



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

Date: August 15, 2005
To: Ways & Means/Budget Committee
Referral to:

Subject: Gerald Starr v. City of Minneapolis
Court File No.: MC 05-00243

Recommendation: That the City Council approve the settlement of this case by payment of \$12,500.00 payable to Gerald Starr and his attorney, Randall D.B. Tigue, 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: C. Lynne Fundingsland, Assistant City Attorney Phone: 673-3339

Approved by: _____
Jay M. Heffern
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

Financial Impact (Check those that apply)

- No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain): From Fund/Org 6900 150 1500 4000
- Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact:

City Goals: Build Community

Background/Supporting Information

This case arises from 1998 when Sergeant Dan Pommerenke of the Motor Vehicle Theft Program was asked to investigate suspected allegations of possible insurance fraud and concealment of stolen property by the Plaintiff, Gerald Starr. Sergeant Pommerenke's investigation was based upon confidential reliable informants who stated that Plaintiff and others working with him were involved in switching vehicle identification numbers (VINs) and other illegal activity. After a long investigation, Sergeant Pommerenke sought and obtained search warrants both in Minneapolis and in Todd County for residences owned by the Plaintiff. On November 12, 1998, Minneapolis police officers executed a search warrant at the Plaintiff's

address in Minneapolis and his property in Todd County. As a result of executing these search warrants, Minneapolis police officers and officials from Todd County seized property which they believed to be stolen, based on the fact that identification numbers on the property had either been destroyed, erased, or did not exist.

The Hennepin County Attorney's Office prosecuted Plaintiff in this matter and, on July 31, 2000, Plaintiff pled guilty to one amended count of receiving stolen property. Plaintiff admitted that he had bought an Indy snowmobile from two people whom he did not know for \$2,000.00 when he acknowledged that its value was \$4,000.00. However, Plaintiff did not plead guilty to any counts regarding other items that were seized in either of the two search warrants. Plaintiff was placed on three years probation, required to pay a fine, and make restitution.

Subsequent to that, Plaintiff brought a motion in Hennepin County District Court for the return of the other items, which had not be the subject of his guilty plea, seized in the search warrant executed in Minneapolis. On January 24, 2003, the Honorable H. Peter Albrecht of Hennepin County District Court ordered this property returned to the Plaintiff. In Judge Albrecht's Order, he noted that there was a waiver of appearance on behalf of the Assistant Hennepin County Attorney who handled the criminal proceedings, and that there was no appearance by the Minneapolis City Attorney, although the criminal file indicates that the notice of the hearing was sent to the Office of the City Attorney.

On February 3, 2003, Plaintiff was notified by the Minneapolis Police Department that it no longer retained possession of any of the items seized by either search warrant. This property had either been sold at auction or had been returned to its rightful owner, such as the manufacturers of items bearing no serial number. The records of the criminal court proceedings reflect that Judge Albrecht's Order was not transmitted to the Minneapolis Police Department.

On September 22, 2003, Plaintiff brought suit in Hennepin County District Court, claiming his entitlement to a money judgment against the City in the amount of \$18,450.00 for the property which had been lost and/or converted. These items were things such as a pontoon, a VCR, an ARC welder, battery chargers and snowmobiles.

This matter is currently set for trial before the Honorable Robert A. Blaeser of Hennepin County District Court. In reviewing all the court records and in speaking with Sergeant Pommerenke, it appears that the City did not comply with the Order of Judge Albrecht, and that the items listed in the Complaint which Plaintiff filed in Hennepin County District Court should have been returned to the Plaintiff. Therefore, a negotiated proposed settlement was reached, whereby the City would pay to the Plaintiff and his attorney \$12,500.00 for complete and total settlement of this matter. Based upon the foregoing facts as presented, we believe this is a good resolution to this case, and recommend approval of this settlement.