



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

Date: November 6, 2002
To: Ways & Means/Budget Committee
Referral to:

Subject: Ejimadu v. City of Minneapolis, et al.
Court File No.: 01-CV-1403 MJD/JGL

Recommendation: That the City Council approve settlement of this lawsuit by payment of \$22,272.35 payable to Ezechinyere Ejimadu and his attorney, Bobby Sea, from Fund/Org 690 150 1500 4000 and authorize the City Attorney to execute any documents necessary to effectuate this settlement and release of this lawsuit.

Previous Directives:

Prepared by: Peter W. Ginder, Assistant City Attorney Phone: 673-2478

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): 690 150 1500 4000</p> <p><input type="checkbox"/> Request provided to the Budget Office when provided to the Committee Coordinator</p>

<p>Community Impact: City Goals: Build Community</p>

Background/Supporting Information

This case arises from an incident on August 8, 1999, when Minneapolis Police Officers Justin Merten and Billy Peterson were dispatched to an unknown trouble call at 3114 East 58th Street, apartment 19. The officers proceeded to the apartment, knocked on the door and Plaintiff responded. The officers told Plaintiff that they had received a 911 hang up call from inside his apartment and asked if he had dialed 911. Plaintiff stated that he had not. The officers asked if they could look inside the apartment and Plaintiff told

them that they could not without a search warrant and attempted to shut the door. When the officers attempted to prevent the door from being closed, a struggle ensued which resulted in the officers using pepper spray upon Plaintiff and other physical force. After Plaintiff was handcuffed, a search of the premises revealed no one else was present. As a result, Plaintiff claims a number of physical injuries, including a separated shoulder, as well as mental injuries, including post traumatic stress disorder. Criminal charges of obstruction of legal process were later dismissed by the Court.

Plaintiff filed this lawsuit alleging a number of violations of his federal constitutional rights as well as state tort claims. The parties have exchanged discovery in this matter and participated in an early settlement conference with Magistrate Lebedoff. This case has also been reviewed and discussed by the City Attorney's Litigation Committee. Pursuant to the direction received from that Committee, a Rule 68 Offer of Judgment in the amount of \$10,000 plus reasonable costs and fees was made to Plaintiff. Pursuant to Council actions of October 25, 1998, and March 23, 2001, the City Attorney is authorized to make such a binding Rule 68 Offer. That offer was accepted in a timely fashion by Plaintiff on November 1, 2002. Plaintiff's counsel submitted a bill for costs and fees in the amount of \$13,743.85. After discussion with Plaintiff's counsel, he has agreed to reduce his claim for fees and costs to \$12,272.35. I believe the reduced amount is reasonable, in the context of the resolution of this lawsuit and recommend payment of \$12,272.35 for fees and costs in addition to the Rule 68 Offer of \$10,000 for a total of \$22,272.35.