

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
OFFICE OF THE JUDGE OF COMPENSATION CLAIMS
SARASOTA**

Rudy Pallastrone,
Claimant,

OJCC No(s): 08-007335DBB,
10-004444DBB, &
13-023584DBB
D/A(s): 9/27/2006,
9/26/2006, & 4/20/2010
Judge: Diane B. Beck

v.

Sarasota County School Board/
OptaComp,
Employer/Carrier.

Lisa Ann Kalo, Esquire, for Claimant
Ben H. Cristal, Esquire, for Employer/Carrier

**SETTLEMENT AGREEMENT PURSUANT TO FLORIDA STATUTES, SECTION
440.20(11)(c)(d) & (e) (2001)**

The above-named Parties hereby enter into the following settlement agreement made for the specific purpose of discharging the Employer/Carrier from any further liability for all benefits under the Florida Workers' Compensation Act, including, but not limited to, monetary compensation benefits, rehabilitation benefits, temporary total disability benefits during rehabilitation as defined under F.S. 440.491 (2001), and medical benefits, in exchange for the payment of a lump sum of money to the Claimant. The Parties hereby stipulate and agree as follows:

1. **WAIVER** - Pursuant to Florida Statutes, Section 440.20(11)(c)(2001), in exchange for the consideration described below, the Claimant hereby waives all rights to any and all benefits under Florida Statutes, Chapter 440. **except for any and all authorized medical bills incurred prior to the JCC executing the appropriate Order, shall remain the ER/CR's financial responsibility.**
2. **DESCRIPTION OF ACCIDENT(S)/OCCUPATIONAL DISEASE(S)** - On 9/27/2006, 4/20/2010 and 9/26/2006, the Claimant sustained an injury/injuries by accident as contemplated under F.S. 440.02(1) and/or occupational disease or diseases as contemplated by

Florida Statutes, Section 440.151 (2001) arising out of and in the course of employment with the Employer. The parties stipulate and agree that this settlement agreement includes not only the above mentioned injury/injuries but any and all injuries and occupational diseases ever incurred by the Claimant while working for the Employer whether known, revealed, reported, diagnosed, developed, or manifested. The parties stipulate and agree that, as part of this settlement agreement, the Claimant also, waives all claims for any personal injury actions arising out of any injury ever incurred while working for the employer. This settlement agreement constitutes an election of remedies for each and every injury or injuries incurred by the Claimant while working for the Employer.

3. **AGE, EDUCATIONAL BACKGROUND, WORK HISTORY, AND MEDICARE** - The claimant is 60 years of age (DOB: 8/26/1953), and has a(n) High School education. He is unable/able (circle one) to read, write, and handle money. The Claimant and her attorney assert that the Claimant is of sound mind, mentally competent and is intellectually capable of entering into an agreement of this nature.

4. **CLAIMANT MEDICARE/MEDICAID STATUS** - The Claimant is (circle one) is not (circle one) a Medicare recipient. The Claimant is (circle one) is not (circle one) a Medicaid recipient.

5. **SETTLEMENT AMOUNT AND DISCHARGE FROM LIABILITY FOR FUTURE BENEFITS** - The Employer/Carrier agrees to and will pay to the Claimant **\$202,657.04** in full satisfaction of the obligation or liability to pay past, present and future monetary compensation benefits, as well as past, present and future medical benefits, on account of the work related accident(s) or occupational disease(s) referenced herein.

The Parties agree that the Employer/Carrier will have 30 days from the date copies of the Order approving the attorney's fees is mailed and received by ALL of the parties and their attorneys, to make payment without incurring interest and/or penalties and agree to waive any statutory provisions to the contrary.

As contemplated by this agreement, monetary compensation benefits include, but are not necessarily limited to, compensation for permanent total disability, permanent total disability supplemental benefits, temporary total disability, catastrophic temporary total disability, temporary partial disability, wage loss benefits, impairment benefits, impairment income benefits, supplemental income benefits, temporary total disability benefits during rehabilitation, and death and dependency benefits.

Upon execution of this agreement by the parties, the Claimant waives any and all entitlement to any and all past, present, and future monetary compensation and medical benefits available pursuant to Florida Statutes Chapter 440 (2001), and the Employer/Carrier will be forever released and discharged from the obligation or liability to pay the Claimant any past, present, or future monetary compensation benefits and medical benefits whatsoever * See below.

The Claimant shall also retain the right to apply to the Division of Workers' Compensation for appropriate training and education under F.S. 440.491 (2001).

This settlement agreement is final and enforceable upon execution of the Claimant, the Claimant's attorney, and the attorney for the Employer/Carrier. This settlement agreement is not contingent upon the approval of the Claimant's attorney's fee, as that is an issue between the Claimant and his attorney only and does not have any impact on the enforceability of this settlement agreement between the Claimant and the Employer/Carrier. Any child support orders or arrearages that the Judge of Compensation Claims concludes must be paid in order to provide for the appropriate recovery of child support arrearages will be paid by the Claimant to the extent required by the Judge of Compensation Claims to execute the Order approving the Motion for Approval of Attorney's Fee and Allocation of Child Support Arrearage for Settlement Under Section 440.20(11)(c),(d)&(e), Florida Statutes. Any Child Support arrearages that are required to be paid by the Judge of Compensation Claims shall be paid by the Claimant's attorney from the settlement proceeds out of his trust account.

*except for any/all authorized medical bills incurred prior to the date the JCC executes the appropriate Order, shall remain the ER/CR's financial responsibility above and beyond the settlement figures referenced herein.

Any settlement funds received by the Claimant or the Claimant's attorney prior to the Judge's approval of the Child Support allocation, if any, AND prior to the Judge's approval of the attorney's fees, must be held in the Claimant's attorney's trust account. At any time the employer/carrier requests that the funds be returned they must be immediately returned without any limitations whatsoever.

6. COMPROMISE OF FUTURE MEDICAL CARE: INCLUSIVE OF FUTURE MEDICARE/MEDICAID COVERED EXPENSES - The parties hereto agree to the following allocation:

(a)	Compensation Benefits	\$50,000.00
(b)	Future Non-Medicare Medical Expenses	\$25,000.00
(c)	Anticipated Medicare Related Medical Expenses	<u>\$127,657.04</u>
	TOTAL	\$202,657.04

The Parties agree that the cost of future medical care is in dispute. The parties realize that time may reduce and/or increase the need for future medical care, and as a compromise agree that of the total settlement amount, \$177,657.04 shall be allocated to release all liability for future medical care and attention. The parties reach this compromise based upon careful consideration of all the medical reports and opinions, as well as the claimant's own knowledge of his condition and symptoms.

It is not the intention of the Workers' Compensation Carrier to shift responsibility of future medical benefits to the Federal Government. \$127,657.04, of the total settlement proceeds is being allocated to cover the cost of future Medicare-covered expenses and intended directly for payment of these expenses. This allocation is based upon the workers' compensation fee schedule and assumes the seed money has been fully funded within the

Medicare Set Aside Trust as well. The Claimant should be certain that all payments to providers are to be adjusted accordingly, and any monies paid in excess of the fee schedule will not count toward this allocation.

In reaching this Agreement, the parties have considered that many common medical expenses are not payable or reimbursable under the Federal Medicare Program. \$25,000.00 of the settlement proceeds has been allocated for future Non-Medicare related medical expenses. These medical expenses include but are not limited to, travel expenses, non-professional attendant care, routine follow-up visits, Medicare hospital deductible and Medicare Part B co-payments, emergency room treatment and hospitalization, not covered by Medicare but necessary in the ongoing treatment of the workers' compensation injury.

The Claimant agrees to hold The Employer/Carrier harmless from any and all further obligations associated with Medicare to include, but are not limited to instances which result in the claimant not using the proceeds in a manner consistent with this agreement.

7. **ATTORNEY'S FEES PAYABLE BY CLAIMANT AND WAIVER** - The Claimant has been represented by Lisa Ann Kalo, Esquire, in connection with this matter that is entitled to a fee for legal services rendered. **\$18,250.00** is a reasonable fee for such services and is within the guidelines for the determination of a reasonable fee as set forth in Section 440.34(1), Florida Statutes. In addition thereto, the Claimant shall reimburse his attorney for all costs. The Claimant has been informed of the right to a hearing on the amount of the fee charged by the attorney and hereby waives his right to a hearing on the fee. The fee and costs shall be paid from the settlement proceeds by the Claimant.

It is stipulated by and between the Parties that each side shall pay its own costs in connection with this claim.

The attorney for the claimant agrees that any pending or potential claims for employer/carrier paid fees and/or costs are hereby waived with the exception of a separate fee

agreement that pays the claimant's attorney \$40,252.50 and said agreement is being submitted along with the Motion for Approval of Attorney's Fees and Child Support Allocation. Approval of said motion is contingent on approval of the separate Motion for Attorney's Fees that will be filed simultaneously. The undersigned stipulate and agree that the employer/carrier owes no fees to the claimant's attorney and all claims for employer/carrier paid fees and petitions for benefits are hereby extinguished and dismissed with prejudice upon approval of both said motions.

The Parties stipulate and agree that the Claimant is responsible for liens of prior attorneys.

8. MATTERS CONSIDERED RELATIVE TO SOCIAL SECURITY

OFFSET Subject to the Representations, warranties and acknowledgements recited herein, the parties, in reaching this agreement, have considered the present value of all future payments of indemnity benefits including permanent total disability and medical benefits not subject to the MSA described herein potentially payable to the Employee/Claimant under the Florida Workers' Compensation Law on account of the account of the accident referenced herein. The injured Employee/Claimant was born on 08/26/53 and her life expectancy is 18.7 years of 972.4 weeks. The Employee/Claimant allocates \$50,000.00 for indemnity benefits. When this lump sum indemnity payment is prorated over the Employee/Claimant's remaining life expectancy, the value of said payment is equal to \$ 51.42 per week. This periodic repayment schedule results in a substantial loss to the Employee/Claimant on a consistent basis. This settlement was calculated subject to future indemnity benefits subject to a Social Security offset.

9. WAIVER OF RIGHT TO HAVE CASE HEARD BY JUDGE OF COMPENSATION CLAIMS AND RIGHT TO BRING PETITION FOR MODIFICATION - The Claimant understands that he does hereby relinquish the right to have

any unresolved conflicts or disputes involving the right to any and all benefits available under The Workers' Compensation Law, including but not limited to medical benefits, monetary compensation benefits, temporary total disability during retraining, rehabilitation benefits, training and education benefits, and death benefits heard and decided by a Judge of Compensation Claims. The parties understand, agree, and acknowledge that this agreement is not an award and is not subject to modification or review.

10. **WAIVER OF PENALTIES, INTEREST** - The Claimant does hereby waive any right he may have to any and all penalties or interest on account of the accident(s) or occupational disease(s) referenced herein.

11. **CONFIDENTIALITY AGREEMENT** - The parties stipulate and agree the terms of this settlement are confidential and shall not voluntarily be disclosed to any other individual or entity unless authorized by the parties, required by law or required by a business contract of the Employer/Carrier.

12. **CONDITIONAL AGREEMENT** - The Claimant and the Employer/Carrier stipulate and agree that in the event this Stipulation agreement is determined to be unconstitutional or invalid by the District Court of Appeal or the Florida Supreme Court, or is otherwise not given full force and effect or is voided for any reason, in part or in whole, the Employer/Carrier shall be entitled to full reimbursement of the lump sum paid to the Claimant provided for herein, within 30 days of request by the Employer/Carrier. If any portion of the settlement proceeds is not immediately returned to the Employer/Carrier, the Employer/Carrier shall be entitled to a 100% offset against the Claimant's compensation benefits and medical benefits until the settlement amount is fully repaid. Under no circumstances shall the settlement amount provided for herein be considered a gratuitous payment by the Employer/Carrier.

Rudy Pallastrone 10/11/13

Rudy Pallastrone Date
Claimant

Ben H. Cristal, Esquire Date
Attorney for Employer/Carrier

Lisa Ann Kalo 10/11/13

Lisa Ann Kalo, Esquire Date
Attorney for Claimant

Jane Goodwin Date
Chair of the Sarasota County School Board

STATE OF: Florida

COUNTY OF: Sarasota

The foregoing instrument was acknowledged before me this 11 day of October, 2013, by Rudy Pallastrone, who is personally known to me or who has produced FDL# P423-720-53-306-0 as identification and who did (did not) take an oath, and who upon being duly sworn certifies that the information furnished by him as incorporated in the foregoing Stipulation is true and correct and that he (has read the Settlement Agreement) (has had the Settlement Agreement read to him) and believes the lump sum settlement to be in his best interest.

Karla Salgado
Notary Public

My Commission Expires _____

