



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

Date: February 11, 2005
To: Ways & Means/Budget Committee
Referral to:

Subject: Ronald Blackmon v. Thomas Subject, et al.
United States District Court File No.: 04-2942 JRT/FLN

Recommendation: That the City Council authorize the payment of a Rule 68 Offer of Judgment in the amount of \$13,875.00 payable from Fund/Org. 6900 150 1500 4000 and further authorize the City Attorney to execute all documents necessary to effectuate this settlement pursuant to an offer of judgment.

Previous Directives:

Prepared by: James A. Moore, Assistant City Attorney Phone: 673-2063

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): \$13,875.00 payable 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

On October 8, 2004, plain clothes officers working the downtown patrol observed the Plaintiff walking downtown. He was approached by another individual who asked him if he had a "dime bag". The individual also asked if the Plaintiff had a light for a cigarette. Plaintiff and the other individual turned and walked together. The officers approached and a third individual yelled a warning to the Plaintiff and the other individual involved in the conversation. One of the officers got to Plaintiff and grabbed him around the throat because he thought the Plaintiff was attempting to swallow something. Plaintiff was wrestled to the

ground. Plaintiff was detained along with the other individual for questioning. He was charged with loitering with intent to sell drugs. However, no drugs or significant cash were found on his person. Plaintiff denied any involvement with drugs and stated that he had simply offered the other individual a light for his cigarette. He denied swallowing anything and declined medical attention. The criminal charges against the Plaintiff were dismissed after a hearing before Judge Marilyn Rosenbaum who found no probable cause for the arrest.

Plaintiff sued in United States District Court. The City Attorney's Litigation Committee recommended that a Rule 68 Offer of Judgment be made in the amount of \$7,500.00 plus attorney's fees. Plaintiff accepted the offer. Plaintiff has submitted detailed time records for the work on the case up to the date of the offer. Plaintiff incurred \$6,375.00 in reimbursable fees and expenses. The City is bound by the judgment. The City Attorney recommends that the City Council approve issuance of a settlement check in the amount of \$13,875.00 payable from Fund/Org. 6900 150 1500 4000.