

January 28, 2021

The City Council
Niagara Falls, New York

RE: Request for approval to settle and pay property damage litigation of Randall C. Boersig v. City of Niagara Falls and the Niagara Falls Urban Renewal Agency.

Date of Occurrence: February 21, 2017.
Date Claim Filed: May 22, 2017.
Date Action Commenced: February 15, 2018.
Location: Former Niagara Science Museum at 3625 Highland Ave., and DPW Yard on New Road.
Nature of Claim: Negligent bailment claim against the City and NFURA arising out of DPW Clean Team's alleged failure to properly secure plaintiff's museum exhibits during and after the cleaning out of the former Niagara Science Museum at 3625 Highland Avenue
City Driver: N/A.
Status of Action: Pending lawsuit in Niagara County Supreme Court, where proposed settlement was reached during pre-trial conferences. Discovery will resume and the case will proceed to trial if not settled.
Recommendation/Reason: Best interest of City. The proposed settlement avoids further discovery expenses and the cost and uncertainty of a trial, including the risk that a verdict may exceed the proposed settlement, and the General Release protects both the City and NFURA.
Amount to be Paid: \$1,000.00
Check Writing Details: Make payable to "Smith & Messina, LLP, as attorneys for Randall C. Boersig." and note "Index No. E163960/2018".
Conditions: None. Appropriate Stipulation of Discontinuance and fully executed General Release have been provided.

It is the recommendation of this Department that the above settlement be paid under the terms set forth above. Will the Council so approve?

Respectfully submitted,

CHRISTOPHER M. MAZUR
Corporation Counsel

Kennedy _____ Spanbauer _____ Touma _____ Voccio _____ Tompkins

