


MEMORANDUM

Date: November 9, 2023

To: Honorable Mayor and City Commissioners

Via: Albert P. Childress
City Manager 

From: Ronald Ramsingh
City Attorney

Subject: **Settlement Approval of Ruth v. City of Key West / 22-CA-000489-K (Koenig)**

Introduction

The purpose of this memorandum is to summarize the facts, liability, damages, and settlement request in the above-styled claim so that the Mayor and City Commission can make an informed decision concerning approval or disapproval of the current settlement request.

Background

The City was previously sued for damages by Kathleen Ruth and her husband, James Ruth, as a result of a City-owned police vehicle striking Kathleen Ruth as she crossed the street. On the date of the incident, December 9, 2021, Ruth was walking westbound on Southard Street, on the north side of the sidewalk. As she crossed Thomas Street heading in the direction of the Truman Annex where she was staying, a patrol officer of the Key West Police Department was operating his patrol vehicle, facing eastbound on Southard Street. The officer proceeded through the intersection of Southard Street and Thomas Street, made a left turn onto Thomas Street and struck Ruth as she was walking across the road. Although the intersection did not have a designated crosswalk for pedestrians, Ruth was walking nearly straight across the intersection where a crosswalk would have been located.

The City will be found liable for Officer Agleev striking Ruth with his police vehicle. A driver of a motor vehicle must give way to pedestrians lawfully crossing the street (Fla. Stat. 316.130(7)(a)-(c)), and based on the facts presented here, Ruth was crossing the street in a lawful manner. There

has been no evidence presented that explains why the City's police officer failed to see Ruth as she was walking across the road.

As a result of the incident, Ruth sustained a left knee fracture and left wrist fracture. Ruth underwent surgery to repair her wrist fracture, which required hardware in her wrist so that it healed properly. Subsequently, Ruth had to undergo a second wrist surgery due to complications from the first surgery. The full extent of Ruth's injuries were discussed with the City Commission in detail during the City's closed-door session on October 12, 2023. Ruth incurred \$149,941.13 in medical charges related to this incident. Ruth's health insurance carrier has asserted a lien totaling \$99,485.75. James Ruth was solely responsible for his wife's post-surgical care based on the body parts that were injured, and he had to assist her in all forms of personal care and hygiene in the months following the incident. His claim is for loss-of-consortium of his wife during the time of the incident and subsequent recovery.

Settlement agreement pending approval

Counsel for the City was able to reach a conditional settlement agreement with the Ruths totaling **\$203,566.67**. The sum is apportioned as follows: \$200,000.00 to Kathleen Ruth for her claims and \$3,566.67 to James Ruth for his consortium claim. The City's total exposure for this claim is \$300,000.00 based on the per-occurrence sovereign immunity limits. The City is only required to pay the first \$100,000.00 of the global settlement, with the remaining funds coming from the City's insurance carrier.

Recommendation

Counsel for the City recommends this settlement resolution and amount as the liability and damages for this claim are valued in excess of the amount of the sovereign immunity cap, and a jury verdict would likely exceed the negotiated settlement amount herein.