

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS  
OFFICE OF THE JUDGES OF COMPENSATION CLAIMS  
WEST PALM BEACH DISTRICT OFFICE

Ronald D. Sibel,

Claimant,

v.

OJCC Case No: 15-026537TAH

D/A : 8/13/2015

City of Riviera Beach and Gallagher  
Bassett Services, Inc.

Employer/Carrier/Servicing Agent

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**STIPULATION FOR LUMP SUM SETTLEMENT UNDER  
F.S. § 440.20(11)(C),(D) AND (E) (2003) -- MEDICAL CLOSED**

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The above-named parties hereby enter into the following agreement made for the specific purpose of discharging the Employer/Carrier/Servicing agent from any further liability for all future benefits under the Florida Workers' Compensation Law in exchange for the payment of a lump sum of money to the Employee/Claimant. The parties, therefore, stipulate as follows:

1. **JURISDICTION** - The Division of Administrative Hearing and the Judge of Compensation Claims appointed under F.S. § 440.45 have jurisdiction of the subject matter and the parties hereto.
2. **DESCRIPTION OF ACCIDENT(S)** – On 8/13/2015, the Employee/Claimant sustained an injury by accident as contemplated under F.S. § 440.02(1) arising out of and in the course of employment in Palm Beach County, Florida, with the Employer when he developed hypertension and cardiac issues.
3. **AVERAGE WEEKLY WAGE AND COMPENSATION RATE** - At the time of the injury, the Employee/Claimant's average weekly wage was \$1,062.88 thus, making the compensation rate \$708.58 per week.

4. DESCRIPTION OF MEDICAL BENEFITS PROVIDED - Following the injury, the Employee/Claimant came under the care of [REDACTED], [REDACTED] and [REDACTED].

5. SETTLEMENT AMOUNT AND DISCHARGE FROM LIABILITY FOR FUTURE COMPENSATION - The Employer/Carrier/Service Agent will pay to the Employee/Claimant \$422,235.00 in accordance with the statutory formula in full satisfaction of the obligation or liability to pay all benefits of whatever kind or classification available under the Florida Workers' Compensation Law including, but not limited to, past, present and/or future medical benefits, monetary compensation as contemplated under F.S. § 440.15, on account of the alleged accident or occupational disease referenced herein, which settlement proceeds shall be allocated as follows:

(a)	Past and Future Compensation	\$162,000.00
(b)	Past Medical Expenses	\$ 0.00
(c)	Structured annuity to fund MSA for Future medical benefits	\$217,985.00 *See Addendum:
(d)	Future non-covered medical expenses	\$ 5,000.00 A copy of the
(d)	Attorney's Fees -	\$ 37,250.00 Structured Settlement
(e)	Attorney's Costs -	\$ 0.00 Terms & Proposal
(f)	Net to Claimant	\$384,985.00 is attached hereto As Exhibit "A"
TOTAL SETTLEMENT		\$422,235.00

The above settlement proceeds include consideration for the Employee/Claimant's execution of the Mutual Settlement Agreement and General Release attached and incorporated herein.

The payment of the lump sum set forth herein will definitely aid in the rehabilitation of the injured Employee/Claimant or will otherwise be in his best interest. In the event Chapter 440 as amended October 1, 2003, or any part thereof, is declared unconstitutional, payments made pursuant to this agreement are not gratuitous payments by the Employer/Carrier/Service Agent. Upon receipt of the lump sum, the Employer/Carrier/Service Agent will be forever released

and discharged from the obligation or liability to pay any and all benefits of whatever kind or classification payable under the Florida Workers' Compensation Law, both past and future which may result from the claim herein as well as any additional or new workers' compensation claims that the Employee/Claimant may pursue against any past or subsequent employers which involve(s) injury, re-injury, aggravation of the injuries claimed in this case be they of a temporary or permanent basis and for which a claim for contribution, reimbursement and/or exoneration is made pursuant to Fla. Stat. §440.42(4).

Should any claims be made against the Employer/Carrier/Servicing Agent for contribution, exoneration or apportionment pursuant to Fla. Stat. §440.42(4), Employee/Claimant agrees to indemnify and hold the Employer/Carrier/Servicing Agent harmless from and against any such claims and agrees to reimburse the Employer/Carrier/Servicing Agent from any and all costs, expenses, including attorney's fees and/or sums that the Employer/Carrier/Servicing Agent may incur or be compelled to pay by way of court order and/or settlement.

In any such action by any person, party, employer, carrier or servicing agent, the Employer/Carrier/Servicing Agent herein will have the right to defend itself and/or settle such actions that may arise from a claim pursuant to Fla. Stat. §440.42(4) and the Employee/Claimant herein agrees that these action undertaken by the Employer/Carrier/Servicing Agent herein shall not affect the Employee/Claimant's duty to indemnify and hold the Employer/Carrier/Servicing Agent harmless for their costs and/or attorney's fees, or for any amounts paid, including any settlement.

The parties stipulate and agree that if any portions of this Stipulation are found unconstitutional, the remaining unaffected portions of the agreement will remain in full force and effect. The parties further stipulate and agree that if the portion of the stipulation that allows the parties to settle the medicals is found unconstitutional, the Employer/Servicing Agent will be entitled to an offset against accrued and/or future medicals in the amount of \$217,985.00, and

any payments made pursuant to this Stipulation are not to be construed as gratuitous payments to the Employee/Claimant.

6. **MEDICARE SET-ASIDE FUND** - The parties agree to establish a Medicare Set-Aside Fund, the terms of which are more fully set forth in the attached Workers' Compensation Medicare Set-Aside Agreement. The Employee/Claimant's Medicare Set-Aside Fund will be funded by way of an annuity in the amount of \$217,985.00, the terms of which are attached as Exhibit "A." The Employee/Claimant agrees and understands that the only expenses to be paid from the set-aside arrangement account are those expenses that are considered to be "qualified Medicare covered medical expenses" under the Medicare Guidelines. If a question arises as to whether an expense is considered a qualified Medicare covered medical expense, the Employee/Claimant agrees to contact the Centers for Medicare and Medicaid Services to verify whether the expenses can be classified as qualified expenses.

The Medicare Set-Aside Fund amount has been carefully determined based on factors including, but not limited to, the Employee/Claimant's date of entitlement to Medicare, the basis for Medicare entitlement, the type and severity of the injury or illness, the age of the Employee/Claimant, the prior medical expenses related to the work accident, and the projected amount for Medicare-covered expenses from the Employee/Claimant's treating physicians. Considerable attention has been given to the Employee/Claimant's entitlement to Social Security disability benefits pursuant to 42 U.S.C. § 423, receipt of Medicare benefits under 42 U.S.C. § 1395Y, as well as the entitlement of the Centers for Medicare and Medicaid Services to subrogation and intervention, pursuant to 42 C.F.R. Subpart C § 441.46, to recover any overpayment made by Medicare.

It is not the purpose of this settlement agreement to shift to Medicare the responsibility for payment of medical expenses for the treatment of work-related conditions. Instead, this settlement agreement is intended to provide the Employee/Claimant with a

settlement which will foreclose the Employer/Carrier/Servicing Agent's responsibility for future payments of all work-related medical expenses. In accepting this, the Employee/Claimant realizes, understands, and agrees that Medicare will not pay for any medical expenses related to this work accident until the Medicare-covered expenses related to such injuries or disease equal the amount of the periodic payments specifically designated for payment of Medicare-covered expenses related to the work accident.

Further, the Employee/Claimant realizes, understands, and agrees that he is solely responsible for providing an annual accounting of all Medicare-covered expenses related to the work accident to the Centers for Medicare and Medicaid Services until such time as the payments specifically designated for settlement of Medicare-covered expenses related to the work accident have been entirely and properly exhausted. The final determination of same shall be made by the Centers for Medicare and Medicaid Services.

Furthermore, the Employee/Claimant understands and agrees that any sum paid by the Employee/Claimant over and above the Fee Schedule amount will not be paid from the payments specifically designated for Medicare-covered expenses related to the work accident. As such, all Medicare-covered expenses related to the work accident incurred prior to the Employee/Claimant's eligibility to receive Medicare benefits must be paid by the Employee/Claimant from the lump sum allocated for non-Medicare-covered medical expenses. See attached MSA Allocation Report dated July 30, 2021, totaling \$217,985.00.

Safety National will be the beneficiary of any balance remaining in the MSA account upon Claimant's death.

The funded MSA will be professionally administered by Careguard (Ametros.)

7. **ATTORNEY'S FEES PAYABLE BY EMPLOYEE/CLAIMANT AND WAIVER** - Subject to the execution by the Judge of Compensation Claims of the Order for Approval of Attorneys' Fee and Allocation of Child Support Arrearage for settlements under F.S.

§ 440.20(11)(c),(d) and (e) (2003), the Employee/Claimant will pay William L. Contole, Esquire, in connection with this matter, who is entitled to a fee for legal services rendered. \$37,250.00 is a reasonable fee for such services, and is within the guidelines for the determination of a reasonable fee as set forth in F.S. § 440.34(1), and said attorney's fee will be paid by the Employee/Claimant from the aforementioned lump sum notwithstanding the provisions of F.S. § 440.34(3)(a-d) because this settlement was made under F.S. § 440.20(11)(c),(d) and (e). The Employee/Claimant alone, and not the Employer/Carrier/Service Agent, shall be liable for satisfaction of any and all outstanding liens for attorneys' fees for attorneys who have previously represented the Employee/Claimant in this matter and shall release, hold harmless and indemnify the Employer/Carrier/Service Agent in connection with any liens now presently pending by any of the Employee/Claimant's former attorneys in connection with this workers' compensation matter. The parties stipulate that the Employer/Carrier/Service Agent acted in good faith herein. The Employee/Claimant has been informed of the right to a hearing on the amount of the fee charged by the attorney and hereby waives his right to such a hearing. Additionally, William L. Contole, Esquire, is entitled to reimbursement for costs in the amount of \$0.00, which shall be paid by the Employee/Claimant from the settlement proceeds, thereby making the net settlement amount \$384,985.00.

8. WAIVER OF RIGHT TO HAVE CASE HEARD BY JUDGE OF COMPENSATION CLAIMS AND RIGHT TO BRING PETITION FOR MODIFICATION - The Employee/Claimant understands that he does hereby relinquish the right to have any unresolved conflicts or disputes involving the right to past/present/future medical benefits, monetary compensation benefits, impairment benefits, and death benefits heard and decided by a Judge of Compensation Claims. The Judge of Compensation Claims shall only

retain the authority to hear and decide any issues involving disputes regarding this agreement. This agreement shall not be subject to modification.

9. **PRESENT WORTH AND POSSIBLE OFFSET FOR SOCIAL SECURITY DISABILITY BENEFITS CONSIDERED** -

(a) In reaching this agreement, the parties have, pursuant to F.S. § 440.20(11)(c),(d) and (e), considered the present value of all future payments of monetary compensation, impairment benefits, and death benefits potentially payable to the Employee/Claimant on account of the accident referenced herein. In arriving at the stipulated settlement amount, the parties have taken into consideration the Employee/Claimant's age of 66 years, his life expectancy of 11.0 years, as established by the United States Life Tables published by the U.S. Department of Health and Human Services and have also used the statutory 8% discount rate tables. Consideration was also given to the possible loss of supplemental benefits due under F.S. § 440.15(1)(f), and to the right of the Social Security Administration to offset disability benefits payable under Florida State law. The present value of the future compensation herein was discounted sufficiently to take into consideration the Employer/Carrier/Service Agent's right to offset compensation benefits due under the Florida Workers' Compensation Act against benefits payable, in the past and/or future, on account of total disability under Chapter 42 of the United States Code. Specifically, the parties stipulate that in arriving at the amount of the lump sum settlement, the parties have re-calculated the Employee/Claimant's weekly compensation rate to be \$673.05 per week. This amount was arrived at by dividing the net workers' compensation lump sum settlement of \$384,985.00 by the Employee/Claimant's life expectancy of 572.0 weeks. The prior worker's compensation rate was \$708.58 per week.

(b) **Proration of Future Medical Benefits** - In reaching this agreement, the parties have considered that many common medical expenses are not paid or reimbursable under certain group health policies or the Federal Medicare program. These medical expenses may be

the responsibility of the workers' compensation carrier and are being taken into consideration in the settlement of future medical. These expenses include but are not limited to travel expenses, non-professional attendant care, routine follow-up visits, supportive devices, medical comfort services, Medicare Hospital deductible and Medicare Part B co-payments, emergency room treatment and hospitalization not covered by Medicare but necessary in the ongoing treatment of the workers' compensation injury. It is the intent of the parties that future medical expenses in the amount of \$5,000.00 shall be utilized by the Employee/Claimant for these non-covered services. This payment is equal to \$8.74 per week, representing those services not covered by Medicare brought forward in one lump sum. This sum is to be for the next 11.0 years into the future, representing the Employee/Claimant's life expectancy. Upon payment of the sum of \$5,000.00, the Employer/Carrier/Servicing Agent's responsibility for future medical care and attention shall be extinguished.

The Employee/Claimant acknowledges that he has not relied on any representations, advice or counsel of the Employer and Carrier/Servicing Agent, their attorneys, agents or adjusters regarding entitlement to Social Security, Medicare or Medicaid benefits, or the impact the terms of this Stipulation may have on such benefits. The Employee/Claimant further acknowledges that any decision regarding entitlement to Social Security, Medicare or Medicaid benefits, including the amount and duration of payments and offset or reimbursement for prior benefits, is exclusively within the jurisdiction of the Social Security Administration, the United States Government, and the United States Federal Courts and as determined by Federal law. As such, the United States Government is not bound by any of the terms of this Stipulation. The Employee/Claimant has been apprised of the right to seek assistance of legal counsel of his choosing or directly from the Social Security Administration or other governmental agency regarding the impact this Stipulation may have on the Employee/Claimant's present or future

entitlement to Social Security or other governmental benefits. Notwithstanding the foregoing, the Employee/Claimant desires to enter into the terms of this Stipulation.

10. **ALL KNOWN ACCIDENTS, INJURIES, AND OCCUPATIONAL DISEASES REVEALED AND ALL PENDING CLAIMS WITHDRAWN** - The Employee/Claimant represents and affirms that all accidents, injuries, and occupational diseases known to have occurred or sustained while employed by the Employer have been revealed. All pending Requests for Assistance, Claims for Benefits, Petitions for Benefits, and Applications for Hearing are hereby voluntarily withdrawn with prejudice.

11. **EMPLOYER GIVEN FORMAL NOTICE OF PROPOSED LUMP SUM SETTLEMENT** - The parties represent that the terms and conditions of this settlement have been disclosed to the Employer.

12. **ATTORNEY FEES AND COSTS SUBJECT TO APPROVAL OF JUDGE OF COMPENSATION CLAIMS** - The parties clearly understand that the settlement agreement is formally binding effective August 9, 2021, and that the payment by the claimant of the attorney's fees is contingent upon execution by the Judge of Compensation Claims of the Order for Approval of Attorneys' Fee and Allocation of Child Support Arrearage.

The Employee/Claimant understands that fee agreements have been routinely disapproved by judges in the past. If the attorney fees and costs agreement is disapproved, the Employer/Carrier/Servicing Agent reserves the right to assert any and all defenses available under the Florida Workers' Compensation Act.

13. **CURRENT EMPLOYMENT STATUS AND ANTICIPATED USE OF SETTLEMENT** - The Employee/Claimant is currently employed at a wage level \_\_\_ greater than less than \_\_\_ equal to the pre-injury average weekly wage. If the terms of this settlement are approved, the Employee/Claimant plans to use the proceeds therefrom as follows:

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(If unemployed, please explain reasons for unemployment).

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14. **FORMAL NOTICE** - The Employee/Claimant specifically agrees that the Employer/Carrier/Servicing Agent will have thirty (30) days from the date of the entry of the Order for Approval of Attorneys' Fee and Allocation of Child Support Arrearage to make payment notwithstanding the time limitations set forth in F.S. § 440.20(11) and agrees to waive any statutory provisions to the contrary.

15. **FUTURE MEDICAL CARE CLOSED** - As provided under F.S. § 440.20(11)(c),(d) and (e), the lump sum payable herein will fully discharge and satisfy the Employer/Carrier/Servicing Agent's liability to provide future remedial and palliative medical care under F.S. § 440.13. The Employer/Carrier/Servicing Agent shall no longer be liable for any medical benefits resulting from the on-the-job accident or occupational disease referenced herein. Any further/future medical expenses will be the sole responsibility of the Employee/Claimant. The Employee/Claimant agrees to notify his treating physicians that he alone is now fully financially responsible for any and all medical care and treatment.

16. The Employee/Claimant understands and acknowledges by his signature below that an attorney has fully explained that once compensation benefits or settlement proceeds have been paid to an injured employee or beneficiaries, such benefits may be subject to claims of creditors.

**JOINT PETITION**

This Stipulation was signed by the Employer/Carrier/Service Agent on the \_\_\_\_\_ day of \_\_\_\_\_, 2021 and by the Employee/Claimant on the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Ronald D. Sibel  
Employee/Claimant

\_\_\_\_\_  
William L. Contole, Esquire  
Wiitala & Contole, P.A.  
Attorney for Employee/Claimant  
631 U.S. Highway 1, Suite 200  
P.O. Box 14125  
North Palm Beach, FL 33408  
Telephone: (561) 842-9998  
(561) 842-9998  
Florida Bar No.: 236780  
williamcontole@bellsouth.net

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Jeffrey L. Marks, Esquire  
Pallo, Marks, Hernandez,  
Gehijian & DeMay, P.A.  
Attorney for Employer/Carrier/Service Agent  
3701 Catalfumo Way South  
Palm Beach Gardens, FL 33410  
Telephone: (561) 624-1051  
Florida Bar No.: 987638  
[jmarks@pallolaw.com](mailto:jmarks@pallolaw.com)

STATE OF FLORIDA :

COUNTY OF PALM BEACH :

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_\_ (date) by \_\_\_\_\_ (name of person acknowledging), who is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification, who upon being duly sworn, certifies that the information furnished by the Employee/Claimant as incorporated in the foregoing Stipulation is true and correct, and that the Employee/Claimant  has read the Stipulation;  has had the Stipulation read to him and believes the lump sum settlement to be in the Employee/Claimant's best interest.

\_\_\_\_\_  
Notary Public  
State of \_\_\_\_\_ at Large  
Commission Number: \_\_\_\_\_  
Commission Expiration: \_\_\_\_\_

(SEAL)