



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Richard Doyle
City Attorney

**SUBJECT: SETTLEMENT OF HERNANDEZ
v. CITY OF SAN JOSE, A
LAWSUIT FOR PERSONAL
INJURIES**

DATE: December 13, 2019

RECOMMENDATION

Approve a settlement in the case of *Hernandez v. City of San Jose* in the amount of \$225,000 and authorize the City Attorney to execute a Settlement Agreement.

OUTCOME

Settle the lawsuit brought by Plaintiff Hernandez with a payment by the City of \$225,000, each side to bear their own costs, including attorney fees.

BACKGROUND

This lawsuit arises from a sexual encounter on September 22, 2013 between the Plaintiff and an on-duty San Jose Police officer after the officer responded to Plaintiff's apartment on a domestic violence call. Plaintiff wished to leave the apartment and the officer provided a courtesy transport, taking Plaintiff to a nearby hotel. Plaintiff's complaint alleges that after she received a room assignment and went to her room, the officer came to her room and forcibly raped her. Plaintiff's complaint alleges three causes of action for (1) sexual assault and battery; (2) violation of civil rights under various sections of the California Civil Code; and (3) negligence and breach of mandatory duty. Defendants denied Plaintiff's claims.

ANALYSIS

Under the proposed settlement, Plaintiff will receive \$225,000, inclusive of her litigation expenses, costs and attorney's fee. This is a negotiated settlement, which does not admit liability, to avoid the risks inherent in litigation.

PUBLIC OUTREACH/INTEREST

This memorandum and the Settlement Agreement have been posted on the City's website for the December 17, 2019 agenda.

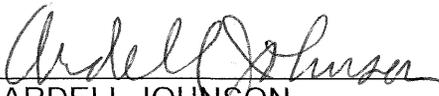
COST SUMMARY/IMPLICATIONS

The settlement will be paid from the City's claims reserve fund.

CEQA

Not Applicable. Not a Project; File No. PP10-066(h), Settlement Agreements.

RICHARD DOYLE
City Attorney

By: 
ARDELL JOHNSON
Chief Deputy City Attorney

cc: David Sykes, City Manager

For questions, please contact RICHARD DOYLE, City Attorney, at (408) 535-1900.