

**VILLAGE OF LOMBARD**  
**REQUEST FOR BOARD OF TRUSTEES ACTION**  
**For Inclusion on Board Agenda**

DISTRICT # \_\_\_\_\_

\_\_\_\_\_ Resolution or Ordinance (Blue)      Waiver of First Requested \_\_\_\_\_  
 \_\_\_\_\_ Recommendations of Boards, Commissions & Committees (Green)  
  X   Other Business (Pink)

TO : PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager 

DATE : February 15, 2011

B of T: February 17, 2011

SUBJECT: Settlement Agreement – Felper v. Village of Lombard

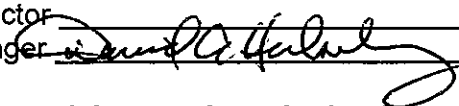
SUBMITTED BY: David A. Hulseberg, Village Manager

**BACKGROUND/POLICY IMPLICATIONS:**

Recommendation from staff for settlement of the above law suit in the amount of \$40,000.

**Fiscal Impact/Funding Source:**

Review (as necessary):

Finance Director \_\_\_\_\_ Date \_\_\_\_\_  
 Village Manager  \_\_\_\_\_ Date 2/15/11

**NOTE:** All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda distribution.





**MEMO TO** : The Honorable President  
and Board of Trustees

**FROM** : David A. Hulseberg  
Village Manager

**DATE** : February 15, 2011

**SUBJECT** : Settlement Agreement – Felper v. Village of Lombard

Attached is a copy of a memorandum and Settlement Agreement from Village Attorney Thomas Bayer. This is a request for authorization to settle this law suit in the amount of \$40,000.

If you have any questions, please feel free to contact me.

/cb

MEMOFORM



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**PRIVILEGED AND CONFIDENTIAL/ATTORNEY-CLIENT MEMORANDUM**

**TO:** President and Board of Trustees  
Dave Hulseberg, Village Manager  
**FROM:** Howard C. Jablecki  
**DATE:** February 14, 2011  
**RE:** *Felper v. Village of Lombard* – Case No. 2009 L 848

**Via email only**

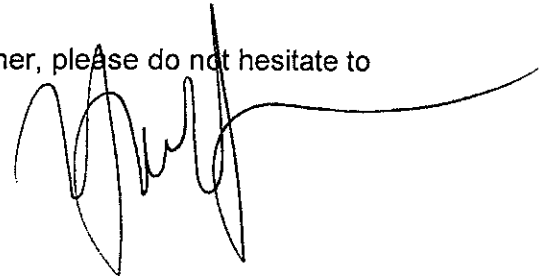
**STATUS REPORT**

As previously reported, this case was filed against the Village and Officer Andrew Siegler. Plaintiff's complaint contains a single count relating to a motor vehicle accident that occurred in the vicinity of Meyers Road and 22nd Street in Lombard on August 12, 2008. The Plaintiff was stopped at a red light when she was rear-ended by Officer Siegler. Based on the police reports and our investigation into the matter, it appears that Officer Siegler was approaching the intersection of Meyers Road and 22nd Street in a Lombard Police Department squad car when he looked to the right to place a soda bottle into his gear bag. When he looked back up, traffic had stopped. Officer Siegler was unable to stop in time to avoid hitting the Plaintiff's vehicle.

The total amounts of Plaintiff's medical bills for treatment related to the accident were \$17,420.40, and Plaintiff made an initial settlement demand of \$60,000.00. In August 2010, the Board authorized up to \$52,260.00 to settle this case, and we were able to successfully settle the matter for \$40,000.00.

Although this settlement was agreed to in August 2010, Plaintiff's attorney took some time to address Medicare liens and has finally sent us a copy of the settlement agreement signed by the Plaintiff. Attached, for your consideration, please find a copy of the Settlement Agreement and Release for approval.

If you have any questions or want to discuss this memorandum further, please do not hesitate to contact me at (312) 984-6451.



cc: Thomas P. Bayer, Village Attorney (via email)  
Lance C. Malina, Attorney (via email)  
Amanda Gary Kero, CCMSI (via email -- akero@ccmsi.com)



IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT  
DU PAGE COUNTY, ILLINOIS

AUDREY FELPER,

Plaintiff,

v.

ANDREW SIEGLER and  
VILLAGE OF LOMBARD,  
a Municipal corporation,

Defendants.

No. 2009 L 000848

**SETTLEMENT AGREEMENT AND RELEASE**

**WHEREAS**, Plaintiff, AUDREY FELPER (hereinafter "PLAINTIFF"), filed a lawsuit entitled AUDREY FELPER v. ANDREW SIEGLER AND VILLAGE OF LOMBARD, Case No. 2009 L 000848, in the Circuit Court of the 18th Judicial Circuit, DuPage County, Illinois; and

**WHEREAS**, PLAINTIFF has alleged a cause of action against the Defendants, ANDREW SIEGLER and the VILLAGE OF LOMBARD (hereinafter referred to as "DEFENDANTS"), as a result of allegations stemming from an incident that PLAINTIFF was involved in on August 12, 2008 (hereinafter the "Incident"); and

**WHEREAS**, PLAINTIFF and DEFENDANTS are desirous of resolving their dispute and fully settling and compromising all claims, demands, actions, causes of action or suits at law arising as a result of the Incident.

**NOW, THEREFORE**, in consideration of the payment to the undersigned PLAINTIFF of forty thousand dollars (\$40,000.00) on behalf of the DEFENDANTS, the undersigned PLAINTIFF, being of lawful age, does hereby release and forever discharge the DEFENDANTS, their officers, directors, employees, administrators, agents, successors, insurers, assigns, executors, and personal or legal representatives of any kind or type, from any and all actions, cause of action, claims, demands, costs, loss of service, expenses and compensation on account of, or in any way growing out of, any and all known and unknown injuries resulting from the incidents.

It is expressly understood and agreed that the above-named sum paid is the sole consideration of this Release and, in making this Release and Agreement, it is

understood and agreed that the undersigned PLAINTIFF relied on her own judgment, belief and knowledge of the nature, extent and duration of said damages, and that the PLAINTIFF was not influenced to any extent whatsoever in making this Release by any representations or statements regarding said damage, or regarding any other matters made by the persons, firms or corporations who are hereby released, or by any person representing it, or by anyone employed by it.

It is also expressly understood and agreed that this Release is given in good faith by the undersigned PLAINTIFF and taken in good faith by DEFENDANTS.

It is further understood and agreed that the above payment and waiver is made in the compromise of a doubtful and disputed claim and that the payment and waiver is not to be construed as an admission of any liability of the DEFENDANTS, such liability having been expressly denied.

The undersigned PLAINTIFF agrees that the civil action Case No. 2009 L 000848, filed in the Circuit Court of the 18th Judicial Circuit, DuPage County, Illinois, shall be dismissed with prejudice in bar of action and without costs with respect to the DEFENDANTS.

Additionally, PLAINTIFF, (and on behalf of her heirs, executors and assigns), in exchange for the above-stated consideration, agrees not to disclose to anyone any of the terms of this Agreement, except that she may acknowledge that the litigation referenced herein has come to an end and that a settlement has occurred.

The undersigned PLAINTIFF shall, however, be permitted to discuss the entirety of the settlement terms with her accountant(s) and attorney(s), and she shall not be held liable for any inadvertent or intentional breach of confidentiality by either her accountant(s) or attorney(s).

The court, which caused the dismissal of the litigation, shall retain jurisdiction of the parties to the aforesaid litigation for purposes of enforcing the confidentiality provisions of this Agreement. The court's powers shall include those of contempt in the event of competent proof of a breach by the undersigned, whether acting directly or indirectly through another. The court's powers in any contempt proceeding shall specifically include the power to order the undersigned, upon competent proof of a breach of the confidentiality provisions of this Agreement at any time, to return the proceeds received as a part of the underlying settlement of the litigation between the parties. Compliance with the confidentiality provisions of this Agreement, however, shall not be deemed a condition of the underlying settlement, so that the court's finding of a breach thereof shall not be grounds for reinstatement of the litigation or reconsideration of the terms of the Agreement, which settlement shall be and is deemed by the parties to be inviolate and settled with finality. In any court proceeding to determine the validity of any breach of confidentiality claim pursuant to this paragraph, the complaining party shall bear the burden of persuasion.



In any action involving alleged breach of confidentiality, the losing party shall bear all fees and costs related to the action.

This Settlement Agreement and Release contains the entire agreement between the PLAINTIFF and DEFENDANTS, and the terms of this Settlement Agreement and Release are contractual and not a mere recital. The undersigned parties have carefully read this Settlement Agreement and Release, fully understand it, and sign this as a free and voluntary act.

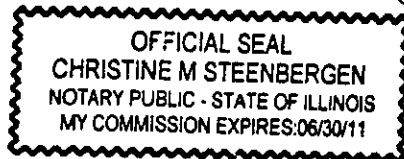
**IN WITNESS WHEREOF**, the undersigned have duly executed this Settlement Agreement and Release as of the day and date written below.

**AUDREY FELPER**

Audrey Felper

Subscribed and sworn to  
before me this 26 day  
of AUGUST, 2010.

Christine M. Steenberg  
Notary Public



**VILLAGE OF LOMBARD**

\_\_\_\_\_  
David A. Hulseburg, Village Manager

Subscribed and sworn to  
before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Notary Public

**ANDREW SIEGLER**

\_\_\_\_\_  
Subscribed and sworn to  
before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Notary Public