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March 23, 2012

VIA EMAIL

Shawn D. Smith
CITY ATTORNEY
CITY OF KEY WEST
3128 Flagler Ave.
Key West, FL 33040

Re: Jessica N. Burke v. City of Key West Case No. 2011-CA-148-K, in the Circuit Court of the
16th Judicial Circuit in and for Monroe County, Florida
EMI claim number - 359-003840-AB-01
Our File No.: 01112/31067 MTB

Dear Mr. Smith:

On March 7, 2012, pursuant to court order, myself and Mark Spano, a representative of the City's third party administrator (EMI) attended a mediation conference in the above referenced matter. During the conference, Mr. Spano and myself reached a conditional settlement agreement with Plaintiff Jessica Burke and her attorney for the total sum of \$40,000. A copy of the conditional Mediation Settlement Agreement is attached. The proposed agreement is subject to approval by the Key West City Commission. In my opinion, settlement of the case pursuant to the terms of the mediation agreement represents a very reasonable resolution of this lawsuit, and is in the best interest of the City of Key West. A summary of the case follows.

Liability

On the morning of December 31, 2008, Plaintiff Jessica Burke was operating a motor scooter northbound on Dival Street and stopped behind a vehicle for a traffic light at its intersection with Angela Street. The driver of a city vehicle struck the rear of the motor scooter and Plaintiff Burke was thrown on to the hood of the city vehicle and bounced forward into the stopped vehicle. Plaintiff Burke, struck her head, lost consciousness and eventually her head was pinned between the bumpers of the city vehicle and the stopped vehicle.

The driver of the city vehicle was at fault for the accident and the City has acknowledged responsibility for the accident in the lawsuit.

Damages

Paramedics responded to the accident scene, and because it was felt that Plaintiff Jessica Burke may have sustained a serious head injury, Plaintiff was transported by helicopter to the Ryder Trauma Center in Miami. At the hospital it was determined that Plaintiff was pregnant and some diagnostic tests were performed which ruled out a serious head injury. Plaintiff was diagnosed as having suffered a concussion, was admitted to hospital for observation and approximately 1 ½ days later was discharged to follow up with an orthopedic surgeon.

Subsequently, Plaintiff received conservative care from an orthopedist and a chiropractor for complaints of neck and low back pain. Plaintiff was diagnosed with a bulging lumbar disc and approximately 8 months after the accident lost her baby during a delivery because of a ruptured placenta. No medical testimony has yet been produced to establish a causal connection between the accident and the death of the baby. Plaintiff's orthopedic surgeon has opined that Plaintiff sustained a permanent impairment as a result of the accident and has assigned a 12% permanent partial impairment rating. A medical examination conducted by an orthopedic surgeon retained by the City has opined that Plaintiff did not sustain a permanent injury as a result of the accident and that no further medical treatment is required.

Substantial medical expenses were incurred by the Plaintiff during the first 48 hours following the accident. These included charges for the emergency helicopter transportation to Miami and the admission at Jackson Memorial Hospital. Plaintiff's medical expenses to date total approximately \$42,000.

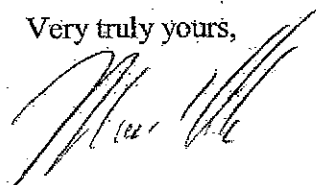
Evaluation and Recommendation

If the case were tried the City would be responsible for Plaintiff's medical expenses which were not paid by her available personal injury protection insurance (\$10,000). Moreover, even if the jury rejected the opinion of Plaintiff's treating orthopedic surgeon and accepted the opinion of the physician retained by the City, Plaintiff would be entitled to recover substantial litigation costs including expert witness fees for presenting the testimony of the treating physicians. Moreover, a trial of the action would result in substantial additional expense to the City for attorneys fees as well as expert witness fees to present the testimony of the examining physician. These additional taxable costs and litigation expenses would total approximately \$25,000.

In summary, a \$40,000 settlement represents a very reasonable resolution of the lawsuit and in my opinion is in the best interest of the City of Key West.

Please do not hesitate to let me know if I can provide you with any further information regarding this matter.

Very truly yours,



Michael T. Burke
For the Firm

Jessica Burke

IN THE CIRCUIT COURT OF THE
17TH JUDICIAL CIRCUIT, IN AND
FOR BROWARD COUNTY, FLORIDA

CASE NO: 2011-CA-148-K

Plaintiff

vs.

City of Key West

Defendant

MEMORANDUM OF SETTLEMENT

THIS CAUSE, having been submitted to mediation before, DON NILES, Mediator, upon Order of the above-styled Court and/or stipulation between the parties, it is hereby stipulated and agreed between said parties that settlement has been reached as follows:

* Defendant(s) shall pay Plaintiff(s) the sum of \$ 40,000.00 as full and final settlement of any and all of Plaintiff's claims against Defendant(s). Plaintiff(s) shall satisfy any and all health insurance liens, medicare liens, workers compensation liens, subrogation liens, attorney liens and all outstanding hospital and medical bills and indemnify and hold Defendant(s) harmless thereof. Tender of payment is conditioned upon execution of the release in favor of Defendant(s). Plaintiff(s) shall execute all standard and customary settlement documents and dismiss with prejudice the pending lawsuit, with each party to pay its own costs and attorney's fees.

Additional consideration, if any, * This proposed settlement is subject to review and approval by the Key West City Commission. If not approved by the Key West City Commission the settlement is void.

DATED this 7th day of March, 2012, at Fort Lauderdale, Florida.

Counsel for Plaintiff(s)

Counsel for Defendant(s)

Plaintiff

Defendant(s)

Plaintiff(s)

Defendant(s)