



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

Date: November 24, 2004
To: Ways & Means/Budget Committee
Referral to: None

Subject: Santiago Ochoa v. City of Minneapolis, et al., Hennepin County District Court File PI 03-17362

Recommendation: That the City Council approve settlement of the lawsuit filed by Santiago Ochoa, Hennepin County District Court file no. PI 03-17362, in the amount of \$17,500.00, payable to Santiago Ochoa; authorize the payment of costs and reasonable attorneys' fees to his attorney, Alberto Miera, in an amount to be determined by the court or negotiated between the parties; and authorize the City Attorney to execute any documents necessary to effectuate the settlement and release of claims, payable from Fund/Org. 6900 150 1500 4000.

Previous Directives: None.

Prepared by: Timothy S. Skarda, Assistant City Attorney, 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 - 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): Payment from Fund/Org. 6900 150 1500 4000
- Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact: Build Community

Background/Supporting Information

The present case arises out of an incident in which the Plaintiff, Santiago Ochoa, was mistakenly arrested by the Minneapolis police. The Plaintiff has brought a lawsuit alleging false arrest and imprisonment.

On March 15, 2001, the Plaintiff was outside 2615 15th Avenue South working on his car. A woman in the house called the police to complain about the Plaintiff. The parties were work acquaintances who had prior

confrontations in which the woman and others had harassed Mr. Ochoa. Mr. Ochoa had obtained an Order for Protection against the woman and the co-workers. Because the woman did not speak English, her call was transferred to the language line. An officer was dispatched to a domestic call with the information that the Plaintiff refused to leave.

When the officer arrived, he observed the Plaintiff in the street in front of a vehicle. The officer attempted to speak to the female in the house. She spoke no English, but handed the officer an Order for Protection and pointed to the Plaintiff. The officer looked at the Order and saw the Plaintiff's name. The officer attempted to speak to the Plaintiff who, also, had limited English. The Plaintiff was pat searched and identified from documents in his wallet. The Plaintiff was arrested for violating the Order for Protection.

The Plaintiff was arrested in error. The Plaintiff had obtained the Order against the female and two co-workers. The Order is in English and the Plaintiff's name is clearly listed as the Petitioner.

The Plaintiff spent two days in jail. He had been permanently employed for the prior year and lost his job while in jail. The criminal charges were dismissed on March 27, 2001, when the error was discovered. He has not been permanently employed since the incident.

Tax records indicate that the Plaintiff earned approximately \$18,000.00 the year before the incident and has not earned more than \$1,500.00 a year since the incident. The Plaintiff asserts that his limited English and education have severely hampered his ability to find employment. The Plaintiff asserts that he attempted to show the Order for Protection to the arresting officer who ignored the explanation and arrested the Plaintiff. Although he suffered no personal injury, the Plaintiff has claimed emotional damages related to his arrest, incarceration and prosecution, as well as, an ongoing claim for lost wages.

On August 4, 2004, an arbitration hearing was held in Hennepin County District Court. The Plaintiff had demanded \$50,000.00 and the City had offered \$15,000.00. The arbitrator awarded the Plaintiff \$18,000.00 in damages. The City appealed the award. Subsequently, in response to the Plaintiff's demand of \$21,000.00 the City Attorney Litigation Committee authorized an offer of \$18,000.00.

On November 23, 2004, a settlement conference was held by the Honorable Deborah Hedlund in Hennepin County District Court. The Plaintiff had returned to his prior demand of \$50,000.00. A tentative settlement was reached in the amount of \$17,500.00 payable to the Plaintiff and reasonable costs and attorney's fees, in an amount to be determined, payable to the Plaintiff's attorney. We do not expect the attorney's fees claim to be extensive, based on the 16 hours expended defending the claim.

Given the factors outlined herein, we believe that the proposed settlement is in the best interests of the City of Minneapolis and recommend its approval.