

RESOLUTION NO. 49-13

**CAMDEN COUNTY INSURANCE FUND COMMISSION
AUTHORIZING WORKERS COMPENSATION SETTLEMENT WITH
FRANCIS FLAGG**

WHEREAS, Francis Flagg 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 30% of the right leg for a total settlement in the amount of \$20,979.00, plus costs of \$4,200.00; 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>
Francis Flagg	CP2012-22594	\$20,979.00 (30% right leg)
		\$4,200.00 (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: 11-7-13

BY: _____

CHAIRPERSON

ATTEST:

VICE-CHAIRPERSON

**Camden County Insurance Commission
Settlement Authority Request**

Claimant: Francis Flagg
CSI File Number #: 630 110 123
CSI Handling Adjuster: Huguette S. Atherton
CSI Adjuster Phone: 856-380-6539
Date : September 24th.2013
Claim Type: Workers' Compensation
Date of Incident/Loss: 08/09/10-8:00PM
Department: Jail
Litigation : yes
Defense Attorney: Jennifer Ganley, Naulty rd
Claimant/Plaintiff Attorney: Carol Fabletti
Claimant/Plaintiff Attorney Firm:
Policy Type : Workers' Compensation

DEFENSE COUNSEL RECOMMENDATIONS:

Per enclosed PAR of September 24th.2013, and counsel's correspondence of August 7th.2013, It is counsel's recommendations that this matter be settled up to 30% of the log or \$20,979.00 plus costs of \$ 4,200.00 for a total of \$ 25,179.00 - (CP2012-22594)

SEEKING AUTHORIZATION FOR SETTLEMENT RECOMMENDATIONS IN THE AMOUNT OF : \$ 25,179.00

APPROVAL FROM CCIC: YES NO

Camden County Insurance Commission Payment Authority Request- Camden Proper

<p>Claimant: Francis Flagg Date of Birth: 11/22/1966 Date of Hire: 11/03/1999 CSI File Number: 630-110-0000123 CSI Handling Adjuster: Huguette.S. Atherton CSI Adjuster Phone: Excess Carrier: Meadowbrook Excess Notice Date: Excess Handling Adjuster: Excess Adjuster Phone: Member Entity SIR: CIB: yes, injured right knee in 2004, at the time medical only claim, no awards Subrogation: Not applicable if condition is deemed as a result of job duties and no third party is involved</p>	<p>Status as of: September 24th,2013 Claim Type: Indemnity Date/Time of Loss: 08/09/2010- 8:00 PM Location: Camden County Department: Jail Litigation: Yes Defense Attorney: Jennifer Ganley, Naulty Claimant/Plaintiff Attorney: Claimant/Plaintiff Attorney Firm: Carol Fablett Claimant/Plaintiff Attorney Phone: Policy Type: Workers' Compensation CEL-JIF Companion File#:</p>
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Summary of the Incident Facts:

Petitioner hired as a corrections officer , on 08/10/10 he was involved in altercation with an inmate as a result sustained injury to his chronic right knee condition. Initial evaluation at Worknet, then Orthopod, Dr. Di Salvo at Rothman. An MRI of the right knee revealed-1-anterior cruciate ligament tear-medial and lateral meniscal tear, conservative treatment did not help, surgery was performed on 04/01/12, post-op evaluation of 04/12/12, RX for PT sessions, and brace, petitioner was released to return to work modified duty on 10/10/12. He reached MMI on 01/10/13 and released to return to work full duty. Received CP2012-22594 referred to counsel to file a response to protect the County's interest.

Both sides have completed their permanency evaluations, the County expert, Dr.Pinsky estimated 12 1/2% of the leg, petitioner's expert, Dr .Gaffney estimated 72.5% of the leg. We received a demand to settlement from petitioner's attorney for 35% of the leg or \$24,745.50 plus costs \$4,950.00=\$29,695. 50. Counsel recommends settling this matter up to 30% of the leg or \$20,979.00 plus costs \$ 4,200.00=\$25,179.00

Strategy/Action Plan: 1.Will obtain settlement authority from the County up to 30% of the leg and inform counsel accordingly.2.Will continue to monitor this claim with counsel until we can resolve this matter and close file.

<u>Financial Summary:</u>	<u>Indemnity</u>	<u>Medical</u>	<u>Legal</u>	<u>Other</u>	<u>Total</u>
Paid:	\$21,664.83	\$23,102.54	\$745.02	\$5,047.29	\$50,559.68
Outstanding:	\$26,611.17	\$1,284.46	\$5,754.98	\$3,452.71	\$37,103.32
Total Incurred:	\$48,276.00	\$24,387.00	\$6,500.00	\$8,500.00	\$87,663.00

Reserve Rationale:

Indemnity reserve reflects :paid TTD benefits, (02/21/12- 10/10/12)=\$21,664.83 & 30% of the leg or \$20,979.00 plus costs of \$4,200.00=\$25,179.00=Total Indemnity \$\$48,276.00

Total Medical reserve:

\$24,387.00 (paid to date=\$ 23,102.54 to include office visits, PT sessions, surgery costs, diagnostic tests, medications ,supplies

Expenses reserve:

\$ 8,500.00 (IME, medical costs)

Litigation reserve:

\$6,500.00

Last committee meeting date and amount authorized: August 12,2102- \$ 87,663.00

Payment authority requested up to: No additional money requested

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PLEASE RESPOND TO MEDIA

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August 7, 2013

Ms. Huguette Atherton
CompServices, Inc.
8000 Midlantic Drive, Suite 410N
Mt. Laurel, NJ 08054

Via E-Mail Only

Re: *Francis Flagg v. Camden County Dept. Of Corrections*
Your Claim No. 830-110-123
Date of Injury: 08/07/2010
Our File Number:

236-29638

Dear Huguette:

Enclosed please find a copy of the permanency evaluations with regard to the above-captioned matter. The following is a brief summary of these reports for your review and file.

Dr. Pinsky examined the Petitioner at our request on June 11, 2013. According to Petitioner's history, he was restraining an inmate who fell on his right knee. He was originally diagnosed with a right knee sprain but later diagnostic studies revealed that he had a tear of the ACL. Petitioner admitted to previously injuring his knee about 10 years ago while at work as he was descending some steps. He denied any other past injuries to the knee or subsequent injuries. Although he missed 6 months of work after the injury, he has now returned to regular duty.

At the time of the current examination, the Petitioner's only complaint was pain in the knee that prevented him from running. It does not lock or give way. His hobbies formerly included jogging and softball, but he does not participate in them now. He also enjoys boating, but the up and down on the water makes his knee uncomfortable.

August 9, 2013

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An examination of the lower extremity revealed a possible MacMurray's maneuver on the right which was negative on the left. There was no significant tenderness with palpation of either lower extremity. There was a 1 inch inferior medial longitudinal scar about the right knee. There was at least borderline atrophy of the right thigh musculature, but no swelling or effusions. Skin was normal in temperature.

After performing his physical examination and review of the records, Dr. Pinsky opined that Petitioner has a 12.6% permanent partial disability of the statutory right leg overall without regard to cause. In light of his prior knee injury and clearly pre-existing abnormalities, he would apportion 7.5% of this assessment to the pre-existing conditions and the remaining 5% to the event of August 7, 2010.

Petitioner's attorney also forwarded a report from Dr. John Gaffney, who examined the Petitioner at his request. Interestingly, Petitioner reported that he does continue with pain in his right knee region, particularly with activities such as standing or walking, or going up and down steps. He reported that his knee does swell at times and that he had instability within his right knee. He noted that all of his activities were limited, including any type of standing, walking or going up and down steps. He related to the doctor that he had previously injured the right knee, but noted that prior to the work injury, he was able to participate in sports, such as softball.

After performing his physical examination, Dr. Gaffney opined that Petitioner sustained a 72.5% permanent partial disability in reference to the right leg, solely related to the August 7, 2010 work injury. When considering his previous right knee condition, he notes that the overall percentage of permanent partial disability would be higher.

Finally, the Petitioner's attorney has submitted a settlement demand to amicably resolve this case. The attorney has demanded 35% of the statutory right leg to resolve the claim. According to the 2010 disability chart, this demand equates to \$24,745.50, exclusive of your share of attorney fees and costs for our share of medical reports. In light of our doctor's number, I would request settlement authority in the amount of 30% of the statutory leg, which, according to the disability chart, equates to \$20,979.00. Please note that I will attempt to resolve the matter for a lower percentage and would only go up to the 30% if need be. We will also be responsible for our share of Petitioner's counsel fees and medical report fees, as well as a \$80.00 stenographic fee. Should we have any settlement authority, kindly contact me upon receipt of this correspondence and I will forward a counter-offer to Petitioner's attorney.

Should you have any questions or concerns regarding this matter in the interim, please do not hesitate to contact me. Thank you for your attention to this matter.

Very truly yours,

August 9, 2013
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JENNIFER M. GANLEY

JMG:mlv
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