



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

Date: August 8, 2006  
To: Ways & Means/Budget Committee  
Referral to:

**Subject:** Therian Johnson v. Reola Cain Riley and The City of Minneapolis  
Hennepin County District Court Case No.: PI 27-CV-0516667  
Negligence, Automobile Accident and Personal Injury Case

Recommendation: That the City Council approve settlement of the lawsuit filed by Therian Johnson in the amount of \$10,000.00 payable to Therian Johnson and his attorney, Benjamin F. Gallagher, Esq. of Gallagher Law Firm. That the City Council authorize the City Attorney to execute any documents necessary to effectuate the settlement and release of Therian Johnson's claims, payable from Fund/Org. 6900 150 1500 6850.

Previous Directives: None.

Prepared by: Charles J. Brown, J Assistant City Attorney Phone: 612-673-2903  
*[Signature]*

Appror y. \_\_\_\_\_  
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 6850  
 Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact:  
City Goals: Build Community

**Background/Supporting Information:**

On September 8, 2004, Plaintiff, Therian Johnson, was driving his 2001 Ford Excursion eastbound on Plymouth Avenue North in Minneapolis; and, Co-Defendant, Reola Cain Riley, was operating her 1997 Saturn SLI southbound on Fremont Avenue North. During this time, the City of Minneapolis' traffic control lights were malfunctioning at the intersection of Plymouth Avenue North and Fremont Avenue North. As a result of the unregulated intersection, Co-Defendant Reola Cain Riley allegedly entered the subject intersection against a red light, which would not change, causing a collision with Plaintiff's vehicle. At this time, Plaintiff had a green light. The City was aware of the malfunctioning traffic lights and made several unsuccessful attempts to remedy the situation via computer control prior to the occurrence of the accident in question. Eventually, when the City became aware that the traffic signals were stuck, the traffic systems operator directed the signalman to make a maintenance visit to the subject intersection. The signalman put the intersection traffic signal on four-way "flash". Before the traffic signal was on "flash," witnesses state that MPD officers did not direct traffic at the subject intersection. In addition, one eyewitness observed that Plaintiff had a green light but could not recall the color of the traffic light for Co-Defendant Riley. Another eyewitness observed the traffic signal stuck at red for Co-Defendant Riley and observed cars running the red light. Both eyewitnesses also observed that Plaintiff exited his vehicle with a noticeable limp in his stride.

As a result of the subject accident, Plaintiff has sued Reola Riley and the City of Minneapolis. Co-Defendant Riley has filed a cross-claim against the City.

Plaintiff claims lower spine injuries, urination problems, a hairline fracture to his tail bone, sprained wrist, head contusion, eye headaches and a dislocated shoulder. On November 18, 2004, Dr. James Schaffhausen performed arthroscopic surgery on Plaintiff's right shoulder and recently performed an additional shoulder surgery. Plaintiff is self-employed and was involved in two prior car accidents which occurred over ten years ago. Plaintiff claims he was not injured in the first car accident and claims a knee injury from the second accident. Nevertheless, Plaintiff's medical history reveals past treatment for right shoulder and left knee problems. In regard to the subject accident, Plaintiff has undergone extensive medical treatment from Dr. David Stussy of Kenwood Chiropractic Arts and Dr. James Schaffhausen of Orthopedic Consultants. From September 8, 2004 to present, Plaintiff has incurred over \$41,702.08 in special medical damages.

Discovery closed on March 31, 2006. An IME of Plaintiff was inconclusive due to Plaintiff's recovery from his second surgery. The original trial block was June 12, 2006, through July 7, 2006. This matter is currently scheduled for a trial block from August 14, 2006, through September 15, 2006. Judge Robert H. Lynn is the presiding trial judge.

On March 27, 2006, the parties to this litigation participated in court ordered mediation before Frederick Brown, Esq. of Parker Rosen, L.L.C. This mediation was unsuccessful. However, after further discovery and settlement discussions, Plaintiff has agreed to settle his claims against the City for \$10,000.00 and a release of City from any and all liability arising from the subject litigation in accordance with Pierringer v. Hoger, 21 Wis.2d 182, 124 N.W.2d 106 (1963) and its progeny, including Frey v. Snelgrove, 269 N.W.2d 918 (Minn. 1978). Pursuant to the cited cases, Plaintiff would agree to indemnify and hold harmless the City for any cross claims made by Co-Defendant Reola Riley. Given the law, facts and nature of Plaintiff's claims, in addition to the uncertainty of a jury trial, the City Attorney's Office believes that the proposed settlement of \$10,000.00 and other

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valuable consideration, as discussed hereinabove, is in the best interest of the City of Minneapolis and recommends approval.

05L-0437