



## City of Gainesville Agenda Item Report

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**File Number:** 2023-1001

**Agenda Date:** October 19, 2023

**Department:** City Attorney

**Title:** 2023-1001 Sherron McClellon v. City Of Gainesville, Florida; Case No. 2022-CA-3282; Eighth Judicial Circuit, in and for Alachua County, Florida. (NB)

**Department:** City Attorney

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

**Explanation:** On or about August 3, 2021 at approximately 3:44 pm while exiting the parking lot at the 2600 block of NW 13th Street, the front end of a City-owned vehicle driven by a City employee collided with the back end of a 2013 Chevrolet Traverse, operated by the Plaintiff. The collision was precipitated by the sudden stop of the Plaintiff's vehicle and the vehicle in front of the Plaintiff. Ms. McClellon claims to have suffered bodily injury including disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money and aggravation of previously existing conditions. Ms. McClellon is further claiming damages well in excess of \$100,000.00.

The City Attorney's Office and Risk Management Department conducted a thorough evaluation and investigation of this lawsuit. 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. Plaintiff has proposed an offer of judgement, pursuant to section 768.79, Florida Statutes, in the amount of \$70,000. Should the City accept the offer, the case will be dismissed. Should the City reject the offer, and should Plaintiff recover at least 25% more than this amount (at least \$87,500) in a judgment at trial, Plaintiff would be entitled, per the rule, to also recover reasonable attorneys' fees as a sanction for the City's rejection of the offer. Given the nature of the allegations, and investigation, it is the recommendation of the City Attorney's Office and the Risk Management Department that the City accept the Plaintiff's offer.

**Recommendation:** The City Commission authorize the City Attorney to accept a Proposal for Settlement of the claim of Sherron McClellon, arising from an incident that occurred on August 3, 2021.