

MEMORANDUM

Office of the City Attorney

080903
Phone: 334-5011/Fax 334-2229
Box 46

TO: Mayor and City Commissioners

DATE: April 2, 2009

FROM: City Attorney

CONSENT

SUBJECT: *Eugene Gamble, Jr. vs. City of Gainesville, a Florida municipality, and Christopher L. Perry; Alachua County Circuit Court; Case No.: 01-08-CA-1200.*

Recommendation: The City Commission 1) approve the terms of the mediated settlement; and 2) authorize the City Attorney to settle the claim of Eugene Gamble, Jr. vs. City of Gainesville, a Florida municipality, and Christopher L. Perry; Alachua County Circuit Court Case No.: 01-08-CA-1200, on behalf of the City.


On April 3, 2008 a summons and complaint was served on the City of Gainesville. Mr. Gamble was the driver of a vehicle involved in an automobile accident with a City of Gainesville Regional Transit System bus. Initially, Mr. Gamble filed suit against both the City and the former City employee that was the driver of the bus. Investigation revealed that the employee was acting in the course and scope of his employment at the time of the accident, and was, therefore, entitled to qualified immunity from liability for ordinary negligence. The case against the driver was dismissed.

On September 11, 2006, Mr. Gamble was driving his vehicle northbound on SW 23rd Terrace in Gainesville, with two passengers. His vehicle, along with the vehicle in front of him, was stopped behind a City bus that was loading and unloading passengers. While stopped, Mr. Gamble's vehicle was struck from behind by another City bus. Fortunately, Mr. Gamble and his passengers were restrained by seat belts. His claimed damages included bodily injury, loss of capacity for the enjoyment of life, expenses for medical care and treatment in the past and in the future, loss of earnings and ability to earn money.

The City previously resolved claims made by Mr. Gamble's two passengers and for the property damage done to the vehicle. On March 10, 2009, Mr. Gamble, his attorneys, and representatives for the City negotiated a settlement pursuant to Court-ordered mediation in the amount of \$70,000.00. It is the recommendation of the City Attorney's Office and the Risk Management Department that the case be settled for that amount.

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

Prepared by:


Daniel M. Nee
Assistant Litigation Attorney

Submitted by:


Marion J. Radson
City Attorney