



500 West Big Beaver
Troy, MI 48084
troymi.gov

J-08

CITY COUNCIL AGENDA ITEM

Date: September 12, 2019

To: Honorable Mayor and Troy City Council Members

From: Lori Grigg Bluhm, City Attorney
Nicole MacMillan, Assistant City Attorney

Subject: William Miller v. City of Troy

The Court required the parties to facilitate this case, and Plaintiff has settled his case with the two insurance company co-defendants. He has offered to settle with the City as well. A proposed settlement and release has been prepared for your consideration. If the settlement is not acceptable, then the parties will proceed to trial. Since the co-defendants have been dismissed from the lawsuit, the City would bear all trial costs, including the costs to secure multiple doctors for trial.

Plaintiff was the bicyclist thrown off his bike after contact with our police cruiser on November 8, 2017. The officer testified that he was stationary, and looked both ways before attempting to merge onto Big Beaver Road to stop a speeding car. Plaintiff was knocked off his bike as a result of the impact, but there was no damage to the bicycle or the police vehicle. Although Plaintiff's injuries appeared very minor, he was transported to Troy Beaumont Hospital, and diagnosed with a minor hip injury. Plaintiff was released from the hospital later that evening. A couple of months after the incident, Plaintiff alleged that he was experiencing back pain. It is unclear whether the back pain resulted from the collision on November 8, 2017, or whether it was preexisting, especially since Plaintiff was being treated for back pain a couple of months *prior* to November 8, 2017, and had a previous bike/car accident (2010) and a pedestrian/car accident.

Plaintiff's complaint alleged that the officer was negligent and/or grossly negligent; and that the City is liable under the motor vehicle exception to governmental immunity (MCL 691.1405). Plaintiff also asserted that the City was negligent in its hiring, retention and supervision of the officer.

This proposed settlement is not an admission of liability, and instead is a recognition of the risks inherent in any litigation, and the anticipated costs for proceeding to trial. If accepted, the case would be immediately dismissed.

Please let us know if you have any questions or concerns regarding this matter.

RELEASE AND SETTLEMENT AGREEMENT

This Release and Settlement Agreement (“Agreement”) is entered into by and between William Miller (“Plaintiff”), and the City of Troy (“Defendant”) and is executed this _____ day of September, 2019.

I. RECITALS

A. William Miller filed a Complaint against the City of Troy and one Troy police officer (“Defendants”) in the Oakland County Circuit Court, alleging negligence under MCL 691.1405 and other wrongful actions (Oakland County Circuit Court Case No. 2018-167567-NI).

B. By stipulated order, the parties dismissed the Troy police officer from the case, with prejudice, leaving only one claim against the City of Troy.

C. The parties to the above-referenced litigation desire to settle and fully resolve this civil action and discharge all claims Plaintiff may have, whether known or unknown, direct or derivative, arising from the events as alleged in the Complaint, upon the conditions and terms set forth in this Agreement.

D. It is expressly understood and agreed that this release and the settlement of the above-referenced litigation shall not be construed as an admission of liability on the part of Defendants, including any police officers, employees, appointed or elected officials, volunteers and others working on behalf of the Defendant Troy or the City of Troy for the purpose of this action or for the purposes of any other action of whatever kind or nature.

II. RELEASE

1. *Settlement Payment.* Upon payment of the sum of Thirty Five Thousand (\$35,000.00) dollars in a check made payable to: William Miller and The Mike Morse Law Firm, such sum includes all costs, interest, and attorney fees, Plaintiff and his attorney acknowledge and agree that this settlement payment is the full and entire amount they will receive from Defendant, its police officers, employees, appointed or elected officials, volunteers and others working on behalf of the

Defendant Troy or the City of Troy for all claims which were or could have been asserted, arising out of the incident that occurred on November 8, 2017.

2. *General Release*: Plaintiff expressly acknowledges and agrees that the settlement payment is for all claims for all injuries and damages which have resulted and which may have been caused by the alleged events related to the Complaint filed by Plaintiff. Plaintiff intends by execution of this Agreement to release and forever discharge any and all claims, demands, damages, actions, causes of action or losses of whatever kind or nature, including all costs, interest and attorney fees, it has or may have, or may have had against Defendant, its police officers, employees, appointed or elected officials, volunteers and others working on behalf of the Defendant Troy or the City of Troy for all claims which were or could have been asserted, arising out of the incident that occurred on November 8, 2017 and as asserted in the Complaint filed in Oakland County Circuit Court Case No. 2018-167567-NI.

3. *No Admission of Liability*: The Plaintiff agrees and understands that this Release embodies a compromise of a disputed claim and that payment made and conditions stated herein are not to be construed as an admission of liability on the part of the Defendant or parties being released by whom all liability is expressly denied.

4. *Dismissal of Case*: Defendant Troy shall take supplementary steps to give full force and effect to the basic terms of this agreement, specifically and including preparing all appropriate stipulations for dismissal, with prejudice and without costs, interest or attorney fees in all aspects of Oakland County Circuit Court Case No. 2018-167567-NI

5. *Limitations on Disclosure*:

- a. It is expressly understood and accepted by Plaintiff and his attorney that, as a condition of this agreement, Plaintiff and his attorney will use their best efforts to prevent any future publicity or disclosure of, and will not hereafter disclose, the fact or the amount of this settlement, the negotiations preceding this agreement, or any details of the basis for claims released in this agreement to

any person, corporation, or other entity whatsoever unless required pursuant to subpoena or court order, with the sole exception of Plaintiff's accountants, the Internal Revenue Service (IRS), or any state or municipal taxing authority; provided, however, that Plaintiff's accountants must be advised with respect to Plaintiff's obligations under this paragraph 5.

- b. The parties acknowledge that during this litigation, Defendant produced documents that were subject to a Stipulated Protective Order which it deems sensitive and/or confidential. On execution of this agreement, Plaintiff and his attorneys (and all agents within their control) agree to return all originals and copies of these documents and records and to keep no copies of such for themselves. In the alternative, Plaintiff and/or his attorneys (and all agents within their control) shall destroy all documents, personnel records, and in-car audio/video recordings obtained through discovery pursuant to the Stipulated Protective Order and provide counsel for Defendant with an affidavit acknowledging the destruction of the documents and records.

THIS IS A RELEASE. READ BEFORE SIGNING.

I, William Miller, have had the ability and opportunity to discuss this Release with counsel of my choosing and agree to its terms and conditions.

DATE: _____
WILLIAM MILLER, Plaintiff

DATE: _____
RYAN VANSTONE (P79689)
Attorney for Plaintiff

Approved as to form and executed with express authority of Troy City Council:

DATE: _____
LORI GRIGG BLUHM (P46908)
City Attorney for Defendant, City of Troy