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May 24, 2021

To the Honorable Common Council
of the City of Milwaukee, City Hall
200 E. Wells Street, Room #205
Milwaukee, WI 53202

Re: *D.C.F. v. Rajaphoumi, et al.*,
Case No. 19-CV-8846

Dear Honorable Council Members:

Enclosed please find a proposed resolution. We ask that it be introduced and referred to the Committee on Judiciary & Legislation, with the following recommendation.

The plaintiff alleges that she, a minor at the time of the events, was targeted by Rajaphoumi, then a Milwaukee Police Officer, for sexual predation. She alleges that he contacted her numerous times and had made sexual propositions to her and a friend, as well as having physical contact with her on one occasion. Based on his actions, Rajaphoumi was convicted on two counts of Causing Mental Harm to Child, a Class F felony.

Rajaphoumi initially met the plaintiff while working as a Milwaukee police officer; however, some of the subsequent contacts were on duty, some were not. Regardless, Rajaphoumi asserted though that he had an employment-related interest in all of his actions towards the plaintiff. The City filed a motion for summary judgment, arguing that the claims should be dismissed for the Rajaphoumi's actions having been outside the scope of employment; however, the court denied that motion, holding that the scope of employment issue was a factual matter for the jury because the employee's intent is a factor in the determination.

Subsequent to mediation, the plaintiff's attorney tendered an offer of settlement in this matter for the amount of \$250,000.00, inclusive of all costs and attorney's fees, which would settle all claims against the City and Rajaphoumi.

Because of the unpredictability of a trial, and the City's risk for exposure to compensatory and punitive damages, as well as additional attorney fees and costs, we recommend that



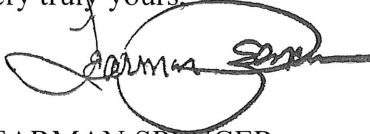
Common Council Members, D.C.F. v. Rajaphoumi, et al.

May 24, 2021

Page 2

this matter be settled for that amount. Consistent with our recommendation, we request authorization to execute a settlement agreement on behalf of the City and its officer, and have enclosed an appropriate resolution for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Tearman Spencer", written over a circular stamp or mark.

TEARMAN SPENCER
City Attorney

A handwritten signature in black ink, appearing to read "Robin Pederson".

Robin A. Pederson
Deputy City Attorney

Enclosure

RAP:kdb

1032-2020-9:274826

..Number

..Version

ORIGINAL

..Reference

..Sponsor

THE CHAIR

..Title

Resolution authorizing settlement of claims in the lawsuit entitled *D.C.F. v Sonthana Rajaphoumi and City of Milwaukee*, Circuit Court Case Number 19-cv-008846.

..Analysis

This resolution authorizes a settlement payment in the lawsuit *D.C.F. v Sonthana Rajaphoumi and City of Milwaukee*, Circuit Court Case Number 19-cv-008846 in the amount of \$250,000.00.

..Body

Whereas, the plaintiff,

Whereas, the plaintiff, has agreed to settle his claims against the City of Milwaukee and its officers through a settlement agreement providing for payment of the total amount of \$250,000.00; and

Whereas, the City Attorney recommends and the Common Council of the City of Milwaukee and its deems it expeditious and just to pay a settlement of the claims against it and its officers in this lawsuit; now, therefore, be it

Resolved, by the Common Council of the City of Milwaukee that the proper City officials be and are hereby authorized and directed to issue a City check in the amount of \$250,000.00 payable to the order of Martin Law Office, S.C. Trust Account, in full and final settlement of all monetary damages sought in this lawsuit, including reasonable attorney's fees and costs, on receipt of a Release of Claims, approved as to form and execution by the City Attorney, said amount to be charged to the Damages and Claims Fund, Account No. 636505, Fund No. 0001, Organization No. 1490, Program No. 2632, Sub Class N. S118; and be it

Further Resolved, That the funding of the settlement amount will be authorized by a resolution contemporaneously approved by the Common Council, and that the proper City officers are authorized to make the necessary transfers to the appropriate accounts or funds to disburse the settlement amount.

..Requestor

City Attorney

..Drafter

RAP:kdb

May 24, 2021

1032-2020-9:274827



City of Milwaukee Fiscal Impact Statement

A	Date <u>5/24/2021</u>	File Number <u>1032-2020-9</u>	<input checked="" type="checkbox"/> Original	<input type="checkbox"/> Substitute
	Subject <u>Settlement Payment of Claim in Lawsuit in the case of D.C.F. v. Rajaphoumi, et al.,</u>			

B	Submitted By (Name/Title/Dept./Ext.) <u>Robin A. Pederson, Deputy City Attorney, City Attorney's Office, ext 2601</u>
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C	This File	<input type="checkbox"/> Increases or decreases previously authorized expenditures.
		<input type="checkbox"/> Suspends expenditure authority.
		<input type="checkbox"/> Increases or decreases city services.
		<input type="checkbox"/> Authorizes a department to administer a program affecting the city's fiscal liability.
		<input type="checkbox"/> Increases or decreases revenue.
		<input type="checkbox"/> Requests an amendment to the salary or positions ordinance.
		<input type="checkbox"/> Authorizes borrowing and related debt service.
		<input type="checkbox"/> Authorizes contingent borrowing (authority only).
		<input checked="" type="checkbox"/> Authorizes the expenditure of funds not authorized in adopted City Budget.

D	Charge To	<input type="checkbox"/> Department Account	<input type="checkbox"/> Contingent Fund
		<input type="checkbox"/> Capital Projects Fund	<input type="checkbox"/> Special Purpose Accounts
		<input type="checkbox"/> Debt Service	<input type="checkbox"/> Grant & Aid Accounts
		<input checked="" type="checkbox"/> Other (Specify) <u>(DA) 636505-0001-1490-2632-S118</u>	

	Purpose	Specify Type/Use	Expenditure	Revenue	
E	Salaries/Wages		\$0.00	\$0.00	
			\$0.00	\$0.00	
	Supplies/Materials		\$0.00	\$0.00	
			\$0.00	\$0.00	
	Equipment		\$0.00	\$0.00	
			\$0.00	\$0.00	
	Services		\$0.00	\$0.00	
			\$0.00	\$0.00	
	Other	Case Settlement	\$250,000.00	\$0.00	
			\$0.00	\$0.00	
		TOTALS		\$250,000.00	\$ 0.00

F Assumptions used in arriving at fiscal estimate. _____

G For expenditures and revenues which will occur on an annual basis over several years check the appropriate box below and then list each item and dollar amount separately.

<input type="checkbox"/> 1-3 Years	<input type="checkbox"/> 3-5 Years	_____
<input type="checkbox"/> 1-3 Years	<input type="checkbox"/> 3-5 Years	_____
<input type="checkbox"/> 1-3 Years	<input type="checkbox"/> 3-5 Years	_____

H List any costs not included in Sections D and E above. _____

I Additional information. _____

J This Note Was requested by committee chair.