



## Legislation Text

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**File #:** 160334., **Version:** 1

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### **Mario Neal v. City of Gainesville; Case No. 2015-CA-657; Eighth Judicial Circuit, in and for Alachua County, Florida. (NB)**

The City Commission 1) approve the terms of the settlement agreement; and 2) authorize the City Attorney to settle the claim of Mario Neal arising from an accident that occurred on or about April 14, 2013.

On April 14, 2013, Mr. Neal was a seatbelt-restrained, backseat passenger in a vehicle that was hit from behind by a Gainesville Police Department patrol vehicle while exiting a parking lot in the unit block of NW 17th Street approaching West University Avenue, in Gainesville. The police vehicle was not responding to a call, and emergency lights and siren were not activated. As the police vehicle followed the vehicle carrying Mr. Neal and two other passengers out of the parking lot, the vehicles stopped in deference to pedestrians that entered the street. While waiting for the last pedestrian to clear the street, the police vehicle collided into the back of the vehicle carrying Mr. Neal. The Gainesville Police Department conducted an internal Vehicle Incident Review Board administrative investigation into the accident, and found that the officer could have prevented the accident. The officer was disciplined as a result of the accident.

Emergency vehicles responded to the scene of the accident, but did not transport anyone to the emergency room. In the ensuing early morning hours, however, Mr. Neal sought emergency medical care on his own. In the following years, Mr. Neal received significant palliative care for persistent complaints of lower back pain, and multiple radiological studies. In total, Mr. Neal incurred medical and chiropractic bills in excess of \$48,000 after the accident. Mr. Neal asserted that the injuries resulted in a permanent impairment that would lead to future medical expenses, lost wages and/or the ability to earn wages, and past and future pain and suffering.

During the course of discovery, counsel for both the City and Mr. Neal conducted depositions of the parties and witnesses. A complete review of the applicable medical records was performed. 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 \$200,000.00 per person and \$300,000.00 per incident. Court-ordered mediation was conducted, but did not resolve the lawsuit. Mediation, however, spurred additional discovery and negotiation, and, ultimately, a negotiated settlement was achieved. Representatives for the City agreed to recommend a total settlement in the amount of \$45,000, subject to the approval of the City Commission of the City of Gainesville. In exchange, Mr. Neal 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.

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