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Memorandum

TO: Mayor & Commissioners
FROM: Shawn D. Smith, City Attorney 
RE: Berthiaume v. David T. Smith, Individually and City of Key West
DATE: October 30, 2018

Mayor and Commissioners,

Attached please find correspondence from the City's outside counsel, Michael T. Burke, Esquire, that outlines the City's litigation in this matter and provides details of the circumstances leading us to settlement in the amount of \$100,000 after this case was tried before a jury on May 6, 2016. Although, I've long opposed settling this case because neither the department or officer did anything wrong in my opinion, I concur with Mike's conclusion to settle the matter. The City prevailed at the first trial but an appellate court overturned the decision based upon the trial Judge's denial to allow a question in the jury selection process. This is purely a financial decision driven by our insurer and the entire sum will be paid by the City's excess insurance policy.

This item will appear on your November 7th agenda. I encourage you to contact me with any questions, comments or concerns.