



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

Date: June 2, 2006
To: Ways & Means/Budget Committee
Referral to:

Subject: Kristen Thompson v. City of Minneapolis, et al.
Appellate Court File No.: A04-1050

Recommendation: The City Attorney's Office recommends that the City Council approves settlement of the above-referenced matter by payment to Kristen Thompson and her attorney Russ Crowder in the amount of \$185,000.00 and payment to Guide One Insurance and its attorney Samuel Rufer in the amount of \$20,000.00 in exchange for release of all claims against the City of Minneapolis and its officers and employees. Said funds to be payable from Fund/Org. 6900 150 1500 4000.

Previous Directives:

Prepared by: James A. Moore, Assistant City Attorney

Phone: (612) 673-2063

Approved by:

[Handwritten signature]
Jay M. Heffern
City Attorney

Financial Impact (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).
- Action requires an appropriation increase to the ____ Capital Budget or ____ Operating Budget.
- Action provides increased revenue for appropriation increase.
- Action requires use of contingency or reserves.
- Business Plan: ____ Action is within the plan. ____ Action requires a change to plan.
- Other financial impact (Explain): \$205,000.00 payable from Fund/Org 6900 150 1500 4000
- Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact

City Goal(s): Build Community

Background/Supporting Information

This case involves serious and permanent injuries to an innocent pedestrian who was run down on a downtown street by a fleeing felon whom police officers had tried to stop for traffic violations. The plaintiff was struck by the fleeing vehicle and thrown approximately 40 feet. She had numerous internal injuries, broken bones and also sustained what her doctors describe as permanent brain damage. Despite these injuries, Plaintiff has made a remarkable recovery and put her life back together. Since the accident she has completed a Masters Degree and has enrolled in a PHD program in social work. However, she continues to have problems with concentration and ongoing physical problems as a result of the accident. Plaintiff has undergone multiple surgeries since the time of the accident. At the time she was injured, she was working as a social worker and her worker's compensation carrier, Guide One Insurance, has paid nearly \$350,000.00 in medical bills to date. The worker's compensation insurer has asserted a subrogation interest in this case.

The case arose when Minneapolis police officers operating a detox van observed Michael Litz run a stop sign at 8th Street and Hennepin Avenue. The officers decided to stop Mr. Litz because of the egregiousness of his driving conduct. When they activated the red lights and siren, Mr. Litz who was driving a stolen car, fled from them. The officers observed Mr. Litz engage in some additional dangerous driving conduct, but quickly lost sight of him. At that point, the officers maintain that they deactivated the van's emergency equipment and discontinued the pursuit.

However, as they continued to follow in the direction that Mr. Litz had gone, they observed him heading eastbound on 6th Street and turned to follow him. Mr. Litz ultimately turned southbound onto 4th Avenue and ran down Ms. Thompson as she was crossing the street in the crosswalk with the walk light at 4th Avenue and 7th Street. Mr. Litz drove away from the scene and abandoned the vehicle. He was ultimately caught by police officers and is currently incarcerated.

The city argued that Defendants were entitled to official immunity for the decisions of the officers in the pursuit. The question of official immunity went all the way to the Minnesota Supreme Court. Unfortunately, the Minnesota Supreme Court ruled that official immunity did not apply because the officers violated the City's pursuit by not continuously using red lights and siren during the pursuit or, alternatively, by not turning off the direction of travel of the fleeing vehicle and clearly signaling an end to the pursuit.

In the absence of official immunity, the City is potential liable for damages up to the applicable tort cap of \$300,000.00. Given that Ms. Thompson was completely innocent and severely injured, a large verdict in her favor would be expected. Although the officers may have a relatively small percentage of fault as compared to the fleeing felon, under the statute in effect at the time, the City would be liable for twice their percentage of fault. Consequently, the City could well be liable for its entire tort cap amount if the case went to trial. To avoid this risk a negotiated settlement, described below was reached. The settlement preserves Ms. Thompson to pursue future actions against Mr. Litz and other insurance carriers. The City will pay Ms. Thompson and her attorney \$185,000.00 and will settle the worker's compensation subrogation interest for \$25,000.00. Given the potential exposure of \$300,000.00 in this case, the City Attorney recommends the settlement.

Recommendation: that the City Council approve settlement of the case of Kristen Thompson v. City of Minneapolis, etal. By payment of \$185,000.00 to Kristen Thompson and her attorney Russ Crowder and payment of \$20,000.00 to Guide One Insurance and its attorney Samuel Rufer, payable from Fund/Org 6900 150 1500 4000; and that the City Council authorize the City Attorney to execute any documents necessary to effectuate this settlement.