

## **Demitri Serianni v. City of Venice**

Alan – please accept this as your worker’s compensation defense counsel’s recommendation of the settlement negotiated by Nichole Summers directly with Mr. Serianni for a total of \$50,000.00 inclusive of all accidents/injuries/causes of action arising out of his employment at City of Venice. Mr. Serianni is not represented by counsel so this settlement does not include any attorney’s fees or costs. \$49,900.00 will be allocated to the WC settlement and \$100.00 will be allocated to a General Release which eliminates all other non-workers’ compensation claims or causes of action against the City. Settlement is contingent upon City Council approval and subsequent approval by the Judge of Compensation Claims.

Mr. Serianni was a police officer for the City from 2002 to July 2015. He sustained a significant orthopedic injury on 5/9/2013 during a training exercise. He has undergone two orthopedic surgeries and may require more. After the accident Mr. Serianni continued to work around his two surgeries, more or less for 2 ½ years, mostly at light duty, until his retirement effective 7/1/2015. His current treating orthopedic surgeon placed Mr. Serianni at maximum medical improvement as of 5/22/2015 and gave an opinion Mr. Serianni was totally and permanently unable to render useful and efficient service as a police officer. As a result of this report, Mr. Serianni was ‘terminated’ as a police officer by the City then that he applied for a pension and ‘retired’ effective 7/1/15.

Mr. Serianni has significant permanent functional restrictions which will likely increase as he ages. Absent settlement, the Employer/Servicing Agent is exposed to the potential of paying for several future surgeries including, in our experience with conditions similar to Mr. Serianni’s, total joint replacements. Based on US Life Tables, Mr. Serianni has a normal life expectancy of approximately 41 years. Most joint replacements carry a 10-year life expectancy. Thus, given his youth, if the case is not settled, the Employer/Servicing Agent could conceivably pay for 3-4 joint replacements over Mr. Serianni’s lifetime which projects into the \$150,000.00 to \$200,000.00 ballpark by themselves. There may be other, less extensive, surgeries before the first joint replacement is necessitated plus other conservative treatment – periodic office visits, diagnostic tests, injections, appliances, therapy, pain management and prescriptive medications.

Regarding future indemnity, during any future post-op recovery time, temporary disability benefits would be payable up to a cumulative total of 104 weeks. If settlement is not reached at this time, the Employer/Servicing Agent remains vulnerable to an eventual Florida Supreme Court decision in Westphal v. City of St. Petersburg which could expand temporary disability eligibility to 260 or 520 weeks instead of the 104 week cap currently in place. At some point in the future, Mr. Serianni could present a claim asserting his injury has caused him to be permanently and totally disabled from any gainful work. If he’s successful, the Employer/Servicing Agent would be exposed to payment of his compensation rate, \$816.00/week, until age 75 plus a supplemental COLA until age 62. I do not believe Mr. Serianni is eligible for Social Security Disability benefits at this time since he worked for the City from 2002 to 2015 and no deposits were paid into the Social Security system over 5 of the last 10 years because the City has its own retirement plan. I was advised Mr. Serianni’s pension application is pending. If he obtains a disability pension, the E/SA could have an offset on future WC indemnity benefits, depending on pension plan provisions but a legal opinion on its impact

is premature at this time. Legal defense of permanent total disability claims costs between \$10 - \$15,000.00 in costs and expenses.

In conclusion, this is a case of 'pay some now rather than potentially lots more later.' If the case is not settled now, future medical expenses and indemnity project into the high hundreds of thousands of dollars assuming a normal life expectancy. This would easily exhaust the City's self-insured retention, bring into play its excess coverage with Florida League of Cities and likely increase future premium assessments. It is my legal opinion this \$50,000.00 settlement is a reasonable 'early intervention' before Claimant obtains legal representation and should be considered an investment or hedge against what this case could develop into if not terminated. We all agree settlement at this time for this amount is essentially a cost effective risk management tool being utilized to eliminate a significant, even potentially catastrophic, future exposure.

Mark E. Hungate, Esq.  
Board Certified Workers' Compensation Attorney  
Banker Lopez Gassler P.A.  
501 First Ave. N., Suite 900  
St. Petersburg, FL 33701  
Direct Line: 727-825-3605  
Fax #: 727-821-1968  
E-Mail: [mhungate@bankerlopez.com](mailto:mhungate@bankerlopez.com)