



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

Date: December 15, 2003
To: Ways and Means/Budget Committee
Referral to:

Subject: Justin Zeise v. City of Minneapolis, et al.
United States District Court file # 03-2633 (JNE/JGL)

Recommendation: That the City Council approve settlement of this matter by the payment of \$7000.00 to Justin Zeise and his attorney Albert Goins from Fund/Org. 690 150 1500 4000.

Previous Directives: None

Prepared by: Edward Backstrom, Assistant City Attorney Phone: 673-2072

file

Approved by: Jay M. Heffern
Jay M. Heffern
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

<p>Financial Impact (Check those that apply)</p> <p><input type="checkbox"/> No financial impact - or - Action is within current department budget. (If checked, go directly to Background/Supporting Information)</p> <p><input type="checkbox"/> Action requires an appropriation increase to the Capital Budget</p> <p><input type="checkbox"/> Action requires an appropriation increase to the Operating Budget</p> <p><input type="checkbox"/> Action provides increased revenue for appropriation increase</p> <p><input type="checkbox"/> Action requires use of contingency or reserves</p> <p><input checked="" type="checkbox"/> Other financial impact (Explain): Fund/Org 690 150 1500 4000</p> <p><input type="checkbox"/> Request provided to the Budget Office when provided to the Committee Coordinator</p>
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<p>Community Impact: City Goals: Build Community</p>

Background/Supporting Information

This is a lawsuit alleging the intentional torts of assault, battery, intentional and negligent infliction of emotional distress, federal section 1983 claims of excessive force, failure to prevent constitutional violation, custom and policy allowing excessive force, and a section 1985 conspiracy claim.

On February 7, 2002 at approximately 1:15 a.m., Off. Goset responded to assist officers Tucker and Weeks with a robbery call. The alleged robbery took place near the Sky Café, in the area of 5th and Hennepin. Off. Tucker, who was with the alleged victim, told Off. Goset that the suspects had already left and had been seen going into a parking lot across the street from the café. Off. Weeks was already on her way to the parking lot, and Off. Goset followed her in order to assist her.

According to police, Off. Weeks had located the suspects in a gold Toyota in the parking lot. Officer Weeks removed the passenger from the front seat, who eventually was determined to be the robbery suspect. She requested that Off. Goset remove plaintiff Zeise from the driver's seat. Off. Goset opened the car door and requested Zeise step out. Off. Goset helped him out of the car. At that point, Off. Goset states Zeise started to resist. Off. Goset forced Zeise to put his hands on the trunk of the vehicle. Zeise then broke free of Goset's escort hold and spun around and faced Off. Goset. Off. Goset forced Zeise to the ground where Zeise continued to struggle. As Zeise continued to struggle other officers attempted to assist Off. Goset. Because Zeise refused to comply with Off. Goset's commands, Off. Goset pushed his head down into the asphalt parking lot three (3) times. This stunned Zeise allowing the officers to handcuff him. Zeise was placed in a squad car. When shown to the victim, he stated that Zeise was not a participant in the robbery. Zeise received a cut on his forehead. Zeise was released at the scene.

Plaintiff claims he was pulled from his vehicle and assaulted by at least five (5) officers for no reason. He alleges that his face was thrown into the ground causing gravel to be imbedded into his face and hands. He also alleges that he received a concussion as a result of the incident. He has produced medical documentation to support this allegation. He does not claim he has a permanent injury.

There are several concerns in this case. Plaintiff was not the party who was alleged to have committed the crime. Despite the fact that there were multiple officers present, Zeise's head was pushed into the parking lot surface three times with the intent to stun him. In addition Officer Weeks, who had requested Off. Goset's assistance, knew that Zeise wasn't the suspect, because she had seen the robbery suspect throw the blow that was led to the robbery arrest.

It should also be noted that Off. Goset didn't know this and was attempting to control the situation. In addition, there were two other people in the car, who were not under police control when Off. Goset was dealing with Zeise.

The plaintiff was initially demanding \$50,000.00 to settle the case. An offer of judgment was sent to Plaintiff for \$5,000.00. The Plaintiff declined this offer. However, the plaintiff has agreed to settle the matter for \$7,000.00. This settlement has the approval of the City Attorney's Office litigation committee.