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

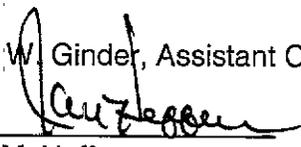
Date: October 30, 2002  
To:  
Referral to: Ways & Means/Budget Committee  
  
Subject: Jordan Kushner v. Jason Schmitt

**Recommendation:** That the City Council approve settlement of this lawsuit by payment of \$7,026.70 payable to Jordan S. Kushner and his attorney James B. Lewis, from Fund/Org. 690 150 1500 4000 and authorize the City Attorney to execute any documents necessary to effectuate the settlement and release of this lawsuit.

**Previous Directives:**

Prepared by: Peter W. Ginder, Assistant City Attorney

Phone: 673-2478

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): Fund/Org. 690 150 1500 4000
- Request provided to the Budget Office when provided to the Committee Coordinator

**Community Impact:**

City Goals: Build Community

**Background/Supporting Information**

This lawsuit involves an incident occurring on May 27, 1999. On that date Minneapolis police officers were involved in a struggle with a person that they were attempting to handcuff and take into custody at 7<sup>th</sup> Street and Hennepin Avenue. During the course of the struggle, a number of individuals gathered to observe it including Plaintiff Kushner. While underlying facts remain disputed, Kushner voiced his disagreement with the arrest process and was arrested by Officer Jason Schmitt for obstructing legal process. Kushner was

taken to the Downtown Command where he was given a citation and released. Subsequently, the criminal case was dismissed.

After completing some discovery, including the depositions of the parties and another witness, Plaintiff made a settlement demand prior to filing the lawsuit in Hennepin County District Court. The case was reviewed and discussed by the City Attorney's Office Litigation Committee. Pursuant to direction received from that Committee, a Rule 68 Offer of Judgment in the amount of \$500.00 plus reasonable costs and attorney's fees was made to Plaintiff on October 24, 2002. Pursuant to Council action of October 25, 1998, and March 23, 2001, the City Attorney is authorized to make such binding Rule 68 Offer. That offer was accepted by Plaintiff. Plaintiff's counsel submitted a bill for fees in the amount of \$6,750.00. After discussion with counsel, he has agreed to reduce his claim for fees to \$6,075.00. I believe the reduced amount is reasonable in the context with the resolution of this lawsuit and recommend payment of \$6,075.00 for fees and \$451.70 in costs in addition to the \$500.00 for a total of \$7,026.70.