

MANATEE COUNTY GOVERNMENT

AGENDA MEMORANDUM

SUBJECT	Darleen M. Shriver vs. Manatee County Sheriff's Office Case No. 2008-CA-10011 CAO File No. 2972	TYPE AGENDA ITEM	Consent
DATE REQUESTED	January 12, 2010	DATE SUBMITTED/REVISED	December 29, 2009
BRIEFINGS? Who?	As requested	CONSEQUENCES IF DEFERRED	
DEPARTMENT/DIVISION	County Attorney	AUTHORIZED BY TITLE	Tedd N. Williams, Jr., Esq. County Attorney
CONTACT PERSON TELEPHONE/EXTENSION	Trudy K. Morris, Legal Assistant Ext. 3762	PRESENTER/TITLE TELEPHONE/EXTENSION	James A. Minix, Esq. Chief Deputy County Attorney
ADMINISTRATIVE APPROVAL		<i>[Signature]</i> 12/30/09	

ACTION DESIRED

INDICATE WHETHER 1) REPORT; 2) DISCUSSION; 3) FORM OF MOTION; OR 4) OTHER ACTION REQUIRED

Motion to approve the stipulation and settlement of pending litigation.

ENABLING/REGULATING AUTHORITY

Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy

APPROVED IN OPEN SESSION

Section 125.01 and 768.28, Florida Statutes

JAN 12 2010

BACKGROUND/DISCUSSION

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

Facts of the Case: On November 6, 2006, a MSO Deputy was stopped at a red light on Manatee Avenue and 51st Street West. The light turned green and traffic began to move forward. The deputy reached for a pad of paper on the passenger side of his vehicle and did not notice that the vehicle in front of him had stopped in the intersection. The Deputy collided with the rear of the Plaintiff's vehicle at a reduced speed. There was minimal damage to both vehicles.

Medical Treatment for Darleen M. Shriver: Plaintiff declined medical treatment at the time of the accident indicating that she was not injured. However, the next morning she had pain in her neck, back, and shoulder. Plaintiff's doctor noted reduced range of motion in the cervical and lumbar spine. His diagnosis was a cervical and lumbar sprain/stain with myofascitis and right lower extremity radiculitis. An MRI of the lumbar spine confirmed this. She was released back to work with restrictions. Plaintiff had continuing degenerative disc disease and back pain which was worse with prolonged ambulation and sitting. A second lumbar spine MRI was performed on January 16, 2007. The report indicated disc bulge with mild stenosis in several places. In February of 2007, the Plaintiff had an MRI of her left shoulder which found posterior aspect distal supraspinatus focal tendonitis. An orthopedic evaluation was performed in June, 2007. Doctor notes indicate complaints of neck pain, headache, low back pain radiating into buttock and left shoulder pain as a result of the accident and exam reveals a herniated disk and tendonitis in left shoulder. Physically therapy did not provide sustained relief. Plaintiff eventually had surgery on her neck on October 17, 2007. After surgery the Plaintiff reported that her neck and shoulder pain have dissipated. In December 2007 Plaintiff complains of stiffness in her biceps and pain in left shoulder. She was referred to a shoulder specialist. In follow-up visits, Plaintiff had another MRI taken which

revealed mild disc degenerative changes. At Plaintiff's deposition, she testified that her neck pain was relieved by the surgery. On March 11, 2008, an orthopedic surgeon reported that due to Plaintiff's persistent pain from the accident, she has a permanent impairment to the cervical, thoracic and lumbar spines and both shoulders. Plaintiff continued to work, but not sure if she can continue due to pain in her left arm, shoulders, and spine. Doctor placed her at MMI with a 3% impairment to her right shoulder, 6% for her left shoulder, 6% for her lumbar spine, 5% for the thoracic strain, and a 26% whole person impairment for loss of range of motion in spine due to surgery. Estimated cost of future care is \$4,000-\$5,000 per year.

Plaintiff is a former Manatee County employee. She worked as an Office Assistant IV in the Public Works Department from April 18, 2007 to October 26, 2007. Manatee County has a lien for health care expenses.

Plaintiff's damages: The medical billings for Plaintiff totalled \$89,382.68. She had \$10,000 PIP coverage and \$5,000 Med Pay, and Manatee County health insurance covered \$29,959.41 of her medical expenses. Out of pocket expenses totalled \$635.78. There was a balance of \$42,214.91 for medical expenses, after subtracting provider discounts and write-offs in the amount of \$1,720.04.

Settlement: The County Attorney's office recently participated in mediation of this matter and the following was agreed to by the parties:

- Manatee County shall pay Plaintiff the sum of \$40,000.00 in full settlement of Plaintiff's cause of action.
- Payment of said sum is subject to approval of the Manatee County Board of Commissioners.
- Plaintiff shall dismiss with prejudice any pending actions and execute and deliver to the Defendant a General Release.
- Manatee County will waive its lien for health care and surgical expenses.
- Each side shall pay their own costs and fees.

CAO believes that this settlement proposal is in the best interests of the County in order to conclude the litigation and recommends its approval for the following reasons:

- The County Attorney Office's investigation into the cause of this accident reveals that Manatee County would have a high probability of being held liable for the injuries to the Plaintiff.
- Plaintiff has been treated for injuries sustained in the accident and received surgery due to the accident resulting in approximately \$90,000 in hard medical costs.
- This settlement is less than a likely jury verdict due to the amount of medical expenses incurred as a result of this accident.

COUNTY ATTORNEY REVIEW		APPROVED IN OPEN SESSION
Check appropriate box		JAN 12 2010
<input type="checkbox"/>	REVIEWED Written Comments: <input type="checkbox"/> Attached <input type="checkbox"/> Available from Attorney (Attorney's initials:)	BOARD OF COUNTY COMMISSIONERS MANATEE COUNTY, FLORIDA
<input type="checkbox"/>	NOT REVIEWED (No apparent legal issues.)	
<input type="checkbox"/>	NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)	
<input checked="" type="checkbox"/>	OTHER This is a County Attorney item.	

ATTACHMENTS: (List in order as attached)		INSTRUCTIONS TO BOARD RECORDS:	
1. Stipulation of the Parties. 2. HIPAA Authorization form (signed copy to be provided). 3. Letter from Attorney Royce C. Haddad, Jr. dated December 29, 2009.		Return a stamped copy of this agenda memorandum to Trudy Morris, Legal Assistant to James A. Minix, Chief Deputy County Attorney <i>Emailed 1/13/2010</i> (W)	
COST:		SOURCE (ACCT # & NAME):	
COMMENTS:		AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)	

cc: Michelle Hall, Esq.

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA

Darlene M. Spriver

Plaintiff(s),

v.

CASE NO. 08CA10011

W. Brad Stube

Defendant(s).

STIPULATION OF THE PARTIES

Pursuant to the Mediation Conference held the 22 day of DECEMBER, 2008, the parties have agreed to abide by the following:

1. The Defendant ~~(X)~~ ^{quit} shall pay the Plaintiff(s) the sum of \$ 4000.⁰⁰* in full settlement of Plaintiff(s) causes(s) of action constituting the dispute being mediated.
2. The Defendant ~~(X)~~ shall pay said sum through the office of Plaintiff(s) counsel of record within 30 days from the date of this Stipulation. *this agreement is approved by the Board of County Commissioners and if the settlement offer is accepted and approved*
3. The Plaintiff(s) shall dismiss with prejudice any pending actions and execute and deliver to the Defendant ~~(X)~~ through the offices of Defendant ~~(X)~~ counsel a General Release and Indemnification Agreement holding the Defendant ~~(X)~~ and its/their insurance company(s) harmless from any third party liens or subrogated claims for health care expenses for which the Plaintiff(s) was/were able to legally collect and for which the Plaintiff(s) is/are legally liable only. *(except as provided herein.)**
4. Each side shall pay their own costs and fees.
5. This Stipulation is contingent upon the clearing of funds and the receipt by the Defendant(s) counsel of the dismissals and releases contemplated in paragraph 3 above.

** plus waive its lien for health care expense*

wherever used herein in term Defendant refers only to Brad Stube. This agreement is between Plaintiff and W. Brad Stube only and not used to Plaintiff's claims against Southern Ocean Ac Co

This settle offer will remain open until 5PM Wednesday December 30 2009 and will expire automatically if not accepted in writing prior to that date and time.

THIS AGREEMENT SHALL BE FILED WHEN REQUIRED BY LAW OR WITH THE PARTIES' CONSENT. IF THE AGREEMENT IS NOT FILED, A JOINT NOTICE OF DISMISSAL SHALL BE FILED.

THIS STIPULATION BECOMES BINDING UPON THE PARTIES BY THEIR EXECUTION AND THAT OF THEIR COUNSEL. THIS STIPULATION, IF FILED, SHALL BE ENTERED AS A JUDGMENT OF THE COURT, OR THE COURT SHALL RETAIN JURISDICTION TO ENTER FINAL JUDGMENT OR ENTER AN ORDER DISMISSING THE CAUSE.

If this settlement offer is accepted and approved Southern Owners Insurance Company agrees to approve it and

12/22/09
Date

[Signature]
Mediator *waiver its subnegotiation rights*

[Signature]
Plaintiff

Defendant

Plaintiff

~~Insurance Company~~

~~Company name:~~

[Signature]
Plaintiff(s) counsel

[Signature]
Defendant(s) counsel

Defendant

[Signature]

Defendant Insurance Company

Company name: *Southern Owners Ins Co*

[Signature]
Defendant(s) counsel

Make check payable to:

EIN # _____

**AUTHORIZATION FORM (HIPAA)
FOR RELEASE OF MEDICAL, EMPLOYMENT, INSURANCE
AND WORKERS' COMPENSATION INFORMATION**

By signing this Authorization form, I hereby authorize the Manatee County Board of County Commissioners ("BOCC") to use and/or have disclosed to it certain medical, claim employment, insurance and workers' compensation information as set forth below pertaining to the following individual:

Name: Darleen Shriver

Birth Date: 4/14/1955

Date of Accident: 11/6/06

Shriver vs. W. Brad Steube and Southern Owners Insurance

Case No.: 2008-CA-10011

Information to be Disclosed: A copy of the entire medical, claim, employment, insurance and workers' compensation records related to Darleen Shriver to be used or disclosed as set forth in this Authorization, including but not limited to records regarding any psychological/psychiatric diagnoses, conditions, illnesses or treatment provided which are related to the personal injury or damage claim noted above.

I authorize this information to be disclosed to the BOCC and its attorneys for the purposes of the BOCC's review, discussion and consideration of my proposed personal injury or damage litigation settlement. I authorize the BOCC to discuss these records and matters in open session.

I understand the information used or disclosed pursuant to this Authorization will be subject to re-disclosure by the recipient and will become a public record under Florida law, no longer subject to applicable privacy laws or regulations.

This authorization shall be effective for the entire duration of the legal matters related to the above-referenced personal injury or damage claim.

This Authorization shall expire upon the conclusion of the legal matters related to the above-referenced personal injury claim.

I understand this Authorization is voluntary.

I have the right to revoke this Authorization at any time in writing, except to the extent that the BOCC and/or its attorneys has/have already acted in reliance on the Authorization. I can revoke this Authorization by providing written revocation to the Manatee County Attorney's Office, P.O. Box 1000, Bradenton, FL 34206-1000, Attention: Risk Manager.

A photocopy, facsimile or electronically transmitted version of the signed original of this Authorization shall have the same validity as the original.

Darleen Shriver

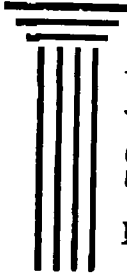
Date: _____

Witness

Date: _____

Witness

Date: _____



**HADDAD &
SHUTTERA**
INJURY ATTORNEYS

December 29, 2009

James A. Minix, Esquire
Post Office Box 1000
Bradenton, Florida 34206

ROYCE C. HADDAD, JR.
ROBERT J. SHUTTERA

6344 Roosevelt Boulevard
Clearwater, FL 33760

Telephone (727) 299-0449

Facsimile (727) 299-9181

www.FlaPersonalInjury.com

Se habla español

Re: Shriver v. Steube, et al., Case No. 08-CA-10011-D

Dear Mr. Minix:

Please be advised that the Plaintiff, Ms. Shriver, accepts your offer of December 22, 2009 as outlined by the Stipulation of the Parties drafted by the mediator, Mr. Lieb.

If you have any questions please do not hesitate to contact me.

Very truly yours,

HADDAD & SHUTTERA, P.A.


Royce C. Haddad, Jr., Esquire