADE. This Proposal for Settlement is made to the following party: Defendant, RICK WELLS, in his official capacity as Sheriff of Manatee County.

4. PROPOSAL TO SETTLE ALL DAMAGES. This Proposal for Settlement resolves all damages that would otherwise be awarded in a final judgment in the above-styled action, subject to Rule 1.442(c)(2)(F) of the Florida Rules of Civil Procedure.

5. RELEVANT CONDITIONS. Plaintiff states that if Defendant, RICK WELLS, in his official capacity as Sheriff of Manatee County accepts this Proposal for Settlement, Plaintiff, DIANE JOHNSTON will dismiss Defendant, RICK WELLS, in his official capacity as Sheriff of Manatee County from this case with prejudice. Settlement pursuant to this Proposal is also conditioned upon approval and waiver of subrogation rights by Plaintiff's underinsured motorist carrier, if applicable. There are no other conditions beyond those imposed by §768.79 and Rule 1.442 of the Florida Rules of Civil Procedure.

6. PROPOSED SETTLEMENT AMOUNT. Plaintiff, DIANE JOHNSTON, proposes to settle all damages against Defendant, RICK WELLS, in his official capacity as Sheriff of Manatee County for a total sum of TWO HUNDRED THOUSAND (\$200,000.00) DOLLARS.

7. PROPOSED AMOUNT FOR PUNITIVE DAMAGES, IF ANY. Plaintiff states that \$0.00 dollars have been allocated to any punitive damages claim Plaintiff, DIANE JOHNSTON has or may have against Defendant, RICK WELLS, in his official capacity as Sheriff of Manatee County. Acceptance of this Proposal for Settlement will settle any punitive damages in this action that Plaintiff, DIANE JOHNSTON might otherwise be awarded against Defendant, RICK WELLS, in his official capacity as Sheriff of Manatee County in the final judgment in this action.

8. ATTORNEYS' FEE CLAIM: Plaintiff, DIANE JOHNSTON states that attorneys' fees are included in this Proposal for Settlement. Attorneys' fees are a part of Plaintiff, DIANE JOHNSTON's legal claim against Defendant, RICK WELLS, in his official capacity as Sheriff of Manatee County.

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