



Orange County Government

Orange County
Administration Center
201 S Rosalind Ave.
Orlando, FL 32802-1393

Master

File Number: 24-1263

File ID: 24-1263	Type: Agreement/Contract	Status: Passed
Version: 1	Agenda Section:	Department: County Attorney
Subject:		File Created: 08/16/2024
		Final Action: 09/10/2024

Title: Approval of the settlement in the case of United Community Bank v. Orange County Animal Services, et al., 6:23-CV-2018-ACC-DCI, and authorization for execution of the corresponding Settlement Agreement by Diane Summers, Manager of Orange County Animal Services, and by Lee Bernbaum, Assistant County Attorney.

Internal Notes:

Agenda Date: 09/10/2024

Agenda Number: 1.

Sponsors: County Attorney

Enactment Date:

Attachments: Settlement Agreement, 2024-09-10 County Attorney Consent Item-01

Enactment Number:

Recommendation:

Hearing Date:

Entered by: gail.stanford@ocfl.net

Effective Date:

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Board of County Commissioners	09/10/2024	Approved				Pass

Text of Legislative File 24-1263

Interoffice Memorandum

DATE: August 16, 2024

TO: Mayor Jerry L. Demings and County Commissioners

THROUGH: Jeffrey J. Newton, County Attorney

FROM: Lee Bernbaum, Assistant County Attorney

CONTACT: Lee Bernbaum, Assistant County Attorney

PHONE: 407-836-7320

DIVISION: County Attorney's Office

ACTION REQUESTED:

Approval of the settlement in the case of United Community Bank v. Orange County Animal Services, et al., 6:23-CV-2018-ACC-DCI, and authorization for execution of the corresponding Settlement Agreement by Diane Summers, Manager of Orange County Animal Services, and by Lee Bernbaum, Assistant County Attorney.

PROJECT: N/A

PURPOSE: This Consent Agenda item requests settlement authorization by the Board for the above referenced lawsuit and authorization for execution of the corresponding Settlement Agreement.

I. The Lawsuit

Jane Dershewtz (the "Decedent") passed away in December, 2022. She owned certificates of deposit in two accounts at United Community Bank (UCB). The accounts were set up as Pay-On-Death Beneficiary accounts, with the named beneficiary being "Orange County Humane Society." The amount in the accounts is \$362,109.09 (the "funds").

The dilemma which exists and the reason for the interpleader complaint (discussed below) is that there is no longer any Orange County Humane Society. The Orange County Humane Society is now part of Pet Alliance of Greater Orlando, Inc. ("Pet Alliance"). There is also Orange County Animal Services, a division of Orange County, Florida (the "County").

UCB filed an interpleader complaint in federal court. The lawsuit alleges: UCB is not the owner of the funds; there are competing claims to the funds; UCB cannot determine the rightful beneficiary; and the Court should thus determine the rightful beneficiary of the funds. UCB's lawsuit names as defendants Ms. Dershewitz's Estate, Pet Alliance, and Orange County Animal Services. While the named party in the complaint is Orange County Animal Services, for purposes of the Settlement Agreement, the mutual release therein, and issuance of payment, all other parties have been notified that the correct entity is Orange County, Florida.

The competing claims to the funds are primarily between the County and Pet Alliance. The County contends that the key phrase showing the intent of the Decedent in the named beneficiary "Orange County Humane Society" is "Orange County." By contrast, Pet Alliance contends that the key phrase showing the intent of the Decedent in the named beneficiary "Orange County Humane Society" is "Humane Society." There are no documents - a will, trust, or other writings of the Decedent - which shed any light on the Decedent's intent.

II. The Settlement

The County and Pet Alliance have agreed to a 50/50 split of the (net) funds. From the funds, an amount will be paid to reimburse the Dershewitz Estate and UCB for the costs and fees of this litigation. By reaching an early resolution of this matter, the parties have kept those costs and fees down, resulting in a higher amount of net funds to be split between the potential beneficiaries. Orange County Animal Services will ultimately receive more than \$170,000.

The parties have agreed to a settlement, contingent upon Board approval. The material terms of the settlement are:

- a) The Dershewitz Estate will receive \$10,000 as reimbursement of attorney's fees and costs.
- b) UCB will receive \$5,000 as reimbursement of attorney's fees and costs.
- c) Orange County Animal Services will receive 50% of the net funds.
- d) Pet Alliance will receive 50% of the net funds.
- e) All parties will fully release each other from any and all claims arising out of this matter, and the lawsuit will be dismissed with prejudice.

The parties entered into a corresponding Settlement Agreement, which is attached hereto.

III. Recommendation

Staff and the County Attorney's Office recommend that the Board approve the

settlement.

BUDGET: N/A

