

RESOLUTION 97-29

A RESOLUTION OF THE MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS APPROVING SETTLEMENT OF AN AUTOMOBILE LIABILITY CLAIM AGAINST MANATEE COUNTY; AUTHORIZING IMMEDIATE PAYMENT UP TO THE SOVEREIGN IMMUNITY WAIVER LIMITATION AMOUNT; AND WAIVING ANY OBJECTION MANATEE COUNTY MAY HAVE TO PASSAGE OF A PRIVATE CLAIM BILL.

WHEREAS, Manatee County is self-insured under Florida Statutes and Manatee County Ordinance 92-23; and

WHEREAS, under Manatee County Ordinance 92-23, Manatee County provides automobile liability coverage to the Sheriff of Manatee County and his deputies; and

WHEREAS, on June 28, 1996, Manatee County Sheriff's Deputy William P. Kelley, acting within the course and scope of his employment as a deputy, collided with another car, and pushed that car into a collision with an on-coming motorcycle, driven by Frank H. Holliday; and

WHEREAS, due to said collisions, Frank H. Holliday, a single man, has allegedly suffered severe and permanent injuries; and

WHEREAS, due to said injuries, Frank H. Holliday has undergone major surgical procedures and will require continuing medical treatment; and

WHEREAS, due to said injuries and surgeries, Frank H. Holliday has been unable to engage in gainful employment since the date of the collision; and

WHEREAS, due to the collision, Frank H. Holliday suffered property damage and incurred additional expenses; and

WHEREAS, in §768.28, Florida Statutes, the Florida Legislature waived sovereign immunity for governmental entities, including counties, up to \$100,000 per person per occurrence; and

WHEREAS, pursuant to §768.28, Florida Statutes, Manatee County may only settle and pay claims in excess of \$100,000 per person, in whole or in part, upon further act of the Legislature; and

WHEREAS, if suit is filed the extent of Frank H. Holliday's damages are likely to result in a jury verdict well in excess of the sovereign immunity waiver limitation; and

WHEREAS, Manatee County would incur additional costs in attempting to defend a civil tort suit and a private legislative claim bill.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Manatee County, Florida that:

1. The Chairman is authorized to execute the attached settlement and release agreement with Frank H. Holliday and his attorney.

2. Within ten working days of the execution of the attached settlement and release agreement by Frank H. Holliday and his attorney, Manatee County will pay Frank H. Holliday through his attorney the amount specified in the agreement.

3. Manatee County will not oppose any private claim bill which Frank H. Holliday may present to the Florida Legislature in which he seeks payment of an additional amount, not to exceed the sum specified in the attached settlement and release agreement.

DULY PASSED AND ADOPTED in open session with a quorum present by the Board of County Commissioners of Manatee County, Florida, this 18th day of February, 1997.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: Patricia H. Glass
Chairman

ATTEST: R. B. SHORE
Clerk of the Circuit Court

[Signature]

SETTLEMENT AND RELEASE AGREEMENT

This settlement and release agreement is entered into by Manatee County, a political subdivision of the State of Florida (hereinafter, "the County"), on behalf of itself, as well as Charles B. Wells as Sheriff of Manatee County and Sheriff's Deputy William P. Kelley (hereinafter, "Wells and Kelley"), who are beneficiaries of this agreement, but not parties to it, and Frank H. Holliday, a single man (hereinafter, "the Claimant").

In consideration of the mutual covenants and payments described below, and subject to further action by the Legislature of the State of Florida, the County and the Claimant agree as follows:

1. This agreement hereby settles all claims, including bodily injury and property damage, Claimant may have, now or in the future, against the County, Wells and Kelley, arising from an automobile-motorcycle collision at or near the intersection of 15th Street East and 74th Avenue Drive East, in Manatee County, on June 28, 1996.
2. The County and the Claimant have agreed to settle for the amount of three hundred thirty five thousand dollars, which exceeds the statutory amount payable pursuant to §768.28, Florida Statutes. This amount includes all of Claimant's damages, all of his costs for this claim, all of his costs for any private claim bill which he may present to the Legislature, and all of his attorney fees.

3. The County shall pay to Claimant, through his attorney, Donald M. McGetrick, Esquire, the sum of one hundred thousand dollars within ten working days of execution by both parties of this agreement. This sum is the maximum the County may lawfully pay, pursuant to §768.28, Florida Statutes, without further action of the Legislature.
4. The County acknowledges that the Claimant will be presenting a claims bill for payment of the additional \$235,000.00 to the Florida Legislature for passage as early as the 1997 session. The County and the Claimant recognize and agree that this settlement is in the best interests of both parties. Accordingly, the County, Wells and Kelley agree not to contest or object to enactment of a claims bill authorizing the additional payment of \$235,000 to Claimant. Further, the County for itself, Wells and Kelley, affirmatively agrees to assist in the passage of said bill. The County's assistance (if requested by the Claimant), shall include the attendance of an appropriate County representative at the claims bill process, and stipulation to the Legislature's hearing authority or its special master that the County does not object to passage of the Bill and agrees to the settlement amount.
5. The County cannot and does not guarantee the Legislature will enact a private claim bill for Claimant. If the

Legislature does not enact a bill acceptable to Claimant, the Claimant shall nevertheless have no further right of relief of any nature from the County, Wells or Kelley, and they shall have no further liability to Claimant in connection therewith or arising out of the subject collision.

6. In consideration of the County entering this agreement, paying him \$100,000, and not opposing a private claim bill for payment of an additional \$235,000, the Claimant hereby releases and forever discharges Manatee County and its officials, representatives and employees, and Charles B. Wells as the Sheriff of Manatee County and his deputies and employees, and Manatee County Deputy Sheriff William P. Kelley from liability for any and all claims, demands, suits, damages, costs, expenses and losses Claimant or his personal representatives, heirs and assigns have asserted in the past or may assert in the future, arising from the collision described above. Provided, however this release shall not alter the County's duty imposed by law to pay Claimant all amounts approved by enactment of a private claim bill up to \$235,000.
7. Within twenty working days of the County Attorney receiving notice that a private claim bill has become

law, the County shall pay to Claimant the additional sum authorized therein by the Legislature, up to the agreed \$335,000 minus the \$100,000 already paid hereunder. Upon receipt of the County's payment of that amount, the Claimant shall execute a complete release of the County, Wells and Kelley from any remaining liability for any and all claims, demands, suits, damages, costs, expenses, and losses, of any kind, nature or amount, arising from the collision described above.

8. If the Legislature enacts a private claim bill for Claimant in an amount which exceeds an additional \$235,000, the Claimant shall be paid only the additional \$235,000 and hereby waives any and all rights to payments by the County, Wells or Kelley of amounts which exceed said additional \$235,000.
9. The County, Wells and Kelley admit no liability. This agreement and the County's payments are made only as a compromise to terminate further expense and buy their peace.
10. The Claimant agrees to indemnify and hold the County, Wells and Kelley harmless against any and all claims by any other person, firm, corporation or other entity claiming a right of subrogation as a result of having paid for all or part of Claimant's damages or having provided medical or other services to Claimant due to

injuries or losses arising from the collision described above. Claimant's agreement to indemnify includes the amount of such claims, as well as all costs and attorneys' fees incurred by the County, Wells or Kelley, as a result of any such claim made against them.

Dated the _____ day of _____, 1997.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: _____
Chairman

ATTEST: R. B. SHORE
Clerk of the Circuit Court

Frank H. Holliday
Claimant

DATE: _____

ATTEST:

Donald M. McGetrick
Claimant's Attorney

DATE: _____