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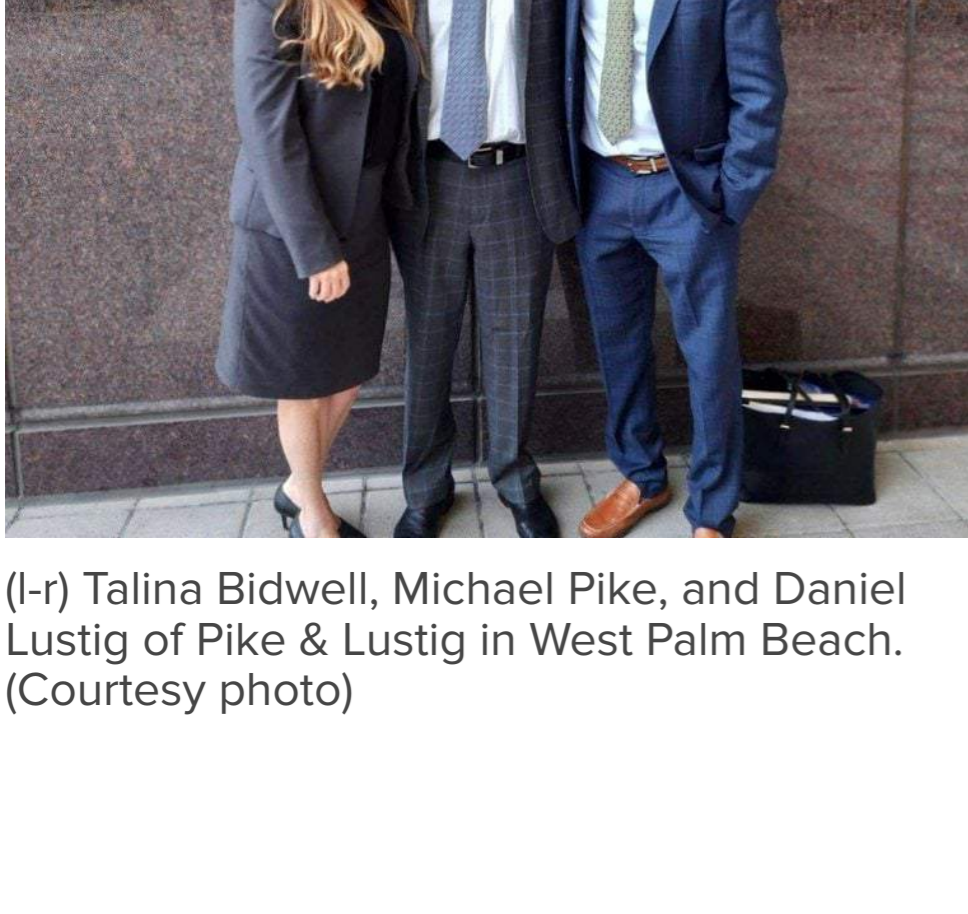
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(l-r) Talina Bidwell, Michael Pike, and Daniel Lustig of Pike & Lustig in West Palm Beach. (Courtesy photo)

NEWS

Shade Session Transcripts Key to Florida Jury Awarding \$7.1M to Police Officer

"As I told the jury, this case is a hit and run except Mr. Viera ran toward his obligations to protect a female being attacked, while the city ran from its obligations to protect Mr. Viera, a catastrophically injured officer, for decades," said Michael Pike, managing partner at Pike & Lustig.

August 22, 2023 at 03:46 PM

4 minute read

Verdicts-Settlements

Michael A. Mora

What You Need to Know

- A police officer spent over two decades seeking to obtain benefits for a catastrophic injury while in the line of duty.
- The attorneys obtained shade session transcripts after a settlement had occurred but a new lawsuit in the case.
- The jury returned a \$7.1 million verdict award following a seven-day trial and less than five hours of deliberations.

Transcripts from shade sessions were key in a Florida jury returning a seven-figure award to an ex-police officer who sustained a severe injury in response to an emergency call involving a female being who was being attacked by two men, one of whom was wielding a knife.

Michael Pike, Daniel Lustig and Talina Bidwell of [Pike & Lustig](#) in West Palm Beach represented the plaintiff, Joseph Viera, whom the defendant, the City of Lake Worth, declared catastrophically injured in 2001. Yet the City challenged various aspects of the plaintiff's compensation claim and breached a settlement agreement, ultimately setting up a jury trial.

"As I told the jury, this case is a hit and run except Mr. Viera ran toward his obligations to protect a female being attacked," Pike said, "while the city ran from its obligations to protect Mr. Viera, a catastrophically injured officer, for decades."

Meanwhile, Glenn J. Torcivia of [Torcivia, Donlon, Goddeau & Rubin](#) who was among the attorneys for the City, said in a statement on behalf of the City: "While we respect the jury we intend to appeal the decision."

Now, the jury before Palm Beach Circuit Judge Luis Delgado returned \$7.1 million following a seven-day trial and less than five hours of deliberations.

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And to prove their case to the jurors, Lustig said they sought public records requests from shade sessions in which the city commissioners discussed pending litigation while the lawyers for the City informed them of the strengths and weaknesses of the case.

It is Florida public policy that all meetings of any board or commission of any state agency or authority, for example, in which official acts are to be taken must be open to the public. But shade sessions are private until the case is resolved.

Here, the transcripts became public record following the settlement, and under applicable law did not revert to privileged attorney-client communications, notwithstanding the settlement breach.

But to obtain these records, Lustig said he had to "fight through discovery and take depositions of the clerk and ask her whether the sessions were transcribed because they wouldn't provide the information to us."

The transcripts revealed that five years ago, for instance, the city recognized that Viera had a "good claim for life insurance going forward." In addition, a City attorney described a conversation with a judge other than the one presiding over the case in which there were "a lot of questions about how injured the gentlemen really was."

"And the judge reminded me that any law enforcement officer is entitled to respect," Torcivia said during the shade session, per the transcripts. During that same shade session, Torcivia called a law that compensates family members of police officers catastrophically injured in the line of duty a "horrible law."

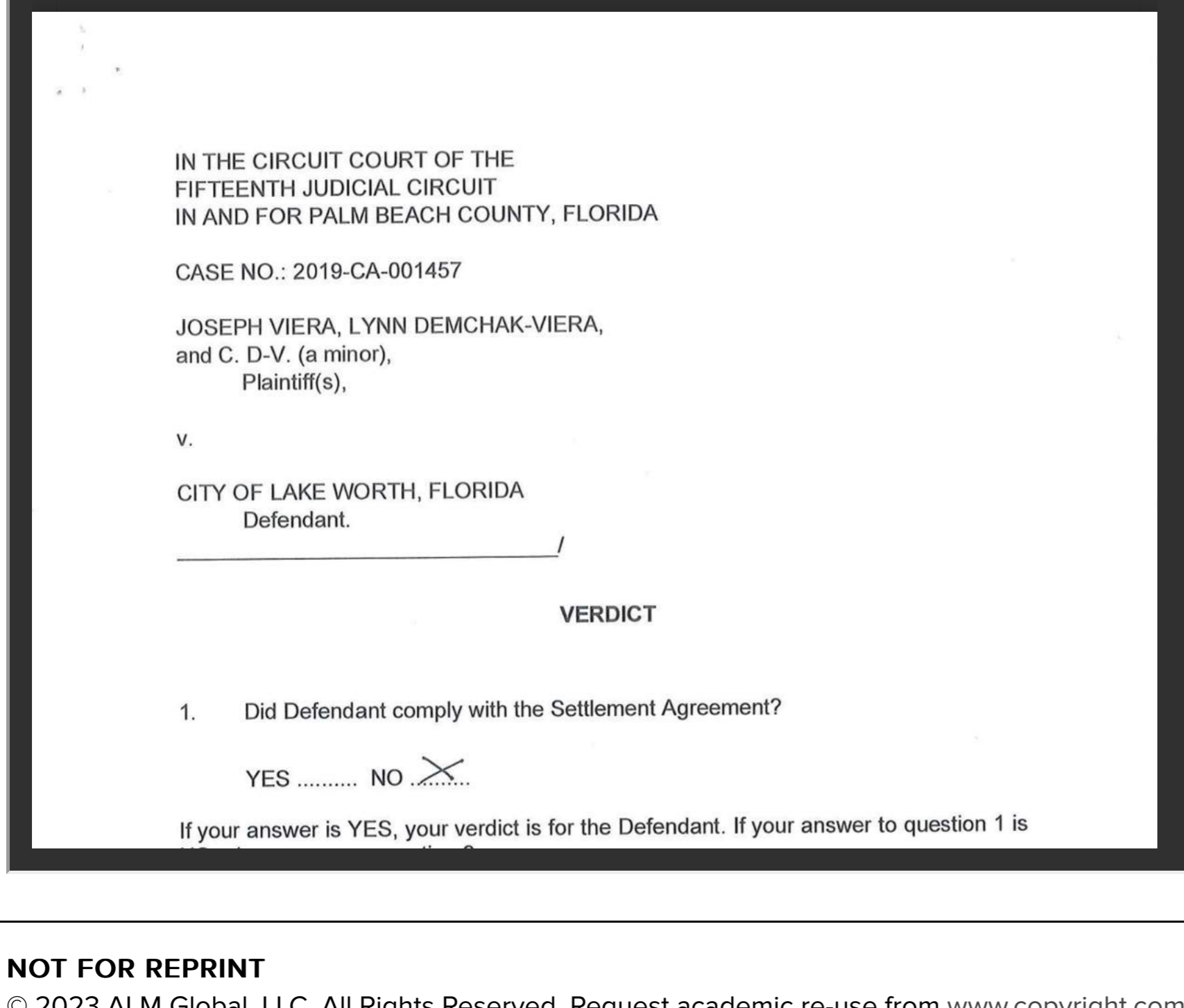
The transcripts also revealed that Torcivia described another exchange in front of a judge in which he said a police officer was "not really disabled, and, boy, she cut me right down and said, 'these men and women are out there protecting people,' and 'I don't want to hear that kind of talk in our courtroom,'" according to the transcripts. "So that's the uphill battle," he told his clients.

And at trial, jurors found that the City failed to, first, provide benefits that were equal or greater than the human resources director; second, to make payments required for those benefits; third, to provide the entirety of the benefits package pursuant to the settlement agreement; and fourth, to comply with the public records request.

"The defense attempted to discredit our client saying he made it his job to sue the city," Lustig said. "Mr. Viera did not apply for that job, a job where the City ignored him and his rights. His job became seeking justice, and the jury agreed."

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View the Verdict Form:



1. Did Defendant comply with the Settlement Agreement?
YES NO ☒

If your answer is YES, your verdict is for the Defendant. If your answer to question 1 is

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