



Legislation Text

File #: 200629., **Version:** 1

Loewenthal v. City of Gainesville; Case No. 2019-CA-3778; 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 Nicholas Loewenthal, arising from an accident that occurred on or about September 1, 2018.

On September 1, 2018, Mr. Loewenthal was a seat-belted, backseat passenger in a vehicle that was involved in an automobile accident with a City RTS bus at or near the intersection of SE 3rd Street and SE 4th Avenue, in Gainesville. The City employee transit operator was acting in the course and scope of employment, violated a traffic control device, and struck the side of the vehicle carrying the plaintiff. The employee received progressive discipline and is no longer employed by the City.

Subsequent to the accident, the plaintiff was treated at the emergency room for a broken nose and pain in his left shoulder. He continued treatment with his medical providers, including surgery to repair his nose and treatment for torn ligaments in his shoulder and a fractured clavicle. At trial, the plaintiff's attorneys were prepared to offer evidence of over \$30,000 in past medical expenses. They argued that he would suffer future medical expenses along with damages related to pain and suffering, mental anguish, inconvenience, and loss of capacity for the enjoyment of life.

The City Attorney's Office and Risk Management Department conducted a thorough evaluation and investigation of this lawsuit in conjunction with the Regional Transit System. 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 \$75,000, 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.