



Legislation Text

File #: 120594., **Version:** 1

OFFER OF JUDGMENT IN THE CASE STYLED CHERON HAMPTON-BATES, PERSONALLY AND AS NATURAL GUARDIAN OF BRYCE BATES, A MINOR v. THE CITY OF GAINESVILLE, FLORIDA, A MUNICIPAL CORPORATION, AND CPL. TIMOTHY DURST, IN HIS INDIVIDUAL CAPACITY, COURT CASE NO. 1:12-cv-00174-MP-GRJ (NB)

The City Commission authorize the City Attorney's Office to extend an Offer of Judgment to Plaintiffs to settle this case in the amount of fifty thousand dollars (\$50,000), exclusive of costs and attorney's fees with the costs and attorney's fees to be paid by the City in an amount to be determined by the Court.

On August 2, 2012, the City was served with this lawsuit. The basis of the lawsuit is the biting of ten year old Bryce Bates by a Gainesville Police Department canine. The lawsuit names the officer handling the canine in his individual capacity, and the City of Gainesville. The action is brought pursuant to federal law and alleges that excessive force was used by sending the canine to apprehend Bates. The basis of Ms. Hampton-Bates' claim is the infliction of emotional distress as a result of seeing her son bit by the canine.

The City conducted an extensive investigation prior to the lawsuit being filed and has engaged in discovery since the filing of the lawsuit. Under the Federal Rules of Civil Procedure, the City may extend what is called an Offer of Judgment to the Plaintiffs to settle the case. In this case, if the offer is accepted by the Plaintiffs, the City will agree to pay Plaintiffs, on behalf of both the City and the individual officer, fifty thousand dollars and attorney's fees and costs to date as determined by the Court. If the offer is not accepted by the Plaintiffs and the verdict is less than the City offered, the City would be entitled to recover its attorney's fees and costs from the Plaintiffs in defending the case after the offer was made. It is the recommendation of the Office of the City Attorney, the Department of Risk Management and the Gainesville Police Department that the City extend an Offer of Judgment, on behalf of the City and the Officer, in his individual capacity, to the Plaintiffs in this case in the amount of fifty thousand dollars (\$50,000), exclusive of costs and attorney's fees, with the costs and attorney's fees to be paid by the City in an amount to be set by the Court.