

Late Addition #1

EXECUTIVE DOCUMENT SUMMARY

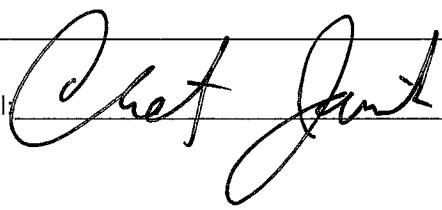
Department: Sheriff	Submittal Dates
Contact Person: <u>Mike Borkovich</u>	<input type="checkbox"/> Executive Board: _____
Telephone No.: <u>231-256-8800</u>	<input checked="" type="checkbox"/> Regular Session: <u>07/16/2019</u>

Source Selection Method	VENDOR: _____
<input type="checkbox"/> Select One	Address: _____
<input type="checkbox"/> Other: _____	Phone: _____

Budgeted Amount: _____	Contracted Amount: _____
------------------------	--------------------------

Document Description	
<input type="checkbox"/> Select One	<input checked="" type="checkbox"/> Other <u>Approval of Settlement Agreement</u>

<input type="checkbox"/> Request to Waive Board Policy on Bid Requirements
<p>The Leelanau County Sheriff's Office is requesting County Board approval of the "Settlement Agreement and Mutual Release" (see attached) in regard to Case No. 19-10317-CZ, <i>David W. Cook v. Leelanau County Sheriff's Office, et al.</i></p> <p>The agreement resolves the matter without further litigation and provides for reimbursement of expenses incurred as a result of the abandoned vehicle auction.</p> <p>Corporate Counsel has reviewed and approves the agreement.</p> <p>Suggested Recommendation: Motion to approve the Settlement Agreement and Mutual Release in Circuit Court Case No. 19-10317-CZ, David W. Cook v. Leelanau County Sheriff's Office, et al, as presented.</p>

Department Head Approval:  Date: 7/11/19

Late Addition #1

From: [Courtney Gabbara](#)
To: [Chet Janik](#); [Steve Morgan](#)
Cc: [Laurel Evans](#)
Subject: FW: Cook v Leelanau County: 1969 Plymouth GTX
Date: Wednesday, July 10, 2019 5:21:29 PM
Attachments: [Braden.Signature.Fax.pdf](#)
[Settlement Agreement and Mutual Release - Executed by CSK & M Howell 07-09-19.pdf](#)
[Order to Show Cause.pdf](#)

Undersheriff and Chet,

I emailed Mr. Brott just a bit ago to let him know the County would be signing the settlement (hopefully) next Tuesday after the Board has had an opportunity to review the proposal. He indicated that Mr. Cook is in town this week and would like to pick up the vehicle before he heads back to Illinois. He states that if we are willing to release the vehicle, he is willing to wait on the County's signatures.

I'm proposing that we get Mr. Cook's and Mr. Brott's signatures on the settlement as well as the money owed prior to release of the vehicle, but before the County and Sheriff sign the settlement. If Mr. Cook and Mr. Brott are willing to agree to that, then it shouldn't be a problem to release the car prior to the County signing the settlement. Note that this will only work if we're fairly confident the Board will sign off on this settlement.

I will wait to hear from you before I follow up with Mr. Brott. Please let me know if you have any questions or concerns.

Thanks,

Courtney

Courtney A. Gabbara, Esq.
Cohl, Stoker & Toskey, P.C.
601 N. Capitol Avenue
Lansing, MI 48933
517-372-9000
cgabbara@cstmlaw.com

This transmission is intended to be delivered only to the named addressee(s) and may contain information that is confidential, proprietary, attorney work-product or attorney-client privileged. If this information is received by anyone other than the named addressee(s), the recipient should immediately notify the sender by E-MAIL and by telephone (517-372-9000) and obtain instructions as to the disposal of the transmitted material. In no event shall this material be read, used, copied, reproduced, stored or retained by anyone other than the named addressee(s), except with the express consent of the sender or the named addressee(s). Thank you.

From: Wilson Brott [mailto:wbrott@brottsettles.com]
Sent: Wednesday, July 10, 2019 4:22 PM
To: Courtney Gabbara
Cc: Charles S. Kennedy

Late Addition #1

Subject: RE: Cook v Leelanau County: 1969 Plymouth GTX

Hi Courtney,

My client is hoping to get possession of the car this week (probably Friday) as he is in town for the week. Mr. Braden has already faxed me his signature on the Settlement Agreement. I also have scanned signatures from Mr. Kennedy and Quick Storage (to the first version of the agreement, but they've assented to me signing the latest version on their behalf). If you don't have an issue with my client picking up the car from Bingham before the Board formally approves the settlement, I don't have a problem with waiting until then to get the county signatures. It seems a pretty minimal thing on the county's end anyway to have the County Board involved in it, but that's up to you guys.

FYI, I received a notice from the Court of a show cause hearing as to why a preliminary injunction shouldn't enter (attached), which has been scheduled for July 22, 2019, at 10:30 a.m. However, I anticipate us wrapping this up and a dismissal of the lawsuit being submitted long before then.

Bill

From: Courtney Gabbara <cgabbara@cstmlaw.com>
Sent: Wednesday, July 10, 2019 4:00 PM
To: Wilson Brott <wbrott@brottsettles.com>
Subject: RE: Cook v Leelanau County: 1969 Plymouth GTX

Hey Bill,

Just wanted to let you know that I spoke with Chet Janik. He's going to go ahead and put this item on the agenda for Board Approval for Tuesday. Once they sign off, then I can send you over a copy. Will that work for purposes of our timeframe?

Let me know.

Thanks,

Courtney A. Gabbara, Esq.
Cohl, Stoker & Toskey, P.C.
601 N. Capitol Avenue
Lansing, MI 48933
517-372-9000
cgabbara@cstmlaw.com

This transmission is intended to be delivered only to the named addressee(s) and may contain

Late Addition #1

information that is confidential, proprietary, attorney work-product or attorney-client privileged. If this information is received by anyone other than the named addressee(s), the recipient should immediately notify the sender by E-MAIL and by telephone (517-372-9000) and obtain instructions as to the disposal of the transmitted material. In no event shall this material be read, used, copied, reproduced, stored or retained by anyone other than the named addressee(s), except with the express consent of the sender or the named addressee(s). Thank you.

From: Courtney Gabbara
Sent: Tuesday, July 09, 2019 4:43 PM
To: Wilson Brott
Subject: RE: Cook v Leelanau County: 1969 Plymouth GTX

Thank you.

Courtney A. Gabbara, Esq.
Cohl, Stoker & Toskey, P.C.
601 N. Capitol Avenue
Lansing, MI 48933
517-372-9000
cgabbara@cstmlaw.com

This transmission is intended to be delivered only to the named addressee(s) and may contain information that is confidential, proprietary, attorney work-product or attorney-client privileged. If this information is received by anyone other than the named addressee(s), the recipient should immediately notify the sender by E-MAIL and by telephone (517-372-9000) and obtain instructions as to the disposal of the transmitted material. In no event shall this material be read, used, copied, reproduced, stored or retained by anyone other than the named addressee(s), except with the express consent of the sender or the named addressee(s). Thank you.

From: Wilson Brott [<mailto:wbrott@brottsettles.com>]
Sent: Tuesday, July 09, 2019 4:35 PM
To: Courtney Gabbara
Subject: RE: Cook v Leelanau County: 1969 Plymouth GTX

That's fine. Go ahead.

From: Courtney Gabbara <cgabbara@cstmlaw.com>
Sent: Tuesday, July 09, 2019 4:26 PM
To: Wilson Brott <wbrott@brottsettles.com>
Subject: RE: Cook v Leelanau County: 1969 Plymouth GTX

Hey Bill,

Sorry. Just 2 more small changes. I added "Elected officials" to Section 4, "[Signature Page to Follow]" on page 3, and my signature block for approving the document as to form (standard for all Leelanau Contracts). If you're okay with these 3 revisions, I will sign it and pass it along to the County Controller and Sheriff.

Late Addition #1

Thanks,

Courtney A. Gabbara, Esq.
Cohl, Stoker & Toskey, P.C.
601 N. Capitol Avenue
Lansing, MI 48933
517-372-9000
cgabbara@cstmlaw.com

This transmission is intended to be delivered only to the named addressee(s) and may contain information that is confidential, proprietary, attorney work-product or attorney-client privileged. If this information is received by anyone other than the named addressee(s), the recipient should immediately notify the sender by E-MAIL and by telephone (517-372-9000) and obtain instructions as to the disposal of the transmitted material. In no event shall this material be read, used, copied, reproduced, stored or retained by anyone other than the named addressee(s), except with the express consent of the sender or the named addressee(s). Thank you.

From: Wilson Brott [<mailto:wbrott@brottsettles.com>]
Sent: Tuesday, July 09, 2019 2:45 PM
To: Courtney Gabbara
Subject: RE: Cook v Leelanau County: 1969 Plymouth GTX

Hi Courtney,

I've reviewed the changes you've made and I have no issues with them. Attached is a clean copy where I accepted your changes. Please forward to your clients to sign and I will circulate to the other parties for their signatures.

Thanks,

Bill

From: Courtney Gabbara <cgabbara@cstmlaw.com>
Sent: Tuesday, July 09, 2019 2:36 PM
To: Wilson Brott <wbrott@brottsettles.com>
Cc: Charles S. Kennedy <ckennedy@fildewhinks.com>
Subject: RE: Cook v Leelanau County: 1969 Plymouth GTX

Hi Bill,

Please find attached my revised draft of the Stipulation. I've put my changes in redline/track changes. The administrative costs proposed (totaling only \$220.60) includes the \$122 spent on publishing the notice in the newspaper and on the newspaper's website. The remaining balance is based on 4 hours multiplied by Executive Assistant to the County Administrator Laurel Evan's hourly rate of \$24.65 (totaling \$98.60). This accounts for Ms. Evan's time drafting the notice, working with the newspaper, etc. Please let me know if there's any additional information I can provide you with

Late Addition #1

prior to filing.

Best,

Courtney

Courtney A. Gabbara, Esq.
Cohl, Stoker & Toskey, P.C.
601 N. Capitol Avenue
Lansing, MI 48933
517-372-9000
cgabbara@cstmlaw.com

This transmission is intended to be delivered only to the named addressee(s) and may contain information that is confidential, proprietary, attorney work-product or attorney-client privileged. If this information is received by anyone other than the named addressee(s), the recipient should immediately notify the sender by E-MAIL and by telephone (517-372-9000) and obtain instructions as to the disposal of the transmitted material. In no event shall this material be read, used, copied, reproduced, stored or retained by anyone other than the named addressee(s), except with the express consent of the sender or the named addressee(s). Thank you.

From: Courtney Gabbara
Sent: Monday, July 08, 2019 2:59 PM
To: Wilson Brott
Cc: Charles S. Kennedy
Subject: RE: Cook v Leelanau County: 1969 Plymouth GTX

Hi Bill,

Thanks for passing this along. I'll take a look and let you know if anything jumps out. I haven't heard from my Client, yet, regarding the settlement, but will follow up before the end of the day.

Thanks again!

Courtney

Courtney A. Gabbara, Esq.
Cohl, Stoker & Toskey, P.C.
601 N. Capitol Avenue
Lansing, MI 48933
517-372-9000
cgabbara@cstmlaw.com

This transmission is intended to be delivered only to the named addressee(s) and may contain information that is confidential, proprietary, attorney work-product or attorney-client privileged. If this information is received by anyone other than the named addressee(s), the recipient should immediately notify the sender by E-MAIL and by telephone (517-372-9000) and obtain instructions as to the disposal

Late Addition #1

of the transmitted material. In no event shall this material be read, used, copied, reproduced, stored or retained by anyone other than the named addressee(s), except with the express consent of the sender or the named addressee(s). Thank you.

From: Wilson Brott [<mailto:wbrott@brottsettles.com>]
Sent: Monday, July 08, 2019 12:31 PM
To: Courtney Gabbara
Cc: Charles S. Kennedy
Subject: Cook v Leelanau County: 1969 Plymouth GTX

Hi Courtney,

I believe my client and I have reached an agreement with Bingham as to the amount we're going to pay them to reimburse them for towing and storage, as well as Quick Storage Partners, LLC. In order to finalize the settlement agreement, I just need the amount due to the LCSO for their expenses, which I understand to be relatively minimal. If you can let me know that number as soon as you can, I will circulate the final agreement between the parties for their review and signature. I've attached a rough draft of the agreement and the dismissal for your review. Right now I have the settlement agreement set up for your signature and someone from the LCSO. If you know who will sign for the LCSO, I can insert their name and position, and if someone other than yourself will sign for your firm, please let me know. Since none of the Defendants has filed an answer thus far, a voluntary dismissal as opposed to a stipulation and order should work to take care of the law suit.

Thank you for your assistance.

Bill

Late Addition #1

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (“Agreement”) is made by and among David W. Cook (“Plaintiff), and the County of Leelanau, a municipal corporation and political subdivision of the State of Michigan, on behalf of the Leelanau County Sheriff’s Office, a Michigan governmental law enforcement agency (collectively, hereinafter “LCSO”), Bingham Body Shop & Towing (also known as Bingham Body & Towing), an unincorporated business (hereinafter “Bingham”), and Quick Storage Partners, LLC, a Michigan Limited Liability Company (hereinafter “Quick Storage”), (collectively referred to as “Defendants”). Plaintiff and Defendants shall be individually referred to herein as “a Party”, and collectively referred to herein as “the Parties.”

RECITALS

WHEREAS Plaintiff is the owner of a certain vehicle, to wit, a 1969 Plymouth GTX, with a VIN number of RS27L9C175352 (also registered as VIN # RS27L9G175352), hereinafter “the vehicle”.

WHEREAS Defendant Quick Storage owns a storage facility where said vehicle had been stored and an agreement had been reached between Plaintiff and a prior owner of said storage facility to store the vehicle;

WHEREAS, Defendant Quick Storage, being unable to determine who owned the vehicle, turned the same over to the Defendant LCSO as an abandoned vehicle;

WHEREAS Defendant LCSO contacted Defendant Bingham to tow the vehicle and store it at Bingham’s facility pending auction of the vehicle as an abandoned vehicle;

WHEREAS, the LCSO initiated an abandoned vehicle auction to sell the vehicle;

WHEREAS, Plaintiff learned of the auction, and filed a lawsuit in the 13th Circuit Court to stop the auction and regain possession of the vehicle, being *David W. Cook v. Leelanau County Sheriff’s Office, et al*, 13th Circuit Court – Leelanau County, Case No. 19-10317-CZ;

WHEREAS the 13th Circuit Court has issued a temporary restraining order stopping said auction from occurring; and

WHEREAS, the Parties hereto desire to resolve this matter without further litigation, and desire to enter into this Agreement in order to provide a full and complete resolution of any and all claims between the Parties, without any admission of liability and upon the terms and conditions set forth herein, and to avoid the disruption, inconvenience, uncertainty, and costs associated with any further litigation.

Late Addition #1

AGREEMENT

NOW THEREFORE, in consideration of the above Recitals and the covenants contained herein, which are deemed a part of this Agreement, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. Vehicle to Plaintiff. The Parties agree that Plaintiff shall be provided possession of the vehicle.
2. Reimbursement of Expenses. Plaintiff shall reimburse each of the Parties for their expenses, which the Parties have agreed upon as follows:
 - a. Plaintiff shall pay \$220.60 to the LCSO for expenses related to the abandoned vehicle auction.
 - b. Plaintiff shall pay \$2,000.00 to Bingham for expenses related to towing and storage of the vehicle.
 - c. Plaintiff shall pay \$7,000.00 to Quick Storage, payable through Plaintiff's counsel's trust account for storage of the vehicle prior to it being turned over to LCSO.
 - d. Plaintiff agrees to pay said funds to each respective Party within seven (7) days of the latter of possession of the vehicle being turned over to Plaintiff and the signing of an order of dismissal of the pending lawsuit between the Parties as outlined below.
3. Dismissal of Lawsuit. The Parties agree and understand that following the signing of this Agreement by all Parties, that a voluntary Dismissal in the form attached hereto, shall be entered by Plaintiff dismissing the case pending in *David W. Cook v. Leelanau County Sheriff's Office, et al*, 13th Circuit Court – Leelanau County, Case No. 19-10317-CZ, and all matters pending therein, and that the case shall be dismissed with prejudice and without costs.
4. Release. In consideration of the mutual covenants set forth herein, Plaintiff and Defendants (the Parties) hereby release and forever discharge each other and each of their mutually respective families, predecessors, successors, elected officials, assigns, employees, shareholders, owners, officers, directors, agents, independent contractors, attorneys, insurance carriers, parent companies, subsidiaries, divisions, or affiliated corporations or organizations, whether previously or hereafter affiliated in any manner (collectively the "Released Parties") from any and all claims, demands, causes of action, obligations, damages, attorney's fees, costs and liabilities of any nature whatsoever, whether or not now known, suspected, or claimed, which the Parties ever had, now have, or may claim to have at any time against the other Parties, whether directly or indirectly, or in any of them, by reason of any act or omission concerning any matter, cause, or thing, including without limiting the generality of the foregoing, any claims relating to or arising out of claims which have or could have been brought in said pending court matters, related to the Trusts, or that may hereafter be asserted (collectively, the "Released Claims").
5. General Release. The foregoing release is a general release of all claims, demands, causes of action, obligations, damages, and liabilities of any nature whatsoever, and is intended to encompass all known, foreseen, and unforeseen claims which the Parties may have against the Released Parties, except for those claims which may arise from the terms of this Agreement.

Late Addition #1

6. Covenant Not to Sue. The Parties, for themselves and their heirs, legal representatives and assigns, do hereby covenant that they will not sue or proceed in any manner, whether at law or in equity, against any of the Released Parties on account of the Released Claims.
7. No Admission. The Parties agree that the execution of this Agreement shall not be construed as an admission by any Party of any act of wrongdoing or any liability of any kind, any liability and wrongdoing being expressly denied.
8. Attorney Fees and Costs. The Parties agree that they will each be responsible for their respective attorney fees and costs related to the Released Claims.
9. Binding Effect. This Agreement shall be binding upon and insure to the benefit of the Parties hereto, and their respective successors, heirs, personal representatives and assigns.
10. Governing Law. The existence, validity, construction and operation of this Agreement, and all of its covenants, agreements, representations, warranties, terms, and conditions, shall be determined in accordance with the laws of the State of Michigan, without regard to any conflict of law principle.
11. Review of Agreement. The Parties to this Agreement declare and represent they have had adequate time to review the terms of this Agreement; that they have thoroughly discussed all aspects of this Agreement with their respective attorneys; that no promise, inducement, or agreement not herein expressed has been made; that each Party understands all of its provisions; that each Party is freely and voluntarily entering into this Agreement; and that the terms of this Agreement are contractual and not a mere recital.
12. Authority to Sign. All Parties represent and warrant to the others that the individual executing this Settlement Agreement on such Party's behalf is fully authorized to do so, is executing the Agreement willingly and knowingly, and, further, that such individual is fully authorized to bind the Party on whose behalf it is executing this Settlement Agreement to the terms of all releases of claims, undertakings and obligations of that Party as set forth in this Settlement Agreement.
13. Entire Understanding; Severability. This Agreement constitutes the entire understanding of the Parties with respect to the subject matter contained herein and supersedes any prior understandings and agreements between them respecting such subject matter. Modifications of the Agreement shall be made only in writing executed by the Parties. The provisions of this Agreement are severable. Should any provision be held void or unenforceable, the rest of the provisions shall remain in full force and effect.
14. Counterparts. This Agreement may be executed in several counterparts, by facsimile, or other electronic means, which shall be treated as one integrated original for enforcement purposes. A signed photocopy is the legal equivalent of an original signature.
15. Effective Date. The effective date of this Agreement shall be the date as of which the Agreement has been signed by all of the Parties hereto.

[SIGNATURE PAGE TO FOLLOW]

Late Addition #1

IN WITNESS WHEREOF, the undersigned have executed this Settlement Agreement and Mutual Release.

Dated: _____

David W. Cook

Dated: _____

Wilson D. Brott (P51446)
Attorney for David W. Cook

COUNTY OF LEELANAU

Dated: _____

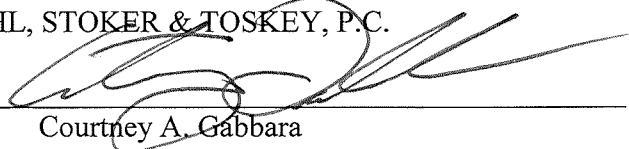
By: William J. Bunek
Its: County Board of Commissioners Chairman

LEELANAU COUNTY SHERIFF'S OFFICE

Dated: _____

By: Michael Borkovich
Its: Sheriff

APPROVED AS TO FORM
FOR COUNTY OF LEELANAU
COHL, STOKER & TOSKEY, P.C.

By: 

Courtney A. Gabbara

BINGHAM BODY SHOP & TOWING

Dated: _____

By: Bruce Braden
Its: Owner

QUICK STORAGE PARTNERS, LLC

Dated: _____

By:
Its:

Dated: _____

Charles S. Kennedy (P49486)
Attorney for Quick Storage Partners, LLC

Late Addition #1

15. Effective Date. The effective date of this Agreement shall be the date as of which the Agreement has been signed by all of the Parties hereto.

IN WITNESS WHEREOF, the undersigned have executed this Settlement Agreement and Mutual Release.

Dated: _____

David W. Cook

Dated: _____

Wilson D. Brott (P51446)
Attorney for David W. Cook

COUNTY OF LEELANAU

Dated: _____

By: William J. Bunek
Its: County Board of Commissioners Chairman

LEELANAU COUNTY SHERIFF'S OFFICE

Dated: _____

By: Michael Borkovich
Its: Sheriff

BINGHAM BODY SHOP & TOWING

Dated: _____

By: Bruce Braden
Its: Owner

QUICK STORAGE PARTNERS, LLC

Dated: 7.9.19

Matthew J. Howell
By: Matthew J. Howell, P.R. of Estate of
~~Its~~ H. Michael Bohler, Manager

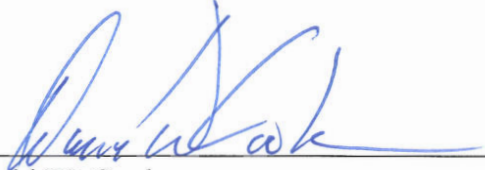
Dated: 7/9/19

Charles S. Kennedy
Charles S. Kennedy (P49486)
Attorney for Quick Storage Partners, LLC

Late Addition #1


IN WITNESS WHEREOF, the undersigned have executed this Settlement Agreement and Mutual Release.

Dated: 7/11/19



David W. Cook

Dated: 7/11/19



Wilson D. Brott (P51446)
Attorney for David W. Cook

LEELANAU COUNTY SHERIFF'S OFFICE

Dated: _____

By:
Its:

Dated: _____

Courtney A. Gabbara (P77817)
Attorney for LCSO

BINGHAM BODY SHOP & TOWING

Dated: _____

By: Bruce Braden
Its: Owner

QUICK STORAGE PARTNERS, LLC

Dated: _____

By:
Its:

Dated: _____

Charles S. Kennedy (P49486)
Attorney for Quick Storage Partners, LLC

Late Addition #1

IN WITNESS WHEREOF, the undersigned have executed this Settlement Agreement and Mutual Release.

Dated: _____

David W. Cook

Dated: _____

Wilson D. Brott (P51446)
Attorney for David W. Cook

COUNTY OF LEELANAU

Dated: _____

By: William J. Bunek
Its: County Board of Commissioners Chairman

LEELANAU COUNTY SHERIFF'S OFFICE

Dated: _____

By: Michael Borkovich
Its: Sheriff

APPROVED AS TO FORM
FOR COUNTY OF LEELANAU
COHL, STOKER & TOSKEY, P.C.

By: _____
Courtney A. Gabbara

BINGHAM BODY SHOP & TOWING

Dated: 7/10/19



By: Bruce Braden
Its: Owner

Original IN Mail.

QUICK STORAGE PARTNERS, LLC

Dated: _____

By:
Its:

Dated: _____

Charles S. Kennedy (P49486)
Attorney for Quick Storage Partners, LLC