



**Request for City Council Committee Action
From the City Attorney's Office**

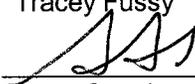
Date: April 29, 2008
To: Ways & Means/Budget Committee
Referral to:

Subject: Zachary Herlofsky v. City of Minneapolis

Recommendation: That the City Council approve the settlement of this case by payment of \$60,000.00 payable to Zachary Herlofsky and his attorney, Paul Peterson, from Fund/Org. 6900 150 1500 4000 and authorize the City Attorney's Office to execute any documents necessary to effectuate settlement.

Previous Directives:

Prepared by: Tracey Fussy Phone: (612) 673-2254

Approved by: 
Susan Segal
City Attorney

Presenter in Committee: Susan Segal, City Attorney

Financial Impact:(Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).
 Action requires an appropriation increase to the ___ Capital Budget or ___ Operating Budget.
 Action provides increased revenue for appropriation increase.
 Action requires use of contingency or reserves.
 Business Plan: ___ Action is within the plan. ___ Action requires a change to plan.
 Other financial impact (Explain): \$60,000 from Fund/Org. 6900 150 1500 4000
 Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact: Other

Background/Supporting Information:

On July 16, 2000, Plaintiff Zachary Herlofsky was twelve years old and riding on the back of a family friend's motorcycle. His mother, father and younger brother were also on motorcycles. The group stopped for a beverage near St. Anthony Main on Main St. SE at approximately 3:30 pm. The group parked their motorcycles on the side of the road just past the end of the parking lane.

Sergeant Peter Ritschel was driving his squad northwest on Main Street following a trolley. He observed the two motorcycles parked on his side of the street. He saw the Plaintiff get off of the motorcycle at about the time he was passing them. Once he passed the motorcycles he heard a thud. The squad's passenger side rear tire ran over Plaintiff's ankle, breaking it and causing the bone to stick out through the skin. Sergeant Ritschel immediately stopped the squad and called his supervisor, a traffic car and an ambulance. It is not known exactly what part of the squad made contact with Plaintiff initially.

Plaintiff's father, who was parked on the opposite side of the street, ran across the street, picked up his son and brought him to a grassy area. His father is a fire-fighter with first-response experience. Plaintiff sustained a fracture to his distal tibia and fibula. He had an open reduction and internal fixation surgery. Eventually his growth line was "disturbed" and he developed an abnormal growth pattern, which required three more surgeries to correct.

Plaintiff brought suit against the City of Minneapolis alleging that Sgt. Ritschel failed to keep a proper look-out and drove too closely to the parking lane. Plaintiff has loss of motion and pain in his knees and hips when running or squatting. Additionally, with respect to his ankle, there is significant scarring and decreased range of motion. Also, Plaintiff's right leg is 7mm shorter than his left leg. Plaintiff has \$180,000 in medical bills.

Plaintiff demanded \$250,000 to settle the case. After negotiations a proposed settlement agreement was reached in the amount of \$60,000. The settlement amount has been reviewed and approved by the City Attorney Litigation Committee. The Minneapolis Police Department has also had a chance to review the file and agrees to the settlement. Therefore, staff recommends approval of the settlement.