

# CITY OF MILWAUKEE

Form CA-43

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October 1, 2003

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

Re: CCFN 030760 (Resolution authorizing settlement and cancellation of the City of Milwaukee's subrogation claim against Debra Bett for payments made pursuant to the City's Basic Health Plan.)

Dear Council Members:

Enclosed please find a resolution authorizing the cancellation of a subrogation claim against Debra Bett.

Ms. Bett filed a personal injury lawsuit against Judith A. Sdoukos and her insurer, Allstate Insurance Company, for injuries suffered in an automobile collision. The City has a subrogation claim in this litigation with respect to medical payments on Ms. Bett's behalf under the City's Basic Health Plan, administered by Wisconsin Physicians Service Insurance Corporation (WPS).


The City has paid a total of \$4,839.82 in medical expenses under the Basic Health Plan in connection with Ms. Bett's medical treatment as a result of the accident. The extent of her injuries and their permanent nature are described in the enclosed correspondence from her counsel.

Under the doctrine set forth in *Rimes v. State Farm Mutual Automobile Insurance Company*, 106 Wis.2d 263, 316 N.W.2d 348 (1982), a health insurer can recover for payments made on behalf on an injured insured only if the insured has first been made whole (that is, completely compensated) for all damages involved in his or her claim. Given the scope of the damages asserted, the nature of the injuries involved, and the fact that Allstate Insurance has already tendered its full policy limits, it is questionable whether a court would find that Ms. Bett had been made whole by the settlement and that the City was entitled to any recovery. Under these circumstances, we recommend adoption of this resolution.

Very truly yours,



GRANT F. LANGLEY  
City Attorney



ELLEN H. TANGEN  
Assistant City Attorney

Enclosures

cc: Michael Tobin (w/encl)  
Mark Colbert, WPS (w/encl)

EHT: eht  
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