

OFFICE OF THE CITY ATTORNEY  
Shawn D. Smith, City Attorney  
Ronald J. Ramsingh, Chief Asst. City Attorney  
Nathalia Mellies, Assistant City Attorney



PHONE: (305) 809-3770  
FAX: (305) 809-3771  
EMAIL: [cityattorney@cityofkeywest-fl.gov](mailto:cityattorney@cityofkeywest-fl.gov)

## THE CITY OF KEY WEST

1300 WHITE STREET  
KEY WEST, FLORIDA 33040

### Executive Summary

To: City Commission for the City of Key West  
From: Ron Ramsingh, Chief Assistant City Attorney  
*Brian Kowalski v City of Key West 2020-CA-79-K*  
Single electric bicycle accident/fall on Atlantic Blvd.  
Date of Accident-12/14/2016  
Opposing Counsel- Adan Rose from Leesfield Scolaro, P.A.  
Judge: Previously Wilson, transferred to Koenig.  
Mediator- Wayne Miller  
Trial Date: None set yet.

(P= Plaintiff)

#### Personal

P is a 68-year-old divorced man with no children. His ex-wife passed away years ago and he claims to not have had any partners at the time of the injury or since. He has lived in Key West full time since 1989. P was born and raised in Cleveland, OH where he graduated from high school and had 2 years of horticulture training. Thereafter, P began working as a florist for 15 years. When he arrived in Key West, he says that he only worked 3 jobs; the old Wags Restaurant, doing yard work, and a third job that he cannot remember. He says that he has been cleaning houses (mainly transient rentals) for several years now. He says that he does not have any formal company, nor does he keep any records, bookkeeping, or schedules. He just gets money/checks and deposits them. He says that he does in fact file taxes. P currently lives at 312 Virginia St-Rear. At the time of the injury, he lived at 529 Caroline St., which was a house divided into several apartments.

### Medical History

P has no prior related medical history.

### Accident History

P says that he was going from his Caroline Street home to 1800 Atlantic to pick up a package for one of his cleaning clients. P has been travelling to 1800 Atlantic by electric bike to clean houses since 2013. He took Caroline to Simonton to Fleming to Francis to Truman to White to Atlantic. He says that he used the street instead of the bike lane “because FL Statutes allows him to and there are too many pedestrians walking side by side on the sidewalks and bike paths”. The bike is an Electra Cruiser bought new from Island Bicycles in 2014. P then purchased and installed a Magic Pie 3 e-bike conversion kit in 2014. P admits to going down Atlantic Blvd. at least 2-3 times a week since 2013. He would not estimate how many trips that was but agreed that it is more than 50. P says that he has the settings on the bike to not exceed 24 MPH but that it is capable of 25 MPH. He says that he was slowing down to 17 MPH as he approached Ashby St. to turn into 1800 Atlantic when an oncoming car’s windshield reflected the setting sun which temporarily blinded him. His bike went into the depression/pothole in the road and he fell, fracturing his heel and ankle (commuted fracture of the calcaneus and distal fibula). He was helped up off of the ground by unknown passersby and walked to 1800 Atlantic, where he called his friend who brought him a cane. P then called a Five-6s taxi, who took him and his bike home. His friend helped him into his apartment, who was a co-tenant on the property as well. The next day, P was taken to Advanced Urgent Care where he got x-rays confirming his fractures and was splinted. P then followed up with Dr. Derouin (Podiatrist) for care, who recommended an Open Reduction/Internal Fixation surgical procedure (ORIF). The surgery was performed on 5/7/2017 by Dr. Sandler.

### Damages

At this stage, until P gets us the Medicare lien information and the proof of lost wages, it will be difficult to narrow down. From what was provided so far, P claims \$20,203.98 in boardable damages. Based on his very anemic response to wages, the most liberal estimate puts that amount at \$2,400.00 per month, or \$124,800.00 for the 52 months to date from the date of injury.

Mediation

The parties attended a mediation on 9/27/2021 that was conducted by Wayne Miller. After a few hours of negotiating, the City was able to keep the proposed settlement under the threshold for coverage by the excess insurance carrier. I handled the case in house from its inception. Our costs on this file thus far amount to \$732.00.

I recommend that you approve the Mediation Agreement.

*A more detailed summary has been sent to the Mayor and Commissioners containing privileged information pursuant to F.S. 119.071(1)(d).*

Sincerely,

A handwritten signature in black ink, appearing to read 'RR', is written over a horizontal line.

Ron Ramsingh  
Chief Assistant City Attorney

