



Legislation Details (With Text)

File #: 190860. **Version:** 1 **Name:**
Type: Discussion Item **Status:** Passed
File created: 1/8/2020 **In control:** City Attorney
On agenda: 1/16/2020 **Final action:** 1/16/2020
Title: Ostreicher v. City of Gainesville; Case No. 2019-CA-991; Eighth Judicial Circuit, in and for Alachua County, Florida. (NB)

Sponsors:

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
1/16/2020	1	City Commission	Approved as Recommended	

Ostreicher v. City of Gainesville; Case No. 2019-CA-991; Eighth Judicial Circuit, in and for Alachua County, Florida. (NB)

The City Commission 1) approve the terms of the mediated settlement agreement; and 2) authorize the City Attorney to settle the claims of Sarah Ostreicher, arising from an accident that occurred on or about October 31, 2017.

On October 31, 2017, at approximately 9:10 a.m., a City-owned Ford F350 pickup truck outfitted for use by GRU Water/Wastewater Instrumentation, Controls, and Electrical (ICE) Techs was involved in an automobile accident with a vehicle carrying the plaintiff. The City employee was acting in the course and scope of employment and struck the plaintiff's vehicle from behind. The GRU supervisor determined that the accident was preventable. The employee received progressive discipline.

Subsequent to the accident, the plaintiff, Sarah Ostreicher, was treated at the emergency room. She continued treatment with her medical providers, including surgery on her right shoulder. At trial, the plaintiff's attorneys were prepared to offer evidence of over \$90,000 in past medical expenses. They argued that she would suffer over \$100,000 in future medical expenses over the expected course of her life. She planned to claim lost wages and future lost wages and earning capacity. These proposed damages do not include the Plaintiff's claim for damages related to pain and suffering, mental anguish, inconvenience, and loss of capacity for the enjoyment of life. Her husband previously asserted a consortium claim for loss of companionship, fellowship, and household services that was resolved prior to mediation in the amount of \$16,000.

The City Attorney's Office and Risk Management Department conducted a thorough evaluation and investigation of this lawsuit in conjunction with Gainesville Regional Utilities. Per the application of Florida's limited waiver of sovereign immunity contained in section 768.28, Florida Statutes, the City's liability and authority to settle claims such as this is limited to \$200,000 per person, and \$300,000 per incident. At court-ordered mediation, a settlement agreement was achieved. Representatives for the City agreed to recommend a settlement in the amount of \$135,000, subject to the approval of the City Commission of the City of Gainesville, and, in exchange, the plaintiff will provide a full and complete Release to the City. It is the

recommendation of the City Attorney's Office and the Risk Management Department that the case be settled for that amount.

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