

RESOLUTION NO. 19-14

**CAMDEN COUNTY INSURANCE FUND COMMISSION
AUTHORIZING WORKERS COMPENSATION SETTLEMENT WITH
KIMBERLEY ABREU**

WHEREAS, Kimberley Abreu has filed a claim against the Camden County Insurance Fund Commission with the State of New Jersey, Department of Labor, Division of Workers' Compensation; and

WHEREAS, the parties have recommended a resolution for 25% of the right leg for a total settlement in the amount of \$17,010.00, plus costs of \$3,402.00; and

WHEREAS, the claim so filed has been resolved, now, therefore,

BE IT RESOLVED, by the Camden County Insurance Fund Commission that disposition of the claim filed by the above-referenced individual is authorized as follows:

<u>CLAIMANT</u>	<u>PETITION NO.</u>	<u>AMOUNT OF AWARD</u>
Kimberley Abreu	CP2012-12643	\$17,010.00 (25% right leg)
		\$3,402.00 (costs)

BE IT FURTHER RESOLVED, that the proper Commission officials and/or their agents, be and are hereby authorized to execute such documents as shall be necessary to effect the disposition set forth above.

ADOPTED: 2-27-14

BY:



CHAIRPERSON

ATTEST:



VICE-CHAIRPERSON

**Camden County Insurance Commission
Settlement Authority Request**

Claimant: Kimberley Abreu

CSI File Number #: 630 112 603

CSI Handling Adjuster: Hugnette S. Atherton

CSI Adjuster Phone: 856-380-6539

Date : January 28th.2014

Claim Type: Workers' Compensation

Date of Incident/Loss: March 15, 2012-
10:00 AM

Department: Prosecutor

Litigation : Yes

Defense Attorney: Nicole Henry-

Claimant/Plaintiff Attorney: Petro Cohen

Policy Type: Workers' Compensation

Petitioner has filed CP2012-12643

DEFENSE COUNSEL RECOMMENDATIONS:

Per enclosed PAR of January 28th.2014 and counsel's correspondence of December 9,2013, it is counsel's recommendation that this matter be resolved for 25% of leg or \$17,010.00 plus costs of \$3,402.00 for a total of \$20,412.00.

Seeking settlement authorization in the amount of \$20,412.00 as outlined above. Last payment authority received 04/13/13 was for \$ 65,964.00- We are now seeking payment authority up to \$64,837.00, reduction of \$ 1,127.00

APPROVAL FROM CCIC:

YES

NO

Camden County Insurance Commission Payment Authority Request-Camden Proper

Claimant: Kimberley Abreu
Date of Birth: 08/23/1978
Date of Hire: 01/04/2010
CSI File Number: 630-112-0000603
CSI Handling Adjuster: Huguette S. Atherton
CSI Adjuster Phone:
Excess Carrier: Meadowbrook
Excess Notice Date:
Excess Handling Adjuster:
Excess Adjuster Phone:
Member Entity SIR: \$250,000.00
CIB: yes, no prior injuries or awards
Subrogation: No, incident was purely an accident the County maintains the premises and no third party was involved

Status as of: January 28th, 2014
Claim Type: Indemnity
Date/Time of Loss: 03/15/2012 10:30 AM
Location: Camden County
Department: Prosecutors
Litigation: Yes
Defense Attorney: Prudence Higbee-Capehart
Claimant/Plaintiff Attorney:
Claimant/Plaintiff Attorney Firm: Frank Petro
Claimant/Plaintiff Attorney Phone:
Policy Type: Workers' Compensation
CEL-JIF Companion File#:

Summary of the Incident Facts:

Petitioner hired as an Investigator, on 03/15/12 as she was walking in the administrative building she stepped on uneven carpet that had a hole in it and, her heel got caught in the hole causing her to stumble and fall injuring her right knee.

Initial evaluation at Worknet diagnosis-right knee sprain-treatment-knee support, ibuprofen, released to modified duty which the County could accommodate

Follow up at Worknet, petitioner reported ongoing discomfort in her right knee, an MRI of the right knee revealed anterior cruciate ligament tear.

On 04/09/12 Ortho. Dr. Ponzio evaluated petitioner and recommended surgery, work status-modified duty. Petitioner contacted this office to report that she would not treat with Dr. Ponzio; she wanted to treat with Rothman. Petitioner was notified in writing that if she sought unauthorized treatment she would be responsible for payment.

We eventually received CP2012- 12643-referred to counsel to protect the County's interest. Counsel was contacted by petitioner's attorney to inquire if we would schedule petitioner with an Ortho.

Petitioner was evaluated by Dr. Dwyer on 11/07/12, diagnosis-sprain/ strain of anterior cruciate ligament, surgery was scheduled for 01/11/13- On 04/01/13, Dr. Dwyer released petitioner to return to work regular duty, reached MMI.

AWW-\$1,317.00.-Comp.Rate-\$ 810.00-The County paid petitioner regular wages during disability period-WC will reimburse the County.

Petitioner's medical expert, Dr. Gaffney estimated disability at 65% of the right leg, Dr. Peacock estimated 7.5%, we received a settlement demand for 33 1/3% of the leg or \$23,964.00 plus costs, counsel recommends that we settle this matter up to 25% of the leg or \$ 17,010.00 plus costs pf \$3,402.00

Strategy/Action Plan- 1-At CCIC meeting discuss this claim to obtain settlement authority-2-At next diary pending on further developments ,if warranted will review and adjust the reserves to reflect potential case exposure

Financial Summary:	Indemnity	Medical	Legal	Other	Total
Paid:	\$	\$21,088.00	\$1,623.00	\$9,938.00	\$32,649.00
Outstanding:	\$24,837.00	\$.00	\$5,718.00	\$1,877.00	\$32,097.00
Total Incurred:	\$24,837.00	\$21,088.00	\$6,500.00	\$12,500.00	\$64,837.00

Reserve Rationale:

Indemnity reserve reflects 5 3/7 wks of TTD @ \$810.00 weekly=\$4,425.00 & 17 1/2% of the leg or \$17,010.00 plus costs \$3,402.00=\$20,412.00

Total Indemnity reserve=\$24,837.00

Medical reserve reflects

6 office visits @ \$285.00 ea=\$1,710.00, x-rays & MRI-\$1,200.00, 1 office visit-Ortho-Dr. Ponzio-\$ 175.00, 10mos.visits-Dr.Dwyer @ \$300.00 ea. = \$3,000.00, Surgical costs-\$ 22,500.00 (surgeon's, anesthesiologist, OR fees), DME, supplies, medications=\$1,615.00, -48 PT sessions @\$100.00 ea.=\$4,800.00= \$21,000.00

Expense reserve reflects IME, medical costs=\$12,500.00

Legal reserve reflects litigation costs-\$ 6,500.00

Last committee meeting date and amount authorized: April 13,2013- -\$65,964.00

Payment/Settlement authority requested up to: \$64,837.00 (reduction of \$1,127.00)

Settlement Authority Request is attached

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DEFENSE ATTORNEY
HEARING RESULT REPORT

To: Ms. Huguette Atherton
Assigned Attorney: Nicole R. Henry
Assigned Paralegal: Stacey M. Devine
Date: December 9, 2013
Case Caption: Kitaberly Abreu vs. Camden County
Claim File No: 630112603
Attorney File No: 1328-11289
Party We Represent: Camden County
Date of Accident: 3/15/2012
Date of Hearing: 12/4/2013
Place of Hearing: Camden
Hearing Official: The Honorable Audrey E. Kernan

Please accept this correspondence as an update with regard to the above referenced matter, as well as our thoughts and recommendations with regard to settlement authority.

Allegations of Claim

The petitioner alleges that on March 15, 2012, the heel of her boot got caught in a hole in the floor which resulted in injury to the right knee. The claim was accepted as compensable.

Litigation Status and Hearing Result

This matter was recently listed on December 4, 2013. Judge Kernan was unable to appear at the listing, so the matter was heard by Judge Gangloff. It was adjourned for two cycles to allow for settlement negotiations, and is next tentatively listed on January 15, 2014.

Petitioner's attorney submitted a demand for 33 1/3% of the leg. Below, please find our thoughts regarding this claim and our recommendations for settlement:

Investigation

Petitioner's average weekly wage prior to the accident was \$1316.96, which gives rise to the maximum rate of compensation for 2012 of \$810.00. We performed a prior claim search and investigated petitioner's medical history, but it appears that petitioner does not have a history of prior knee injuries.

After falling, petitioner presented to Worknet on March 23, 2012, where x-rays were taken. The x-rays were negative for fracture or dislocation. Petitioner claimed to have a "heat" sensation in the back of her knee.

An MRI was performed on April 4, 2012, which showed an torn anterior cruciate ligament (ACL).

Petitioner was seen by Dr. Ponzio on April 9, 2012, but petitioner did not like this physician and wished to be seen by another doctor. Petitioner then went to Rothman Institute, but treatment was denied there.

Petitioner was then seen by Dr. Dwyer on November 7, 2012, with ongoing right knee pain. Surgery was performed on November 11, 2013. Petitioner then received physical therapy for three months post surgery.

Respondent's Defense Exam

Dr. Peacock evaluated petitioner on November 4, 2013, and found that petitioner had reached a plateau, that no additional treatment was necessary, and that petitioner had reached maximum medical improvement. Dr. Peacock estimated 7.5% of the right knee.

Petitioner's Exam

Dr. Gaffney evaluated petitioner on May 13, 2013. Dr. Gaffney found 65% of the right leg, causally related.

Overall Recommendations

As noted above, petitioner's attorney has made a demand for one third of the statutory right leg. We feel that this is too high given petitioner's diagnosis and our doctor's estimate of permanent disability.

Petitioner advised Dr. Peacock that her knee feels good, but is not 100%. She noted since the surgery that she has ongoing weather related symptoms, which bother her more than it did before. She also noted that she can jog, but does not run, cannot perform squats or lunges, and her left knee also bothers her occasionally.

Petitioner also noted trouble taking care of her children at home, and occasionally takes Aleve for achiness and pain in the knee. Petitioner does not wear the brace at home, but without it she has pain using the stairs, and has to be more careful when doing things.

We will note that although petitioner wears a brace on her knee, she is still able to work full time at the same job for respondent.

At this time, we are requesting settlement authority for up to 25% of the statutory right leg, which equates to 78.75 weeks at \$216.00 per week, for a total of \$17,010.00, based on 2012 rates. Please note that we will begin settlement negotiations with a lower initial offer in order to minimize exposure.

Please advise as to your thoughts regarding settlement authority at your earliest convenience.

Medicare Status

Petitioner was born in 1978, and has returned to work as a detective for respondent, therefore it is unlikely that Medicare will be an issue. However, we will confirm petitioner's Medicare status with petitioner's attorney prior to any resolution in this matter.

We will keep you apprised of any new developments in this matter as they occur. If you have any questions, or if there is anything else I can do for you, please feel free to contact me. Thank you for your assistance with this matter.

Very truly yours,

CAPEHART & SCATCHARD, P.A.

Nicole R. Henry

NREH/nrh
2922069
cc:

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