



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

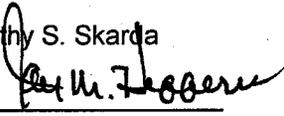
Date: June 21, 2007
To: Ways & Means/Budget Committee
Referral to:

Subject: Carolyn Rose Thomas v. City of Minneapolis
Court File No. 05-2832 (RHK/JSM)

Recommendation: That the City Council approve the settlement of this case by payment of \$13,000.00, payable to Carolyn Rose Thomas and her attorney, R. Donald Hawkinson, from Fund/Org. 6900 150 1500 4000 and authorize the City Attorney's Office to execute any documents necessary to effectuate the settlement.

Previous Directives: None.

Prepared by: Timothy S. Skarda Phone: (612) 673-2553

Approved by: 
Jay M. Heffern
City Attorney

Presenter in Committee: Jay M. Heffern, 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): Payment from Fund/Org. 6900 150 1500 4000
- Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact: Build Community

Background/Supporting Information

This incident arose on May 5, 2002, at the Rainbow Foods grocery store located at 2919 - 26th Avenue South where the Plaintiff was subdued, ticketed and transported to a shelter and eventually to the hospital by Minneapolis police officers. The Plaintiff alleges that she entered the store and was lawfully browsing the greeting cards and went outside to have a cigarette. She alleges, further, that Officers Peterson, Fuchs and Trobec pushed and shoved her without provocation, struck her in the face and twisted and bruised her arms. The Plaintiff also alleges that officers forced her out of their vehicle and refused medical attention for her injuries after she had requested to be taken to the hospital. The arrest and use of force has resulted in the current lawsuit in Federal District Court asserting § 1983 claims for excessive force and false arrest, as well as, tort allegations of assault, battery, false arrest and violation of the Minnesota Constitution.

The officers indicate that two squads were dispatched to an unwanted party at the Rainbow Foods store. The officers observed the Plaintiff harassing customers and hitting things in front of the store. The Plaintiff was told to leave the area and replied with an obscenity and ran into the store. From their brief contact with the Plaintiff, the officers believed that she was drugged, drunk or had mental health issues. The officers went into the store

and the Plaintiff began to yell and scream at the officers. The officers took the Plaintiff by her arm to escort her outside. When the Plaintiff began to kick at a security stand at the exit, the officers forced her to the ground. The Plaintiff did not cooperate with the handcuffing process. Officer Peterson used his flashlight to attempt to pry the Plaintiff's right arm out from beneath her, but was not successful. The Plaintiff was stuck twice in the arm with the flashlight and ordered to put her hands behind her back. The Plaintiff was finally handcuffed and secured in a squad car. The Plaintiff calmed down and requested to be taken to Cedar and Franklin Avenues and dropped off so she could go to a shelter. The Plaintiff was released as requested and given a citation for disorderly conduct.

Later that evening, a second squad car responded to a call for assistance from the caretaker of a building at 2019 – 16th Avenue South who reported that the Plaintiff was crying and banging on the door. The Plaintiff was transported to the Hennepin County Medical Center by a second set of officers. Medical records indicated that she had a contusion to her eye and bruises on her arms although no photographs were taken. The Plaintiff alleges that she continues to have vision problems, arm and shoulder pain. The Plaintiff went to Fairview Hospital the following day where photos were taken showing her left eye swollen shut and bruised from her eyebrow onto her left cheek. The officers have documented their use of force, but do not recall seeing any injury to the Plaintiff's eye and documented no facial injuries. City investigators have not been able to locate the Rainbow Foods employee who made the initial call for service.

The City participated in a settlement conference on June 18, 2007, before Federal Magistrate Janie Mayeron. The settlement conference was attended by Council President Barbara Johnson, Assistant City Attorney Timothy S. Skarda, Deputy Chief Scott Gerlicher and Officers Fuchs and Peterson on behalf of the City. The Plaintiff initially demanded \$45,000.00, exclusive of attorney's fees and costs. A proposed settlement was reached in the amount of \$13,000.00, including attorneys' fees and costs. Chief Dolan has reviewed the proposed settlement and recommends its approval. The proposed settlement would be taken with the City and the officers dismissed from the litigation. All the parties involved in the settlement conference believe that the proposed settlement is in the best interest of the City and recommend approval by this Committee and the City Council.