

Meeting Date: May 24, 2016

Agenda Item

11

REQUESTED COMMISSION ACTION:

X Consent Ordinance X Resolution Consideration/ Discussion Presentation

SHORT TITLE A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING A MEDIATION SETTLEMENT AGREEMENT AND AUTHORIZING COUNSEL TO EXECUTE ANY ADDITIONAL DOCUMENTS RELATING TO THE SETTLEMENT OF THE PENDING WORKERS' COMPENSATION CLAIMS BY ARNOLD McRAY; PROVIDING AN EFFECTIVE DATE.

Summary of Purpose and Why: In accordance with the Judge of Compensation Claims, Court ordered mediation was held and the City's defense counsel now seeks final settlement authority to the tentative agreement reached at mediation in the matter of Arnold McRay v. City of Pompano Beach, for dates of accident: 1/22/14 and 10/6/98, Worker's Compensation OJCC Claim Number: 14-012853NSW

- (1) Origin of request for this action: Human Resources/Risk Management Department
(2) Primary staff contact: Michael Smith/ Ed Beecher (954)786-5555
(3) Expiration of contract, if applicable:
(4) Fiscal impact and source of funding: \$212,500, which includes settlement for both dates of accident - Workers' Compensation Account Number: 506-5520-596.45-80

Table with 4 columns: DEPARTMENTAL COORDINATION, DATE, DEPARTMENTAL RECOMMENDATION, DEPARTMENTAL HEAD SIGNATURE. Rows include City Attorney, Human Resources, Finance, and Budget.

Signature of City Manager

X City Manager

Signature of Commissioner

ACTION TAKEN BY COMMISSION:

Table with 4 columns: Ordinance, Resolution, Consideration, Workshop. Rows include 1st Reading and 2nd Reading.

RESOLUTION NO. 2016-\_\_\_\_\_

**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING A MEDIATION SETTLEMENT AGREEMENT AND AUTHORIZING COUNSEL TO EXECUTE ANY ADDITIONAL DOCUMENTS RELATING TO THE SETTLEMENT OF THE PENDING WORKERS' COMPENSATION CLAIMS BY ARNOLD MCRAY; PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That a Mediation Settlement Agreement relating to the settlement of the pending Workers' Compensation Claims by Arnold McRay, a copy of which Agreement is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

**SECTION 2.** That counsel is hereby authorized to execute any additional documents relating to the approved settlement of the Workers' Compensation Claims by Arnold McRay.

**SECTION 2.** This Resolution shall become effective upon passage.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
**LAMAR FISHER, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**ASCELETA HAMMOND, CITY CLERK**

MEB/jrm  
5/16/16  
l:reso/2016-206

# RISK MANAGEMENT

Eddie Beecher, Risk Manager

E: eddie.beecher@copbfl.com | P: 954.786.5555 | F: 954.786.4067

**DATE:** May 13, 2016

**MEMO TO:** Dennis W. Beach, City Manager  
Mark E. Berman, City Attorney

**VIA:** Michael Smith, Human Resources Director

**FROM:** Ed Beecher, Risk Manager 

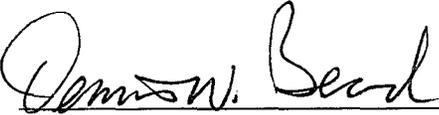
**SUBJECT:** Request for Settlement Authority  
Arnold McRay v. City of Pompano Beach  
OJCC No.: 14-012853NSW  
Risk Management Claim No.: WC2014006582

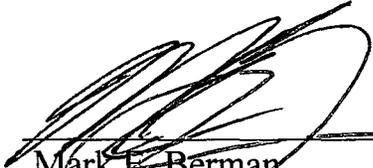
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The attached information from Beth J. Leahy, with the defense firm of Walton Lantaff Schroeder & Carson, requests authority in the amount of \$212,500., as full and final settlement of the above captioned workers' compensation matter. At the City's direction, during the mediation process, Mrs. Leahy reached a tentative settlement, subject to the necessary approvals.

As the attached information confirms, Mrs. Leahy is recommending that the City approve the amount as indicated to resolve this matter, in the best interests of the City.

If you concur, please indicate by your signature below. I will prepare the necessary agenda item for City Commission consideration and work with the City Attorney to coordinate the matter for the City Commission's review. If you wish to discuss the matter, I am available at your convenience.

  
Dennis W. Beach      5-16-16  
City Manager      Date

  
Mark E. Berman      5-15-16  
City Attorney      Date

EB/ms

P

STATE OF FLORIDA  
Division of Administrative Hearings  
Office of the Judge of Compensation Claims  
District " "   
FD

CLAIM NUMBER: 14-012853 NSW  
DATE(S) OF ACCIDENT: 1/22/14  
CLAIMANT: Arnold McKay  
EMPLOYER: City of Pompano Beach  
CARRIER/ SERVICING AGENT: Corvel Corp

Judge  
PRETRIAL: TRIAL:  
CLAIMANT'S COUNSEL: Mark ~~Diak~~ Diekstein  
E/C/SA'S COUNSEL: Beth Leahy

MEDIATION REPORT

1. A Mediation Conference was conducted by Certified Mediator Howard Scheiner on April 26, 2016.

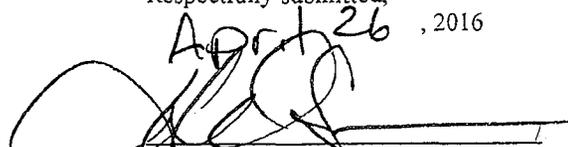
2. The following were in attendance:

- 1. Claimant: ✓
- 2. Claimant's Counsel: ✓
- 3. Employer:
- 4. Carrier/Servicing Agent: ✓
- 5. E/C/SA's Counsel: ✓
- 6. Other Attendees:

3. At the Mediation Conference, the parties:

- a) Completely resolved all issues as set forth in the attached Agreement. By Order of the J.C.C., the Pretrial Conference and Final Hearing are hereby canceled.
- b) Completely resolved all issues as set forth in the attached Agreement; except for Attorney's Fees. By Order of the J.C.C., the Pretrial Conference and Final Hearing are hereby canceled. Should a fee hearing be necessary, Counsel for the Claimant shall contact the Office of the J.C.C. to schedule same.
- c) Resolved only those issues as set forth in the attached Mediation Agreement corresponding to the Petition for Benefits dated \_\_\_\_\_ . Pretrial and Final Hearing should remain scheduled.
- d) Were ordered to reconvene the Mediation, which is to be concluded PRIOR to the Final Hearing. Pretrial and Final Hearing should remain scheduled.
- e) Did not resolve any issues.
  - Pretrial and Final Hearing should remain scheduled.
  - No Prctrial or Final Hearing is set. Please set.
- f) Other: \_\_\_\_\_

Respectfully submitted,  
April 26, 2016

  
Certified Mediator Howard Scheiner

STATE OF FLORIDA  
Division of Administrative Hearings  
Office of the Judge of Compensation Claims  
District " " FD

CLAIMANT: Arnold McRay CLAIM NUMBER: 14-02853 DATE OF ACCIDENT: 1/22/14

**MEDIATION SETTLEMENT AGREEMENT**

- This is not a Washout Settlement under F.S. 440.20 (11).
- This is a Washout Settlement under F.S. 440.20 (11). The attached mediation Settlement Agreement is stipulated to and agreed to by the undersigned parties in the presence of the undersigned Certified Mediator. Parties acknowledge receipt of a copy of this agreement and request that it be presented to the Judge of Compensation Claims for approval, if necessary.
- Attached hereto and incorporated by reference is the addendum of 1 page(s) to this Mediation Settlement Agreement.

Arnold McRay Claimant  
Cindy Lawrence Employer/Carrier/SA  
[Signature] Certified Mediator  
[Signature] Claimant's Counsel  
[Signature] E/C/SA's Counsel  
N/A Interpreter  
4/24/16 Date

**ORDER ON MEDIATION SETTLEMENT AGREEMENT**

**THIS CAUSE** came before consideration pursuant to Rule 60Q-6.110, Florida Administrative Code, the attached Mediation Report and the Mediation Settlement set forth above, and the parties having stipulated to those matters contained in said agreement, the undersigned after reviewing the same finds and it is hereby

**ORDERED AND ADJUDGED** as follows:

In compliance with Rule 60Q-6.110, Florida Administrative Code, the aforesaid Mediation Settlement Agreement entered into by the parties is hereby approved without objections and its terms are incorporated herein by reference.

**DONE AND ORDERED** in Chambers.

\_\_\_\_\_  
Judge of Compensation Claims

**I HEREBY CERTIFY** that the above Order was entered and a copy mailed to each party and their attorney on this day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Secretary to Judge of Compensation Claims

MEDIATION SETTLEMENT AGREEMENT ADDENDUM

The parties agree to a complete resolution of ~~this case~~ <sup>these cases</sup> based upon the following terms:

- 1) For the 10/6/98 Date of accident /  
 The E/C/SA will pay the claimant \$ 32,400.00 out of which the claimant will pay his attorney a fee of \$ 3990.00 and costs of \$ 200.00, thereby netting \$ 28,210.00.
- 2) For the 1/22/14 Date of accident, the E/SA will pay the claimant \$ 180,000.00 and waive its lien against any recovery by the claimant from third parties. The claimant will pay his attorney a fee of \$ 34,050.00 and costs of \$ 700.00, thereby netting \$ 145,250.00, plus the amounts held in trust from his third party case.
- 3) All benefits cease upon the E/SA conveying approval from City for this agreement in writing to claimant's counsel as well as the Excess/Reinsurance Carriers approval.
- 4) The ~~claimant~~ employer will pay the claimant an additional \$ 100.00 in consideration for the claimant executing a general release, not to affect the claimant's vested benefits.
- 5) This agreement is contingent on City/Commission approval, thereafter conveying approval ~~in writing to the claimant~~.
- 6) The E/SA agrees to waive any claims for recoupment of previously paid ~~benefits~~ Impairment Benefits.  
~~The parties will submit a separate stipulation detailing that the E/C/SA will pay the claimant's attorney a separate fee of \$ \_\_\_\_\_ and costs of \$ \_\_\_\_\_ for all past due fees and costs based upon previously obtained benefits for the claimant.~~
- 7) This agreement is also contingent upon the approval of the Excess/Reinsurance Carrier.

~~The Parties understand and acknowledge that approval by the JCC of this agreement as to any issue other than attorneys fees and satisfaction of child support arrearages is not specifically required and that this agreement is binding upon execution by the parties.~~

Upon approval of the attorneys fees related to this washout, all pending petitions will be dismissed and/or withdrawn.

Any separate stipulation agreed to by the parties herein is intended to be integrated with the washout agreement and unenforceable individually.

The E/C agrees to pay for the mediation fee associated with this mediation.