



# MEMORANDUM

Office of the City Attorney

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**TO:** Mayor and City Commissioners

**DATE:** February 27, 2006

**FROM:** City Attorney

**CONSENT**

**SUBJECT:** *Matt Miller and his wife, Lydia Miller vs. City of Gainesville*  
Alachua County Circuit Court Case No.: 01-05-CA-800

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Recommendation: The City Commission 1) approve the terms of the mediated settlement; and 2) authorize the City Attorney to settle the claim of *Matt Miller and his wife, Lydia Miller vs. City of Gainesville*, Alachua County Circuit Court Case No.: 01-05-CA-800, on behalf of the City.


On June 23, 2002, Matt Miller was injured while using the swings at Northeast Park with his children. Mr. Miller was swinging on a City-installed and maintained belt swing when the seat of the swing unexpectedly disconnected from the chain, resulting in Mr. Miller falling to the ground and sustaining injuries. The belt seat was attached to two chains by S-hooks. The chains did not break, yet a chain apparently became separated from the seat on one side. The S-hooks were initially connected to the belt seat and chains by a City employee, and inspected once a week to ensure that the swing was in proper working order. Mr. Miller alleged that the S-hook must have been opened wide enough to allow the chain to pass through. Therefore, Mr. Miller alleged, the fall was caused by the City's negligent maintenance and/or inspection of the swing, and failure to warn of dangers attendant to playing on the swing. Plaintiff Lydia Miller asserted a consortium claim resulting from the same incident.


Subsequent to the accident, Mr. Miller received emergency medical attention for injuries to his back and hands, and, ultimately underwent surgery. He suffered a compression fracture of his T-12 vertebra that, according to his doctors, may require additional surgery. He has been prescribed medications and periodic epidural injections to manage the pain associated with his injuries. Mr. Miller claimed past medical bills in excess of \$19,500.00 related to injuries incurred in the accident. The potential future surgery is expected to cost approximately \$30,000.00 to \$35,000.00, plus other possible future medical expenses. At the time of the accident, Mr. Miller was a 39-year-old computer services employee of Shands Hospital, husband, and father of three children. In February 2005, Mr. Miller filed suit against the City of Gainesville. The Millers initially demanded payment of \$150,000.00.

Mr. and Ms. Miller, their attorneys, and representatives for the City negotiated a settlement pursuant to Court-ordered mediation in the amount of \$59,000.00. It is the recommendation of the City Attorney's Office and the Risk Management Department that the case be settled for that amount.

As a postscript to the above information, it should be noted that the City no longer uses S-hooks to connect the belt swings in City parks. The City has switched to clevis-hangers in hopes of providing durable, tamper-resistant, secure swingset connections.

Fiscal Impact: Funds are available in the City's General Insurance Fund.

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Submitted by:   
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City Attorney