

INDIANO & WILLIAMS OBTAINS JUDGMENT AGAINST FIVE MARSHALS

Indiano & Williams recently obtained a judgment against five marshals of the Puerto Rico Court Administration in a police brutality case brought under 42 U.S.C. §1983 and local Puerto Rico laws. Judgment was entered against the five marshals on April 16, 2009 in the amount of \$50,000 plus costs.

The case involved the marshals' reckless disregard for Plaintiff's safety when he was effectively assaulted on the roof of a building and dropped to the floor below, after already being arrested and handcuffed. Plaintiff suffered injuries resulting from the fall, including a mandible fracture and injury to his spine and back.

Indiano & Williams successfully defeated a summary judgment motion, and while preparing for trial, Plaintiff was presented with a Rule 68 Offer of Judgment by the marshals. By offering a judgment pursuant to Rule 68, the marshals were offering to have an actual judgment entered against them in lieu of trial. Plaintiff accepted the offer of judgment.

Subsequent to accepting the offer of judgment, the marshals attempted to retroactively amend their offer so that costs would not be added to the monetary figure offered. Indiano & Williams successfully argued to the Honorable Judge Salvador Casellas that the issue was controlled by the United States Supreme Court case of Marek v. Chesny, 473 U.S. 1 (1984). The District Court agreed that the offer of judgment was silent as to costs and that pursuant to Marek, the judgment would be entered for \$50,000 *plus* costs. The Court's decision was reported at *Berberena v. Aviles*, 2009 WL 1034861 (D.Puerto Rico).

Indiano & Williams is seeking attorney's fees from the marshals as a part of the costs awarded pursuant to Marek as a prevailing party under 42 U.S.C. §1988. Indiano & Williams also successfully settled Plaintiff's related medical malpractice claims against an area hospital involving their negligent examination and treatment of Plaintiff's injuries.