

Indian River County, Florida Memorandum

TO: Board of County Commissioners

THRU: Michael C. Zito, Interim County Administrator
Kristin Daniels, Office of Management & Budget Director

FROM: Cynthia Stanton, Risk Manager

DATE: January 18, 2023

SUBJECT: Workers Compensation Settlement
Justin House, Former IRC Deputy Sheriff

BRIEF HISTORY OF CLAIMANT AND OF CLAIM:

On October 21, 2018, after only 3 ½ months of employment, former Sheriff's Deputy, Justin House, was on patrol and engaged in an altercation with a suspect. He was struck in the head multiple times with a plastic flashlight and subsequently undertook extensive medical care, primarily under the supervisor of a board-certified neurologist, and a board-certified neuropsychologist. Each specialist has found significant objective findings of traumatic brain damage and cognitive dysfunction. Despite extensive discovery and investigation, there was no definitive evidence of a pre-existing condition to terminate benefits.

MEDICAL HISTORY:

Following the battery with the flashlight, the employee treated with Psychiatrist, Dr. Fernando Miranda whom identified multiple areas evidencing traumatic brain injuries, consistent with the documented cognitive and behavioral deficits.

Neuropsychologist, Dr. Whitney Legler, also accepts and believes all subjective complaints and symptoms and has opined that the former employee is incapable of sustaining employment in any capacity. Dr. Miranda had similar opinions on the future employability of Mr. House.

EXPOSURE EVALUATION:

At the time of mediation, the employee was 39.17 years of age, and has a life expectancy of an additional 39.45 years. He would be entitled to 3% annual increases on permanent/total supplemental benefits through age 62, or for nearly another 23 years. The former employee would also potentially be entitled to permanent total disability benefits at his compensation rate of \$634.81 per week, through the age of 75.

	<u>Paid to Date</u>
Indemnity:	\$108,652.62
Medical:	\$51,642.76
Expenses:	\$40,124.32
Total:	\$200,419.70

SETTLEMENT DEMAND:

At the private mediation held on September 27, 2022, the parties reached a tentative and contingent settlement of \$525,000.00, inclusive of a professionally administered MSA, attorneys’ fees and costs.

Following mediation, the contingent settlement of \$525,000 was reviewed by Jason Brown, Dylan Reingold, Kristin Daniels, Cynthia Stanton, Laura Turner and Nathan McCollum of the Sheriff’s Office. After a lengthy discussion, Indian River County requested the employee re-evaluate the \$525,000 to consider a significantly lower Medicare Set-Aside (reduced from \$240,000 to \$151,000), and to include an offset for potential future social security disability benefits.

As a result, the employee’s side decreased their settlement demand by \$126,832.50 with a final demand of \$398,167.50.

FUNDING:

The final settlement, in the amount of \$398,167.50, will be paid out of the Self-Insurance Fund/Risk Management/Workers Compensation account, number 50224619-012140.

Account Description	Account Number	Amount
Self-Insurance Fund/Risk Management/Workers Compensation	50224619-012140	\$398,167.50

RECOMMENDATION:

This claim was evaluated by the County’s excess Workers Compensation carrier and it is recommended that the Board of County Commissioners approve the final settlement of \$398,167.50 to resolve this claim.