

**Lee County Board of County Commissioners  
Agenda Item Summary**

Blue Sheet No. 20041188

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Accept settlement offer of \$12,000 from Allstate Insurance Company (Allstate) for damages totaling \$17,994.43 to Lee County Department of Transportation (DOT) property; and authorize Chairman to execute *Property Damage Release* in favor of Allstate and its insured's for damages caused by Samantha P. Williams in a vehicle accident on September 29, 2003.

**WHY ACTION IS NECESSARY:** Board of County Commissioners' approval is required for settlement offers. Execution of *Property Damage Release* necessary to complete the transaction with Allstate for their payment of \$12,000.

**WHAT ACTION ACCOMPLISHES:** Releases Allstate and its insured's from any further liability arising out of the September 29, 2003, traffic accident. The \$12,000 payment to DOT, invoice #1642, represents a 66.68% (2/3) recovery of the damages to property.

**2. DEPARTMENTAL CATEGORY:**

COMMISSION DISTRICT # A12C

**3. MEETING DATE:**

09-28-2004

**4. AGENDA:**

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:**  
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER

**6. REQUESTOR OF INFORMATION:**

- A. COMMISSIONER \_\_\_\_\_
- B. DEPARTMENT \_\_\_\_\_
- C. DIVISION County Attorney
- BY: Scott S. Covert  
Assistant County Attorney

**7. BACKGROUND:**

*September 29, 2003* - Motor vehicle operated by sixteen-year-old driver, Samantha P. Williams, caused damages to another driver's vehicle and also damaged a DOT traffic control box . Samantha P. Williams was cited for violation of the right-of-way at an intersection. Samantha P. Williams has insurance under her parents insurance policy (Mark Adams) through Allstate. The insurance policy liability limits for property damage is \$25,000.

*November 19, 2003* - DOT submitted an invoice for \$17,994.43 to Allstate detailing the damages to the traffic control box.

(Continued on Page 2)

**8. MANAGEMENT RECOMMENDATIONS:** DOT and legal staff recommends accepting the settlement offer and execution of the *Property Damage Release*.

**9. RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
<i>Peter Cloutier for DOT</i>	N/A	N/A	N/A	<i>[Signature]</i>	OA <i>[Signature]</i>	OM <i>[Signature]</i>	RISK <i>[Signature]</i>	GC <i>[Signature]</i>	<i>[Signature]</i> 9-15-04

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

RECEIVED BY  
COUNTY ADMIN: *PK*  
9/10/04  
3pm  
COUNTY ADMIN  
FORWARDED TO: *PK*  
9-15-04

7. **BACKGROUND:** (Continued)

**March 1, 2004** - Allstate's response to DOT was they were unaware of any damages incurred to the County at the time of the claim. (As such, they settled a claim to another claimant's vehicle property damage in the amount of \$19,424.) Allstate offered the remainder of their insured's liability limits in the amount of \$5,576.02 to settle the claim. (\$25,000 [policy damage coverage] - \$19,424 [claimant vehicle settlement] = \$5,576 [balance remaining]). DOT referred the file to the County Attorneys Office (CAO) for collection.

**March 9<sup>th</sup> & 10<sup>th</sup>, 2004** -The CAO contacted Allstate and Mark Adams concerning collection.

**March 18, 2004** - Allstate responded that brought claims against their insured are settled on a "first come first served basis" and as the result, offered \$5,576.02 to settle the claim. CAO took the position that any damages not paid by Allstate would have to be paid by Samantha P. Williams. Therefore, Mark Adams on behalf of himself and his step-daughter, Samantha P. Williams, hired legal counsel, Jeffrey A. Caglianone, Esquire. Mr. Caglianone has taken the position that Allstate should pay DOT a pro rata share of Mark Adams property damage liability coverage and should not be responsible for any remaining balance.

**September 1, 2004** - Allstate is now offering DOT \$12,000 to settle the claim for the attached *Release of Property Damage* to Allstate, Mark Adams and Samantha P. Williams. The offer of \$12,000 equals the insured's pro rata share of the property damage policy limits.

DOT staff and legal staff recommend acceptance of the offer of settlement from Allstate Insurance Co. It is unlikely that any further recovery will be obtained from Ms. Williams or her parents at this time.

**ATTACHMENTS:** (3) Original *Property Damage Release*

Revenue to be deposited in account: PD5410917500.364420.9000 (Traffic-Insurance Proceeds) *FK*

**PROPERTY DAMAGE RELEASE**

LEE COUNTY, a political subdivision and charter county of the State of Florida, active, by and through its Board of County Commissioners, the governing body thereof, accepts the payment of Twelve Thousand Dollars (\$12,000.00) from **ALLSTATE INSURANCE COMPANY** and hereby releases and forever discharges Samantha P. Williams and Mark Adams, its servants, successors, heirs, executors, administrators, assigns, from any and all claims, demands, or causes of action on suits of any kind in any way arising out of damages to property caused by an accident on September 29, 2003, at the intersection of April Lane and Pondella Road in Fort Myers, Florida.

The undersigned hereby declares that the terms of this settlement have been completely read and are fully understood and voluntarily accepted for the purpose of making a full and final compromise adjustment and settlement of any and all claims, disputed or otherwise, on account of the damages above-mentioned, and for the express purpose of precluding forever any further or additional claims relating to property damage arising out of the aforesaid accident.

As consideration for payment of the above amount, LEE COUNTY BOARD OF COUNTY COMMISSIONERS, shall not institute any legal proceedings against ALLSTATE INSURANCE COMPANY, SAMANTHA P. WILLIAMS and MARK ADAMS for any claims connected with Claim Number 2478098309, and forever discharges ALLSTATE INSURANCE COMPANY, SAMANTHA P. WILLIAMS, and MARK ADAMS from all claims, demands, damages and actions arising therefrom.

DATED this 28th day of September, 2004.

ATTEST: CHARLIE GREEN  
CLERK OF COURTS

BY: \_\_\_\_\_  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: \_\_\_\_\_  
Chairman

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Office of the County Attorney