



To: Miriam S. Ramos, Deputy City Attorney for the City of Coral Gables

From: Craig E. Leen, City Attorney for the City of Coral Gables

A handwritten signature in blue ink, appearing to be "C. Leen", is written over the name of the City Attorney.

RE: Legal Opinion Regarding Settlement Authority

Date: May 3, 2017

The City Commission, through the City Code, has expressly granted to the City Attorney the general authority to settle disputes and enter into settlement agreements on behalf of the City. This opinion is intended to explain how that authority is exercised in accordance with the City Code, resolutions and applicable law.

Pursuant to Sec. 2-201(e)(6) of the City of Coral Gables Code, the City Attorney's Office has the authority to settle all non-monetary matters, as any non-monetary matter is, by definition, under \$25,000 (see below). For undisputed claims, where payment is legally required, the City Attorney may resolve the matter for the amount due pursuant to contract, agreement or applicable law. Likewise, the City Attorney may generally settle matters where the City is receiving funds as opposed to expending them as part of the settlement. Furthermore, the City Attorney may also exercise settlement authority to ensure compliance with applicable laws.

For monetary matters where the City would expend funds through a settlement to resolve a disputed claim, unless the Commission has authorized or directed otherwise, settlement authority is largely established by Resolution No. 2012-53, which sets out the following. The City Attorney has settlement authority to expend up to \$25,000 for disputed claims. This authority may be delegated by the City Attorney. In fact, the City Attorney has delegated \$25,000 of authority to the Deputy City Attorney and \$15,000 of authority to each Assistant City Attorney. Further, the City Attorney has delegated \$10,000 of his authority to the City's Risk Manager and \$15,000 to the City's Human Resources Director and to the Director of Labor Relations and Risk Management. These delegations assist the City in resolving claims fairly and promptly, with limited expenses to the City. All settlements, however, must go through the City Attorney's Office in order to ensure that an appropriate release is executed. For claims under \$5,000, each settlement must include a release in a form previously approved by the City Attorney's Office.

This authority, given to the City Attorney, has been interpreted to mean \$25,000 per separate count or disputed claim. For settlements exceeding \$25,000 per separate count or disputed claim, the City Attorney, together with the City Manager, may settle for an amount not to exceed \$100,000. Any settlement exceeding \$100,000 would be taken to the City Commission. However, Resolution No. 2012-53 also provides that the City Manager and City Attorney, together, may “settle any disputed matter, regardless of the amount of the settlement, where the City Commission has previously approved an insurance policy that would provide full or partial coverage for such settlement.” Thus, when insurance is implicated, these appointed officials, together, may settle for any amount, without limitation.[1]

Pursuant to Section 768.28(8), F.S., no attorney may collect fees in excess of 25 percent of any judgment or settlement in tort claims against the state, its agencies and subdivisions. Therefore, the City Attorney may settle for an amount up to 25 percent higher than the aforementioned amounts to account for attorney’s fees. In a one-plaintiff, one-count case where the amount is undisputed, for example, this would allow the City Attorney to settle for up to \$31,250, inclusive of attorneys’ fees. This limitation does not apply to non-tort matters, as the City Attorney is granted authority over expenditures for attorneys’ fees. Also, attorneys’ fees may be required to be expended by contract or applicable law in certain circumstances.

Also, pursuant to Sec. 101-190(c) of the City Code, in Code Enforcement matters, the City Attorney has broad authority to enter into settlement and fine reduction agreements. The City Prosecutor/Deputy City Attorney also has delegated authority from the City Attorney to enter into such agreements.

Lastly, at mediations, the City Attorney and City Manager, through their designees, have full authority to resolve the matter consistent with the mediation rules as applicable law.

This opinion is issued pursuant to Sections 2-201(e)(1) and (8) of the City Code, as well as section 2-702 of the Zoning Code.

CITY OF CORAL GABLES
CITY ATTORNEY'S OFFICE

OPINION REGARDING SETTLEMENT AUTHORITY

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¹ The City Attorney and City Manager have agreed to interpret and implement Section 5 of Resolution 2012-53 to mean that in any settlement that implicates insurance, both must agree to the settlement amount, otherwise, the matter will be taken to the City Commission for approval.

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From: [Leen, Craig](#)
To: [Paulk, Enga](#)
Cc: [Ramos, Miriam](#)
Subject: FW: Settlement Authority Opinion
Date: Wednesday, May 03, 2017 6:29:03 PM
Attachments: [Settlement Authority Opinion.pdf](#)
[image002.png](#)
[image001.png](#)

Please publish.

Craig E. Leen, City Attorney

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Celebrating 90 years of a dream realized.

From: Leen, Craig
Sent: Wednesday, May 03, 2017 6:32 PM
To: Ramos, Miriam <mramos@coralgables.com>
Subject: Settlement Authority Opinion

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