

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

Blue Sheet No. 20040892

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Accept the settlement offer of \$8,102.10 from United Services Automobile Association ("USAA") and the Estate of Richard G. Kilfoyle for damages to Lee County property caused by Richard G. Kilfoyle in a vehicle accident on April 3, 2002, in the amount of \$10,322.82. Authorize Chairman to execute Property Damage Release and Satisfaction and Release of Claim.

**WHY ACTION IS NECESSARY:** Board of County Commissioners' approval is required for settlement offers and execution of releases to complete the transaction with USAA and the Estate of Richard G. Kilfoyle for their payment of \$8,102.10.

**WHAT ACTION ACCOMPLISHES:** Releases the Estate of Richard G. Kilfoyle and USAA from any further liability arising out of the traffic accident on April 3, 2002. The \$8,102.10 payment to County for damages to Lee County property, invoice 1525, represents a 78% recovery of the damages for Lee County.

**2. DEPARTMENTAL CATEGORY:  
COMMISSION DISTRICT #**

*A12F*

**3. MEETING DATE:**

*07-27-2004*

**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: *[Signature]*  
Scott S. Coovert  
Assistant County Attorney

**7. BACKGROUND:**

April 3, 2002, a motor vehicle owned and operated by Richard G. Kilfoyle was traveling South bound on Burnt Store Road when Mr. Kilfoyle negligently traveled into the opposite lane crashing "head-on" into a dump truck owned by Pudja Trucking Inc. Mr. Kilfoyle died as a result of the collision. The damages to the truck owned by Pudja Trucking Inc. are \$53,381.78 and damages to Lee County Department of Transportation (DOT) for road repair and clean up are \$10,332.82. Mr. Kilfoyle's insurance policy through USAA has a \$50,000 property damage limitation.

June 25, 2002, the Lee County Attorneys Office filed a claim against the Estate of Richard G. Kilfoyle for \$10,322.82. Pursuant to mediation, USAA and the Estate of Richard G. Kilfoyle is offering to pay Lee County DOT and Pudja Trucking, Inc. an equal pro rata share out of Mr. Kilfoyle's property damage policy. Lee County would receive \$8,102.10 which would be a 78% recovery for Lee County DOT.

ATTACHMENTS: Property Damage Release  
Satisfaction and Release of Claim

**8. MANAGEMENT RECOMMENDATIONS:** Staff recommends accepting the settlement offer and execute the Release and Satisfaction of Claim.

**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>[Signature]</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> 7-14-04

**10. COMMISSION ACTION:**

- \_\_\_\_\_ APPROVED
- \_\_\_\_\_ DENIED
- \_\_\_\_\_ DEFERRED
- \_\_\_\_\_ OTHER

RECEIVED BY COUNTY ADMIN: <i>[Signature]</i>
7/13/04
3:20 p.m. 54
COUNTY ADMIN FORWARDED TO: <i>[Signature]</i>
7-14-04
<i>[Signature]</i>

**PROPERTY DAMAGE RELEASE**

FOR AND IN CONSIDERATION of the sum of EIGHT THOUSAND ONE HUNDRED TWO and 10/100 DOLLARS (\$8,102.10), paid by or on behalf of MARY S. KILFOYLE, Personal Representative of the Estate of Richard G. Kilfoyle, MARY S. KILFOYLE, individually, RICHARD G. KILFOYLE, deceased, UNITED SERVICES AUTOMOBILE ASSOCIATION ("USAA"), JOHN F. STEWART, ESQUIRE, and JAMES DECKER, ESQUIRE, (hereinafter referred to as "Releasees"), the receipt of which is hereby acknowledged, the undersigned authorized representative of the LEE COUNTY BOARD OF COUNTY COMMISSIONERS, a political subdivision and charter county of the State of Florida, (hereinafter referred to as "Releasor"), acting by and through its Board of County Commissioners, the governing body thereof, hereby fully and forever release, acquit, and discharge said Releasees and their heirs, administrators, executors, representatives, agents, successors, and assigns, from any and all actions, causes of action, claims, and demands, of whatsoever kind or nature on account of any and all known and unknown losses or damages to Releasor sustained or received on or about the 3<sup>rd</sup> day of April, 2002, as a direct and proximate result of an automobile accident in which Releasor claims damages to personal and real property for which losses and damages they claim Releasees to be legally liable, which liability is expressly denied, it being fully understood and agreed that the acceptance of said sum is in full accord and satisfaction of a disputed claim and that the payment of said sum is not an admission of liability.

Releasor hereby declares that they fully understand the terms of this settlement, that the amount stated here is the sole consideration of this Release, and that Releasor voluntarily accepts said sum for the purpose of making a full and final compromise, adjustment, and settlement of all claims for losses and damages resulting or to result from said automobile accident as to Releasees only.

The Releasor hereby agrees to indemnify, defend, and hold harmless Releasees and their heirs, administrators, executors, representatives, agents, successors, and assigns, from any and all claims, losses, costs, or expenses (including, but not limited to attorneys' fees) for past or future expenses or any other persons, firms, or entities claiming a recovery under any assignment.

**IN WITNESS WHEREOF**, Releasor has executed this Property Damage Release through its duly authorized representative, on this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

ATTEST: CHARLIE GREEN  
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

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

BY: \_\_\_\_\_  
John E. Albion, Chairman

APPROVED AS TO FORM:

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

**IN THE CIRCUIT COURT FOR THE TWENTIETH  
JUDICIAL CIRCUIT IN AND FOR LEE COUNTY,  
FLORIDA PROBATE DIVISION**

IN RE: ESTATE OF

File No. 02-1158 CP

RICHARD G. KILFOYLE,  
  
Deceased.

**SATISFACTION AND RELEASE OF CLAIM**

The undersigned authorized representative, on behalf of the LEE COUNTY BOARD OF COUNTY COMMISSIONERS, a political subdivision and charter county of the State of Florida has received full payment of the claim filed in this proceeding against the above estate or has otherwise settled or compromised said claim, and this Satisfaction and Release of Claim is executed to acknowledge discharge of the claim and to release the estate and the Personal Representative of the estate from all further liability with respect thereto.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

ATTEST: CHARLIE GREEN  
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

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

BY: \_\_\_\_\_  
John E. Albion, Chairman

BY: \_\_\_\_\_  
SCOTT S. COOVERT  
Assistant County Attorney  
Fla. Bar No. 101036