



**CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING**

#13-1529

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Lee R. Feldman, ICMA-CM, City Manager

DATE: December 3, 2013

TITLE: Motion Authorizing Settlement of Police Liability Lawsuit PP L 1078
(Brennan Hamilton) for \$25,000.

Recommendation

Staff recommends settlement of this police liability lawsuit in the amount of \$25,000 to Brennan Hamilton.

Background

The plaintiff was arrested on April 25, 2010 and he was charged with Resisting/Obstruction and Disorderly Intoxication. The criminal charges were subsequently dismissed.

The incident in question occurred when former Officer Overcash confronted the plaintiff for leaning up against his marked police vehicle. The incident took place near the railroad crossing on SW 2nd Street and the plaintiff, as well as the other members of his party, was waiting for a train to pass so that they could walk back to his parked vehicle. The plaintiff left the scene at the urging of his wife, but he later called the Police Department to file a complaint against Officer Overcash. However, he did not have the Officer's name or badge number at that time, so he went back to the scene to get them. Officer Overcash told the plaintiff to leave the area or he would be arrested. The plaintiff refused to leave the area until the Officer provided him with his name and badge number. The plaintiff was then arrested, placed in handcuffs and transported to the BSO Main Jail. The arrest was recorded by his wife and the video was later posted on YouTube.

The plaintiff alleges that Officer Overcash intentionally placed the handcuffs on too tight and that he had to seek medical attention from a BSO nurse. The plaintiff continued to experience pain in his wrists and sought medical treatment at the Broward General Medical Center after his release. The plaintiff incurred approximately \$1,800 in medical expenses.

The plaintiff is alleging economic damages in addition to the false arrest and excessive force counts.

Per the plaintiff, the wrist injuries prevented him from performing all of his duties as a repo man and he was forced to temporarily hire another person until his medical problems were resolved.

The plaintiff filed his lawsuit in state court, but his complaint contains federal civil rights counts. Therefore, he would be entitled to attorney’s fees if he is able to prevail at trial. The City’s defense counsel, Robert Schwartz, has recommended that the City settle this case, as the arrest is indefensible. The City’s total legal fees and costs to date are \$6,463.41, with estimated total costs in excess of \$20,000. The plaintiff would be entitled to attorney’s fees if the jury was to return with a plaintiff’s verdict. It is estimated that those fees would be in excess of \$35,000.

The plaintiff’s initial settlement demand to the City was for \$50,000. The plaintiff, has since agreed to settle this matter for \$25,000.

Resource Impact

There is a fiscal impact to the City in the amount of \$25,000.

FUND	SUBFUND	FUND NAME	INDEX #	INDEX NAME	SUB OBJECT #	SUB OBJECT NAME	AMOUNT
543	01	City Insurance	INS0101 01	Self Insurance Claims	5119	Police Prof Liability Claims	\$25,000
TOTAL							\$25,000

Strategic Connections

This item is a Press Play Fort Lauderdale 8 Strategic Plan 2018 initiative, included within the **Internal Support Cylinder of Excellence**, specifically advancing:

- **Goal 12:** Be a leading government organization, managing our resources wisely and sustainably.
- **Objective 1:** Ensure sound fiscal management.

This item advances the *Fast Forward Fort Lauderdale 2035 Vision Plan: We Are United*

Prepared by: James W. Kelly

Department Director: Averill Dorsett