

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

Blue Sheet No. 20050403

1. ACTION REQUESTED/PURPOSE: 1) Accept settlement offer of \$6,021.25 from United Automobile Insurance Company for damages made to Lee County D.O.T. traffic light pole on 4/5/03, and authorize Chairman to execute release for property damage; 2) Accept settlement offer of \$5,300 from MGA Insurance Company for damages to Lee County D.O.T. signal cabinet on 3/24/03, and authorize Chairman to execute release of property damage claim with MGA, and execute settlement agreement (repayment schedule) with driver for balance of damages.

2. WHAT ACTION ACCOMPLISHES: Settles two (2) outstanding property damage claims.

3. MANAGEMENT RECOMMENDATION: Management and County Attorney's office recommend Board approval.

4. Departmental Category:		A9A	5. Meeting Date: 04-12-2005	
6. Agenda:	7. Requirement/Purpose: (specify)		8. Request Initiated:	
<input type="checkbox"/> Consent	<input type="checkbox"/> Statute		Commissioner	
<input checked="" type="checkbox"/> Administrative	<input type="checkbox"/> Ordinance		Department D.O.T.	
<input type="checkbox"/> Appeals	<input type="checkbox"/> Admin. Code		Division Administration	
<input type="checkbox"/> Public	<input checked="" type="checkbox"/> Other		By:	
<input type="checkbox"/> Walk-On				

9. Background:
 UAIC (Romula Rioja): Aldo Rioja was driving at a high rate of speed and lost control of his vehicle damaging a Lee County D.O.T. traffic light pole. The falling light pole also damaged another vehicle striking its front hood. Aldo Rioja died as a result of the accident. Damages to the Lee County D.O.T. traffic light pole is \$35,559.20.

The owner of the vehicle, Romula Rioja, is also the mother of the deceased (Aldo Rioja). Ms. Rioja was insured through United Automobile Insurance Company (UAIC) with property damage limits of \$10,000. UAIC is offering to settle the case for \$6,021.25 for a Release For Property Damage to discharge Romula Rioja and UAIC from any further legal action arising from this accident.

MGA (Richard Stross): Richard Stross was involved in a three car motor vehicle accident causing \$30,532.16 in damages to the vehicles and a traffic signal cabinet owned by Lee County D.O.T. The damages to the traffic signal cabinet is \$16,390.31. Mr. Stross is insured with MGA Insurance Company (MGA) having a \$10,000 property damage liability policy at the time of the accident.

MGA proposes to settle the case for losses and damages between Lee County and MGA and their insured, Richard Stross. MGA is offering to settle the case for \$5,300 for a Release of Property Damage Claim from Lee County. Richard Stross and Lee County will enter into a separate contractual agreement for the \$11,090.31 balance of Lee County property damage (\$16,390.31 - \$5,300.00 = \$11,090.31). Mr. Stross will make one payment of \$290.31 on April 1, 2005, and thereafter monthly payments in the amount of \$200.00 to Lee County for fifty-four (54) months commencing May 1, 2005.

Attachments: UAIC Release for Property Damage form, Repayment schedule (1st payment attached), MGA Release of Property Damage Claim Form (\$5,300 check attached). Funds to be deposited in account: PD5410917500.364420.9000 DOT-signs & markings-Traffic insurance proceeds.

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services / Grants			County Manager/P.W. Director	
<i>[Signature]</i>				<i>[Signature]</i>	Analyst <i>RK-3/31</i>	Risk <i>3/21/05</i>	Grants <i>[Signature]</i>	Mgn. <i>[Signature]</i>	<i>[Signature]</i> 3-29-05

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

Rec. by CoAtty
 Date: 3/30/05
 Time: 11:05
 Forwarded To:
 Co. Atty
 3/30/05

RECEIVED BY
 COUNTY ADMIN:
 3-30-05 M.
 2:15 pm
 COUNTY ADMIN
 FORWARDED TO:
 3/31/05
 4:30 pm

RELEASE FOR PROPERTY DAMAGE

The **LEE COUNTY GOVERNMENT**, a political subdivision of the State of Florida, for the sole consideration of the payment of Six Thousand Twenty-One Dollars and Twenty-Five Cents (\$6,021.25) from **UNITED AUTOMOBILE INSURANCE COMPANY**, hereby release and forever discharge Romula Rioja, 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 April 5, 2003, at U. S. 41 and Cypress Trace 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 GOVERNMENT, DEPARTMENT OF TRANSPORTATION** shall not institute any legal proceedings against **UNITED AUTOMOBILE INSURANCE COMPANY** and **ROMULA RIOJA** for any claims connected with Claim Number 755095-4-068, and forever discharges **UNITED AUTOMOBILE INSURANCE COMPANY** and **ROMULA RIOJA** from all claims, demands, damages and actions arising therefrom.

DATED this _____ day of _____, 200__.

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

SETTLEMENT AGREEMENT
BETWEEN RICHARD A. STROSS AND LEE COUNTY

LEE COUNTY, a political subdivision and charter county of the State of Florida, and RICHARD A. STROSS, a resident of Lee County, agree to amicably settle Lee County's claim for damages as follows:

A. Background

On or about March 24, 2003, at or near SR 78W and Burnt Store Road/Veterans Parkway, in Lee County, Florida, Richard Anthony Stross was involved in a three car motor vehicle accident causing \$16,390.31 in damages to a traffic signal cabinet owned by LEE COUNTY and other damages not the subject of this agreement. The total amount of damages for this motor vehicle accident is \$30,532.16. MGA INSURANCE COMPANY was listed in the traffic crash report as the insurance carrier for Mr. Richard Anthony Stross at the time of the motor vehicle accident and he was insured by such named company at the time of the accident having a \$10,000 property damage liability policy.

MGA Insurance Company has agreed to tender Five Thousand Three Hundred Dollars (\$5,300) to Lee County which is its pro rata share of the property damage liability policy and has been released from all claims, demands, or causes of actions on suits of any kind by Lee County thereby leaving unpaid balance of damages the responsibility of Richard A. Stross.

B. Settlement Agreement Between Richard A. Stross and LEE COUNTY

As inducement for LEE COUNTY to forgo any and all legal actions available to it to recover damages from RICHARD A. STROSS for property damage to County property and to authorize a payment plan and to waive certain interest charges, RICHARD A. STROSS agrees, fully understands and has had the opportunity to seek legal counsel for the following:

- (i) RICHARD A. STROSS admits responsibility that his negligent driving actions were the legal cause of the damages to the Lee County traffic signal cabinet located at or near SR 78W and Burnt Store Road/Veterans Parkway, in Lee County, Florida. That RICHARD A. STROSS waives any rights, defenses or dispute of facts related to such damages.
- (ii) RICHARD A. STROSS agrees to pay a total \$11,090.31 (\$16,390.31 damages to traffic signal cabinet minus pro rata share of \$5,300 from MGA Insurance Company) for the above-mentioned damages to LEE COUNTY. RICHARD A. STROSS will make one payment of \$290.31 on April 1, 2005, and

thereafter monthly payments of \$200.00 to LEE COUNTY for fifty-four (54) months commencing May 1, 2005, as detailed in Exhibit "A", (attached).

- (iii) RICHARD A. STROSS agrees that if he fails to make a payment and such debt becomes thirty (30) days past due LEE COUNTY reserves the right to seek all available legal remedies to collect said debt. It is also agreed that LEE COUNTY reserves the right to accelerate the balance due as stated above and collect the maximum amount of interest allowable by law for the remaining balance of the debt amortized through the balance of the fifty-four (54) month term then remaining.
- (iv) RICHARD A. STROSS agrees to pay any attorney fees and court costs that LEE COUNTY may incur with respect to any collection efforts to recover the debt. Any legal action related to this matter will be in a court of competent jurisdiction located in Lee County, Florida.
- (v) Monthly payments will be made to the following address:

Lee County Attorney's Office
Attention: Scott S. Coover, Assistant County Attorney
P.O. Box 398
Fort Myers, FL 33902

(Balance of Page Left Intentionally Blank)

I, Richard A. Stross, have reviewed the above Settlement Agreement and agree to the terms and conditions.

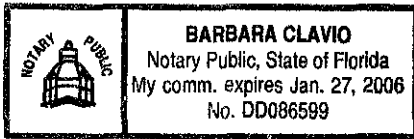
RICHARD A. STROSS

BY: Richard Anthony Stross
(Signature)

State of Florida
County of Lee

On the 18 day of Feb, 2005, before me personally appeared Richard Anthony Stross known to be the person(s) named herein and who executed the foregoing Settlement Agreement between Richard A. Stross of Lee County, acknowledged to me that Richard Anthony Stross voluntarily executed same.

My term expires Jan 27, 2006.



Barbara Clavio
NOTARY PUBLIC Barbara Clavio



DATED this _____ day of _____, 2005.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Douglas St. Cerny, Chair

APPROVED AS TO FORM:

BY: _____
Office of the County Attorney

EXHIBIT "A"

**PAYMENT ARRANGEMENTS
BETWEEN RICHARD A. STROSS AND LEE COUNTY ATTORNEY'S OFFICE**

AMOUNT OWED:						\$16,390.31			
AMOUNT TO BE RECEIVED FROM MGA INSURANCE COMPANY:						- 5,300.00			
REMAINING BALANCE:						\$11,090.31			
April 1, 2005, payment \$290.31; Remaining \$10,800.00 divided over 54 months at \$200.00 per month. (Payable the 1 st day of the month)									
2005		2006		2007		2008		2009	
		Jan. 2006	\$200.00	Jan. 2007	\$200.00	Jan. 2008	\$200.00	Jan. 2009	\$200.00
		Feb. 2006	\$200.00	Feb. 2007	\$200.00	Feb. 2008	\$200.00	Feb. 2009	\$200.00
		March 2006	\$200.00	March 2007	\$200.00	March 2008	\$200.00	March 2009	\$200.00
April 2005	\$290.31	April 2006	\$200.00	April 2007	\$200.00	April 2008	\$200.00	April 2009	\$200.00
May 2005	\$200.00	May 2006	\$200.00	May 2007	\$200.00	May 2008	\$200.00	May 2009	\$200.00
June 2005	\$200.00	June 2006	\$200.00	June 2007	\$200.00	June 2008	\$200.00	June 2009	\$200.00
July 2005	\$200.00	July 2006	\$200.00	July 2007	\$200.00	July 2008	\$200.00	July 2009	\$200.00
Aug. 2005	\$200.00	Aug. 2006	\$200.00	Aug. 2007	\$200.00	Aug. 2008	\$200.00	Aug. 2009	\$200.00
Sept. 2005	\$200.00	Sept. 2006	\$200.00	Sept. 2007	\$200.00	Sept. 2008	\$200.00	Sept. 2009	\$200.00
Oct. 2005	\$200.00	Oct. 2006	\$200.00	Oct. 2007	\$200.00	Oct. 2008	\$200.00	Aug. 2009	200.00
Nov. 2005	\$200.00	Nov. 2006	\$200.00	Nov. 2007	\$200.00	Nov. 2008	\$200.00		
Dec. 2005	\$200.00	Dec. 2006	\$200.00	Dec. 2007	\$200.00	Dec. 2008	\$200.00		

RICHARD A. STROSS
ROWENA STROSS
PH. 239-283-1274
6001 DURRANCE RD.
BOKEELIA, FL 33922-2504

2162

63-27/831 EL
196

Date 18 February 2005

Pay Lee County Board of County Commissioners \$ 290.31
to the order of

Two hundred ninety dollars & thirty one cents

 Security features are included. Details on back.

Bank of America



ACH/R/T 063100277

Memo

Advantage
Richard Anthony Stross

⑆063100277⑆ 000001309433⑈ 2162

RELEASE OF PROPERTY DAMAGE CLAIM

LEE COUNTY, a political subdivision and charter county of the State of Florida, and MGA INSURANCE COMPANY agree to amicably settle Lee County's claim for damages as follows:

A. BACKGROUND

On or about March 24, 2003, at or near SR 78W and Burnt Store Road/Veterans Parkway, in Lee County, Florida, Richard Anthony Stross was involved in a three car motor vehicle accident causing \$16,390.31 in damages to a traffic signal cabinet owned by LEE COUNTY and other damages not the subject of this agreement. The total amount of damages for this motor vehicle accident is \$30,532.16. MGA INSURANCE COMPANY was listed in the traffic crash report as the insurance carrier for Mr. Richard Anthony Stross at the time of the motor vehicle accident and he was insured by such named company at the time of the accident having a \$10,000 property damage liability policy.

B. PURPOSE

The purpose of this Release is the settlement of all claims for losses and damages between LEE COUNTY and MGA INSURANCE COMPANY and their insured, RICHARD ANTHONY STROSS. MGA INSURANCE COMPANY will tender \$5,300 for LEE COUNTY'S release as set forth in Paragraph [C]. Richard Stross and Lee County will enter into a separate agreement for the \$11,090.31 balance of Lee County property damages. (\$16,390.31 - \$5,300.00 = \$11,090.31)

C. RELEASE OF CLAIMS

MGA INSURANCE COMPANY agrees to tender **FIVE THOUSAND THREE HUNDRED DOLLARS (\$5,300)** as consideration to LEE COUNTY which is its pro rata share of the property damage liability policy. In return for such consideration, the undersigned authorized representative of the LEE COUNTY BOARD OF COUNTY COMMISSIONERS, acting by and through its Board of County Commissioners, the governing body thereof, hereby fully and forever release, acquit, and discharge Richard Stross, MGA INSURANCE COMPANY and all other persons, firms, corporations, associations or partnerships of and from any and all claims, actions, causes of action, demands, rights, damages, costs, loss of service, expenses and compensation whatsoever, which the undersigned now has/have or which may hereafter accrue on account of or in any way growing out of any and all known and unknown, foreseen and unforeseen property damage and the consequences thereof resulting or to result from the occurrence on or about March 24, 2003, at or near SR 78W and Burnt Store Road/Veterans Parkway, in Lee County, Florida. The release of Richard Stross is contingent upon his full compliance with the terms of the attached payment arrangement

that was entered into by and between Richard Stross and Lee County on the ____ day of _____, 2005.

IN WITNESS WHEREOF, the Chair of the Lee County Board of County Commissioners has executed this *Release of Property Claim* on this _____ day of _____, 2005.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

**BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA**

BY: _____
Deputy Clerk

BY: _____
Douglas St. Cerny, Chair

APPROVED AS TO FORM:

BY: _____
Office of the County Attorney

CARRIER....: MGA INSURANCE COMPANY, INC.
LOSS DATE...: 03/24/2003
INSURED....: RICHARD STROSS / LEE COUNTY
CLAIMANT NO: 04
DRAFT NO....: 000000000132183
PAYOUT TYPE: PAID LOSS
ISSUED TO...: LEE COUNTY BOARD OF COUNTY

POLICY NO.: 01MGFC0045884-03
CLAIM NO...: 000085155
ISSUE DATE: 02/28/2005
CLAIMANT...: LEE COUNTY D.O.T.
AMOUNT....: ****5,300.00
COVERAGE...: AUTO PROPERTY DAMAGE LIAB

REASON.....: FINAL PAYMENT OF ALL DAMAGES

LEE COUNTY BOARD OF COMM.
ATTN. SCOTT S COOVERT, ESQ.
P.O. BOX 398
FORT MYERS, FL 33902-0398

THIS DOCUMENT PRINTED ON PAPER CONTAINING UV FIBERS, ARTIFICIAL WATERMARK AND MICROPRINTING.

MGA INSURANCE COMPANY, INC.

CLAIMS CONTROL PAY ACCOUNT

No. 132183

01MGFC0045884-03 03/24/2003
000085155-04

64-79
611

DATE 02/28/2005

PAY *****5,300 DOLLARS 00 CENTS

\$ *****5,300.00

SunTrust
SunTrust Bank

VOID AFTER 90 DAYS

TO
THE
ORDER
OF

LEE COUNTY BOARD OF COUNTY
COMMISSIONERS

Scott S Covert
Lee County Board of Commissioners

⑈ 132183 ⑈ ⑆061100790⑆ ⑆702189074543⑈