



# MEMORANDUM

Office of the City Attorney

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TO: Mayor and City Commissioners

DATE: July 24, 2000

FROM: City Attorney

PUBLIC HEARING

SUBJECT: Proposed Settlement of Lawsuit Styled Jessica Heckman v. City of Gainesville, Mike Dumas, individually and d/b/a Dumas Discount, Deanna Dumas and Letcher Worley. Alachua County Circuit Court; Case No.: 99-3083

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Recommendation: The City Commission: 1) hold a public hearing; 2) approve the terms of the settlement; and 3) authorize the City Manager and special counsel to settle the case.

This case involves a motor vehicle accident that occurred shortly after 10:00 PM on September 2, 1995 at the intersection of University Avenue and N.W. 15<sup>th</sup> Street. A University of Florida home football game had recently concluded, and traffic control measures were instituted to deal with the overflow of vehicles and pedestrians in the area. The Gainesville Police Department had overridden the lights at this intersection so that traffic travelling on University Avenue faced yellow flashing, caution lights while the traffic on N.W. 15<sup>th</sup> Street faced a flashing red light. A police explorer was stationed at the intersection to direct traffic.

Waiting at this intersection was a pick-up truck in which the Plaintiff was a passenger in the bed of the truck. The pick-up truck was attempting to make a left hand turn to go east on University Avenue. At the same time, another pick-up truck was travelling west on University Avenue. The police explorer signaled to the pick-up truck, in which the Plaintiff was a passenger that it could proceed with its left hand turn. It did so and was almost immediately struck by the other pick-up truck travelling in the curb lane. The Plaintiff was thrown to the floor of the pick-up truck bed and injured her right shoulder and chest.

Plaintiff was transported by ambulance to Alachua General Hospital where she was diagnosed with a shoulder separation. She followed up with orthopedist Clinton Bush, M.D., who evaluated and treated her for problems with her shoulder over the next few years. Dr. Bush eventually performed two open procedures on Plaintiff's acromioclavicular joint to remove bone growths which he believed were causing Plaintiff pain in her activities of daily living. The surgeries left Plaintiff with a 2 inch by one quarter inch scar on her right shoulder. Dr. Bush has assigned her an 11% permanent impairment rating as a result of her injuries and scar sustained in the accident.

The City purchased insurance for this type of incident through the Florida Police Chief's Insurance Fund. The fund retained special counsel, Mr. John Jopling of the Gainesville firm Dell Graham, P.A., with the approval of the City. The City's special counsel and risk management personnel reached a settlement agreement by way of mediation with Ms. Heckman

and her attorney. The amount of \$46,500.00 is the full and complete payment of Ms. Heckman's personal injury claim, of which the City is responsible for \$40,000.00 and the insurance company for co-defendants is responsible for the remaining \$6,500.00. The City will actually pay \$5,000.00, with the remaining \$35,000.00 coming from the Florida Police Chief's Fund. Ms. Heckman will execute and deliver to the City of Gainesville a release of all claims and file a notice of voluntary dismissal with the Circuit Court.

It is the recommendation of the Risk Management Department and special counsel that the case be settled for this amount.

Prepared by:



Elizabeth A. Waratuke,  
Litigation Attorney

Submitted by:



Marion L. Radson,  
City Attorney