

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

Blue Sheet No. 20060127

1. ACTION REQUESTED/PURPOSE: Approve settlement in Lee County v. Paletsky, Case No. 04CA-2696.

2. WHAT ACTION ACCOMPLISHES: Settles all claims except attorney fees for condemnation of Parcel 100.

3. MANAGEMENT RECOMMENDATION: County Attorney's Office recommends approval.

4. Departmental Category: 12 <i>A12A</i>		5. Meeting Date: <i>02-21-2006</i>
6. Agenda: <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	7. Requirement/Purpose: (specify)	
	<input type="checkbox"/> Statute	
	<input type="checkbox"/> Ordinance	
	<input type="checkbox"/> Admin. Code	
	<input type="checkbox"/> Other	
		8. Request Initiated: Commissioner _____ Department <u>County Attorney</u> Division <u>Litigation</u> By: <u>John J. Renner, Chief</u> <u>Assistant County Attorney</u>

9. Background: Lee County condemned 29,492 sq. ft. of land from a vacant 49.25 acre tract at the southeast corner of Gladiolus/Summerlin for the Summerlin/Gladiolus Widening Project in November of 2004. Lee County's appraised value was \$3.50/sq. ft. Shortly before Lee County acquired title to Parcel 100, the tract was sold for \$5.13/sq. ft. A settlement has been reached to pay \$5.13/sq. ft. (\$151,294.00) with no interest and no appraisal or expert fees.

Funds available in string acct.: 20406718804.506110

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
				<i>[Signature]</i>	Analyst	Risk	Grants	Mgr.	<i>[Signature]</i>
				<i>[Signature]</i>	<i>2/2/06</i>	<i>3/6/06</i>	<i>2/6/06</i>	<i>2/6/06</i>	

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

CO. ATTY.
FORWARDED TO CH. CLERK
2/2/06

RECEIVED BY COUNTY ADMIN: <i>LF</i>
<i>2-2-06</i>
<i>4:42</i>
COUNTY ADMIN FORWARDED TO: <i>LF</i>
<i>2/5/06</i>
<i>TH</i>

**MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY**

DATE: February 2, 2006

To: Michael Figueroa
Risk Management

FROM:


John J. Renner
Chief Assistant County Attorney

RE: Elias v. USSI & Lee County
Case No.: 06-CA-196

Attached please find a Summons and Complaint in the above-referenced matter. Please handle.

If you have any questions or concerns, please contact me directly.

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR LEE COUNTY, FLORIDA
CIVIL DIVISION

06-CA-000196
Judge: Corbin, R Thomas

Received
FEB 01 2006
COMMISSIONER Hall

REGINA ELIAS,

Plaintiff,

vs.

UNITED STATES SERVICE
INDUSTRIES, INC., a Florida
Corporation, and LEE COUNTY,

Defendants.

MARK D. BEAUMONT, INC.
PROCESS SERVING
P.O. Box 60455, Ft. Myers, FL 33906
Date 2/1/06 Time: 12:55 PM
Mark D. B
05-107

SUMMONS

THE STATE OF FLORIDA:

To all and singular Sheriffs of said state:

YOU ARE HEREBY COMMANDED to serve this Summons and a copy of the Complaint, Interrogatories, and Request for Production in the above-styled cause upon the Defendant:

LEE COUNTY
BY SERVING: BOARD OF COUNTY COMMISSIONERS
OLD LEE COUNTY COURTHOUSE
2120 MAIN STREET
FORT MYERS, FLORIDA 33901

Each Defendant is hereby required to serve written defenses to said Complaint or Petition on:

BRIAN C. VIGNESS, ESQUIRE
MORGAN & MORGAN, P.A.
POST OFFICE BOX 9504
FORT MYERS, FLORIDA 33906
(239) 433-6880 // FAX: (239) 433-6836,

2006 FEB -2 AM 9:48
RECEIVED BY
LEE CO. ATTORNEY

Handwritten signature and date: 2/2/06

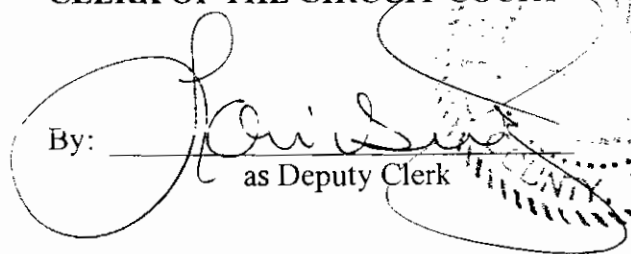
within *twenty (20) days* after service of this Summons upon you, exclusive of the day of service, and to file the original of said written defenses with the Clerk of said Court either before service on Plaintiff's attorney or immediately thereafter. If you fail to do so, a default will be entered against you for the relief demanded in the Complaint or Petition.

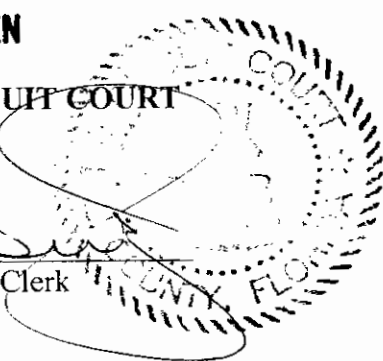
In accordance with the Americans with Disabilities Act, if you are a person with disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Deputy Court Administrator whose office is located at the **LEE COUNTY JUSTICE CENTER, 1700 Monroe Street, Fort Myers, FL 33901**, and whose telephone number is (239) 225-2231, within two (2) working days of your receipt of this Summons; if you are hearing or voice impaired, please call 1-800-955-8771.

WITNESS my hand and the seal of this Court on this the 20 day of Jan, 2006.

CHARLIE GREEN

CLERK OF THE CIRCUIT COURT

By:  as Deputy Clerk



IMPORTANTE

Usted ha sido demandado legalmente. Tiene veinte (20) días, contados a partir del recibo de esta notificación, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefónica no lo protegerá; si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el número del caso y los nombres de las partes interesadas en dicho caso. Si usted no contesta la demanda a tiempo, pudiese perder el caso y podría ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guía telefónica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, deberá usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Plaintiff/Plaintiff's Attorney." (Demandante o Abogado del Demandante).

"De acuerdo con el Acto o' Decreto de los Americanos con Impedimentos Inhabilitados, personas en necesidad del servicio especial para participar en este procedimiento deberán, dentro de un tiempo razonable, antes de cualquier procedimiento, ponerse en un tiempo razonable, antes de cualquier procedimiento, ponerse en contacto con la oficina Administrativa de la Corte, Telefono (TDD) 1-800-955-8771 o (V) 1-800-955-8770, via Florida Relay System."

IMPORTANT

Des poursuites judiciaires ont été entreprises contre vous. Vous avez 20 jours consécutifs à partir de la date de l'assignation de cette citation pour déposer une réponse écrite à la plainte ci-jointe auprès de ce Tribunal. Un simple coup de téléphone est insuffisant pour vous protéger; vous êtes obligé de déposer votre réponse écrite, avec mention du numéro de dossier ci-dessus et du nom des parties nommées ici, si vous souhaitez que le Tribunal entende votre cause. Si vous ne déposez pas votre réponse écrite dans le délai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent être saisis par la suite, sans aucun préavis ultérieur du Tribunal. Il y a d'autres obligations juridiques et vous pouvez requérir les services immédiats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez téléphoner à un service de référence d'avocats ou à un bureau d'assistance juridique (figurant à l'annuaire de téléphones).

Si vous choisissez de déposer vous-même une réponse écrite, il vous faudra également, en même temps que cette formalité, faire parvenir ou expédier une copie au carbone ou une photocopie de votre réponse écrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou à son avocat) nommé ci-dessous.

En accord avec la Loi des "Américains With Disabilities". Les personnes en besoin d'une accommodation spéciale pour participer à ces procédures doivent, dans un temps raisonnable, avant d'entreprendre aucune autre démarche, contracter l'office administrative de la Cour situé au le téléphone ou Telefono (TDD) 1-800-955-8771 ou (V) 1-800-955-8770, via Florida Relay System."

Morgan & Morgan, P.A.
12800 University Drive, Suite 600
Post Office Box 9504
Fort Myers, FL 33906

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR LEE COUNTY, FLORIDA
CIVIL DIVISION

CASE NO:

06-CA-196

REGINA ELIAS,

Plaintiff,

vs.

UNITED STATES SERVICE
INDUSTRIES, INC., a Florida
Corporation, and LEE COUNTY,

Defendants.

COMPLAINT

COMES NOW Plaintiff, REGINA ELIAS, and sues the Defendants, LEE COUNTY and UNITED STATES SERVICE INDUSTRIES, INC., and alleges:

1. This is an action for damages that exceeds Fifteen Thousand Dollars (\$15,000.00), exclusive of interest, costs and attorneys' fees.
2. Plaintiff is a natural person residing in Lee County, Florida.
3. At all times material to this action, Defendant, LEE COUNTY is a political subdivision of the State of Florida that operated the LEE COUNTY HEALTH DEPARTMENT.
4. All conditions precedent to the filing of this action against LEE COUNTY have been satisfied. Attached hereto as Exhibit "A".

5. At all times material to this action, Defendant, UNITED STATES SERVICE INDUSTRIES, INC., is a Florida corporation licensed to do business in the State of Florida.

6. At all times material hereto, Defendant, LEE COUNTY, was the owner and/or possessor of a property located at 3920 Michigan Avenue, Fort Myers, Florida.

7. At all times material hereto, Defendant, UNITED STATES SERVICE INDUSTRIES, INC., was the cleaning contractor for the property located at 3920 Michigan Avenue, Fort Myers, Florida, with the duties to clean and maintain said premises in a safe condition.

8. On or about March 5, 2005, Plaintiff visited the above premises as a business invitee.

9. At said time and place, Plaintiff was lawfully upon said premises and the Defendants owed Plaintiff a duty to exercise reasonable care for her safety.

10. At said time and place, the Plaintiff slipped and fell because the Defendants negligently maintained the premises by allowing water and/or other transitory foreign substances to accumulate on the floor.

11. The above negligent condition was known to the Defendants, or had existed for a sufficient length of time so that the Defendants should have known of it.

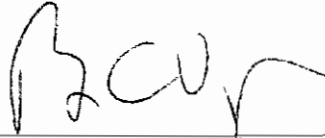
12. The above-described negligence was the proximate cause of the injury to Plaintiff.

13. As a direct and proximate result of the negligence of Defendants, Plaintiff suffered bodily injury in and about her body and extremities, resulting in pain and suffering, disability, disfigurement, permanent and significant scarring, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earning, loss of the ability to earn money, and aggravation of previously existing condition. The

losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, the Plaintiff, REGINA ELIAS, sues the Defendant, LEE COUNTY and the Defendant, UNITED STATES SERVICE INDUSTRIES, INC., for damages and demands judgment in excess of Fifteen Thousand Dollars (\$15,000.00), plus interest and costs, and demands trial by jury of all issues so triable.

RESPECTFULLY submitted this 17th day of January, 2006



BRIAN C. VIGNESS, ESQUIRE
FBN: 67441
Morgan & Morgan, P.A.
Post Office Box 9504
Fort Myers, FL 33906
Telephone: (239) 433-6880
Facsimile: (239) 433-6836
Attorneys for Plaintiff

EXHIBIT “A”

January 19, 2004

NOTICE OF CLAIM – FLORIDA STATUTES 768-28(6)

TO: (82888)
Lee County Government
PO Box 398
Ft Myers, FL 33902-0398

**Department of Insurance
State of Florida
200 East Gaines Street
Tallahassee, FL 32399-0300**

CLAIMANT: Regina Elias
Date of Birth: 02/11/1961
Place of Birth: Texas
Social Security No: 324-64-5210

CONSORTIUM CLAIMANT: N/A
Date of Birth: N/A
Place of Birth: N/A
Social Security No.: N/A

PRIOR ADJUDICATED UNPAID CLAIMS: (if none, so state)

Claimant: unknown at this time
Consortium Claimant: unknown at this time

DATE OF INCIDENT: June 23, 2003

PLACE OF INCIDENT: Michigan Ave.. Lee County. Fort Myers. FL.

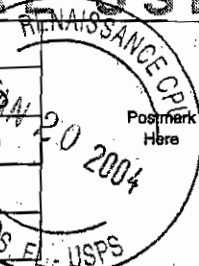
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For delivery information visit our website at www.usps.com

OFFICIAL USE

7003 0500 0003 6824 4079

Postage	\$.37
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.42



Sent To: Lee County Govt.
 Street, Apt. No., or PO Box No.: PO Box 398
 City, State, ZIP+4: Ft Myers FL 33902

PS Form 3800, June 2002 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 Lee County Govt.
 PO Box 398
 Ft. Myers FL
 33902

COMPLETE THIS SECTION ON DELIVERY

A. Signature: *[Signature]* Agent Addressee
 X Addressee
 B. Received by (Printed Name): *Gregory Garcia*
 C. Date of Delivery: *August 1, 2004*
 D. Is delivery address different from item 1? Yes No
 YES, enter delivery address below:



3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
 4. Restricted Delivery? (Extra Fee) Yes

2. Article Number: 7003 0500 0003 6824 4079
 (Transfer from service label)

Certified Mail Provides:

PS Form 3800, June 2002 (Reverse)

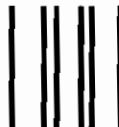
- A mailing receipt
- A unique identifier for your mailpiece
- A record of delivery kept by the Postal Service for two years

Important Reminders:

- Certified Mail may ONLY be combined with First-Class Mail® or Priority Mail®.
- Certified Mail is *not* available for any class of international mail.
- NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For valuables, please consider Insured or Registered Mail.
- For an additional fee, a *Return Receipt* may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS® postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "*Restricted Delivery*".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

IMPORTANT: Save this receipt and present it when making an inquiry.
Internet access to delivery information is not available on mail addressed to APOs and FPOs.

UNITED STATES POSTAL SERVICE

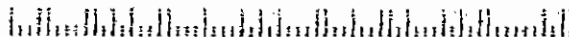


First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

+
Morgan, Colling & Gilbert
One University Park
12800 University Dr., Suite 600
Fort Myers, FL 33907

82888 CHG/EWC



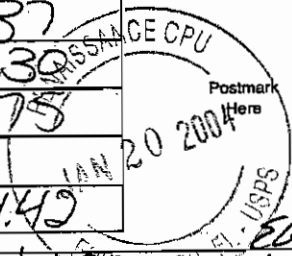
2924 1299 E000 0050 E002

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Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.42



Sent To: Department of Ins State of FL
 Street, Apt. No., or PO Box No.: 200 E. Gaines St
 City, State, ZIP+4: Tallahassee FL 32399

PS Form 3800, June 2002 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Department of Ins
 State of Florida
 200 E. Gaines St
 Tallahassee FL 32399-0002

2. Article Number
(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature: X Agent Addressee

B. Receiver (Printed Name): Agent Addressee
 C. Date of Delivery: JAN 23 2004

D. Is delivery address different from item 1? Yes
 if YES, enter delivery address below: No

3. Service Type:
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7003 0500 0003 6824 4062

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(Reverse) (June 2002) PS Form 3800

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- For an additional fee, a *Return Receipt* may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS® postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "*Restricted Delivery*".
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IMPORTANT: Save this receipt and present it when making an inquiry. Internet access to delivery information is not available on mail addressed to APOs and FPOs.

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• Sender: Please print your name, address, and ZIP+4 in this box •

+
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Fort Myers, FL 33907

82888 EN/CHR

