

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 12 FEBRUARY 2007

IMMIGRATION AND MULTICULTURAL AFFAIRS PORTFOLIO

(92) Output 1.3: Enforcement of Immigration Law

Senator LUDWIG (L&C 78-79) asked:

The department provided a table in answer to question on notice no.209 outlining 6 cases between 1 July 2005 and 1 November 2006 pertaining to settlements by way of compensation. They appear to have included \$10,000 for false imprisonment, \$25,000 for personal injury and \$400,000 and costs for personal injury. I will go through them one at a time. The \$10,000 for false imprisonment seems straightforward in that sense. Is there a breakdown of what those related to? For example, where it was then held that they had been falsely imprisoned and there was a settlement, is that the department agreeing that there was a false imprisonment?

The same type of question arises as to what the three personal injury claims relate to. I understand that there might be confidentiality agreements that relate to each of them, but if you could provide in broader terms the nature or the location.

In addition, if the settlement figures, including legal costs, could be broken down in those three instances – particularly if there have been claims under different heads: if there has been a claim for the injury, the trauma or if there has been any economic loss. I am familiar with the general claims that might come under personal injury. I am not sure whether they would all be relevant in this circumstance, but some of them certainly would be. I would be surprised if they were not put under separate heads and then aggregated to a total. And then, because you have also included 'plus legal costs', I was wondering whether that figure could be broken down, to understand it better.

And in terms of those three, if possible, the nature of the personal injury – even if you can only say whether it relates to a physical injury or a mental injury.

Answer:

Pursuant to the Attorney General's *Legal Services Directions* the Commonwealth may only resolve monetary claims upon receipt of legal advice that it would be within legal principle and practice to do so because there is a meaningful prospect of liability.

Type of matter	Outcome	Settlement amount	Breakdown
Claim for breach of Privacy or Confidentiality.	Out of Court Settlement	\$80,000 including legal costs.	<p><u>First plaintiff:</u></p> <ul style="list-style-type: none"> ▪ paid \$45,000 in total: <ul style="list-style-type: none"> - \$10,000 for medical expenses, - \$10,000 for economic loss, and - \$25,000 in general damages. <p><u>Second plaintiff:</u></p> <ul style="list-style-type: none"> ▪ paid \$25,000 in total: <ul style="list-style-type: none"> - \$10,000 for economic loss, and - \$15,000 in general damages. <p><u>Legal Costs:</u></p> <ul style="list-style-type: none"> ▪ paid party/party legal costs in the sum of \$10,000.
Claim for false imprisonment over a period of 2.5 days.	Out of Court Settlement	\$10,000 paid to the first plaintiff, the balance of the matter in relation to the second plaintiff has not yet been resolved.	<p><u>First Plaintiff:</u></p> <ul style="list-style-type: none"> ▪ paid \$10,000 in general damages. <p><u>Legal Costs:</u></p> <ul style="list-style-type: none"> ▪ The Commonwealth has agreed to pay the first plaintiff's party/party legal costs. These costs are yet to be quantified because a second (and related) plaintiff's litigation is ongoing.
Claim for false imprisonment over a period of 6 days.	Out of Court Settlement	\$25,000 plus legal costs.	<p><u>Plaintiff:</u></p> <ul style="list-style-type: none"> ▪ paid \$25,000 in general damages. <p><u>Legal Costs</u></p> <ul style="list-style-type: none"> ▪ paid party/party legal costs in the sum of \$23,000.
Personal injury claim alleging physical injury following an accident in the course of employment in an immigration detention facility.	Out of Court Settlement	\$26,666.66 including legal costs (this figure represents the Commonwealth's share of a total of \$80,000)	<p><u>Plaintiff:</u></p> <ul style="list-style-type: none"> ▪ paid \$26,666.66 in total: <ul style="list-style-type: none"> - an unquantified amount paid in general damages, - an unquantified amount paid for future economic loss, and - an unquantified amount in party/party legal costs.

<p>Personal injury claim alleging a physical assault on a detainee by a detention service provider officer.</p>	<p>Out of Court Settlement</p>	<p>\$40,000 including legal costs (this figure represents the Commonwealth's share of a total of \$100,000)</p>	<p><u>Plaintiff:</u></p> <ul style="list-style-type: none"> ▪ paid \$40,000 in total: <ul style="list-style-type: none"> - an unquantified amount paid in general damages, and - an unquantified amount paid in party/party legal costs.
<p>Personal injury claim alleging psychological harm resulting from immigration detention filed on behalf of a minor. The 'Badraie' matter.</p>	<p>Out of Court Settlement</p>	<p>\$400,000 plus legal costs.</p>	<p><u>Plaintiff:</u></p> <ul style="list-style-type: none"> ▪ paid \$400,000 in total: <ul style="list-style-type: none"> - an unquantified amount paid in general damages, and - an unquantified amount paid for future care. <p><u>Legal Costs:</u></p> <ul style="list-style-type: none"> ▪ paid party/party legal costs in the sum of \$2 million. <p>The second defendant, the detention service provider, contributed 50% of the total amount.</p>