



June 30, 2003

Attorney Ellen H. Tangen
Milwaukee City Attorneys Office
200 East Wells Street #800
Milwaukee, WI 53202-3515

Re: Suzanne M. Fortier, et al. vs. Efrain Gomez, et al
Milwaukee County Case No. 02-CV-010254

Dear Ellen:

I am writing to request authority to settle the subrogation interest in the Suzanne Fortier matter.

The plaintiff settled at mediation for \$85,000. Wisconsin Physicians Service Insurance Corporation (WPS), on behalf of the City's self-funded plan, paid \$4,772.38 for medical expenses incurred by Ms. Fortier for basic treatment ranging from January 19, 2001 to September 14, 2001. Apparently her coverage under the City of Milwaukee's self-funded health plan terminated as of December 31, 2001.

The \$85,000 settlement which was obtained by the plaintiff is actually comprised of a settlement of claims for two different accidents. The one which we are dealing with involves a date of accident of January 12, 2001. That accident occurred when the plaintiff was a passenger in a vehicle operated by Diana Demond. The defendant Demond attempted a left turn and collided with another vehicle. Ms. Fortier suffered neck and back injuries. The other date of accident was July 25, 1998. Following the collision of July 25, 1998, Ms. Fortier underwent medical treatment totaling \$25,122.12. Following the collision of January 12, 2001, Ms. Fortier underwent additional medical treatment totaling \$12,766. Thus, the total medical specials incurred relative to these two accidents amounts to \$37,888.12. Moreover, plaintiff maintains she has an outstanding balance for treatment of \$15,512.02.

Plaintiff argues that she settled for less than what her total claim would be worth, as she had a very significant history of pre-existing conditions. The defense took the position that the injuries in both of the accidents referenced above caused only a short term medical problem and that essentially all of the treatment following both accidents was necessary to relieve the effects of Ms. Fortier's pre-existing condition which pre-dated both accidents.

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Assuming medical specials of \$37,888.12, and further assuming that all of this treatment was related to the two accidents which were being mediated, the claim of the plaintiff could have easily been worth \$151,552 to \$189,440, utilizing a factor four to five times the medical specials. In fact, the settlement request for the accident occurring on July 25, 1998 was initially \$218,516.74 by the plaintiff and for the accident occurring on January 12, 2001, \$84,789.74. I think that these initial settlement requests are inflated in value, however. Utilizing the midpoint of \$170,496 as the approximate settlement value of this case, and figuring in the \$85,000 which was accepted by the plaintiff, she settled for approximately 50% of the value of her claim.

Likewise, figuring 50% of our subrogation interest of \$4,772.38, we arrive at a figure of \$2,386.19 as the settlement amount, which I would suggest that the City should accept.

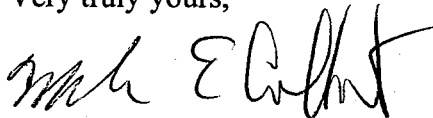
However, the plaintiff is arguing that even after discounting the value of her claim for the most recent two accidents because of the pre-existing conditions, her claim is worth much more than \$151,552, and the \$85,000 that she has accepted in settlement does not make her whole, even after discounting the value of her claim due to the pre-existing conditions. The plaintiff has offered to settle the City's subrogation interest for \$1,000. The plaintiff, likewise is requesting that Family Health Plan Cooperative, which has a subrogation interest of \$4,968.94 for health care expenses from the 1998 accident, \$1,000 to settle its subrogation interest.

I have previously offered the plaintiffs \$3,000 to settle the subrogation interest. The \$3,000 offer is within the settlement authority that I would have, pursuant to the terms of the Administrative Services Agreement with the City of Milwaukee. However, if, in fact, we are compelled to reduce to \$1,000, this level of reduction would need to be approved by the City for authority to so settle.

I would request that the City give me authority to settle for \$1,000. However, it would be my intention to attempt to settle closer to the figure of \$2,386.19.

If you have any questions or concerns, please don't hesitate to contact me.

Very truly yours,



Mark E. Colbert
Attorney

MEC:lln