



City of Gainesville Agenda Item Report

File Number: 2024-202

Agenda Date: March 7, 2024

Department: Office of the City Attorney

Title: 2024-202 Joseph Demaio v. City of Gainesville; Presuit Claim Arising from an Incident that Occurred in Gainesville, Alachua County, Florida on or about February 14, 2023 (NB)

Department: City Attorney

Description: On February 14, 2023, Mr. Demaio was driving his work van when he was rear-ended by a City bus. He was transported to the hospital by ambulance. Later, he was diagnosed with herniation to multiple discs in his back, along with a claimed potential brain injury. Mr. Demaio underwent an anterior cervical discectomy and fusion (ACDF) surgery, a procedure in which one or more vertebral discs is removed and then the spine is fused back together. Demaio's claim is that he has incurred approximately \$113,000 in medical costs up to this point, and if the case were to proceed to litigation and trial, he would urge the jury to award him compensation for past and future medical expenses and pain and suffering as well. He is 48 years old.

The City's liability limit is \$200,000 per the application of Florida's limited waiver of sovereign immunity contained in Section 768.28, Florida Statutes. The City Attorney's Office and Risk Management Department conducted a thorough evaluation and investigation of this matter.

Through negotiations with the City Attorney's Office, Mr. Demaio has agreed to accept \$100,000 in full settlement of the claim. Should the matter proceed to trial, a jury would likely be able to consider the cost of Mr. Demaio's past and future medical expenses, along with his claims of past and future pain and suffering. It is the recommendation of the City Attorney's Office and the Risk Management Department that the City settle the claim for \$100,000, and avoid the risk of greater liability at trial.

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

Recommendation: The City Commission authorize the City Attorney to enter into a settlement agreement to resolve the claim of Joseph Demaio, arising from an incident that occurred on or about February 14, 2023 when the van that Demaio was driving was rear-ended by a City bus.