

RESOLUTION NO. 2015-R-36

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO EXECUTE A SETTLEMENT AGREEMENT IN THE LITIGATION MATTER OF MARICELLY LOPEZ AS PERSONAL REPRESENTATIVE OF THE ESTATE OF OMAR MIELES (DECEASED) AND IN HER INDIVIDUAL CAPACITY AS THE MOTHER OF OMAR MIELES V. CITY OF NORTH MIAMI, CASE NO 08-35955 CA 09, SENATE BILL 78 AND HOUSE BILL 3557 (2014-2015), UPON THE FINALIZATION OF THE CLAIMS BILL PROCESS AND THE EXECUTION OF A GENERAL RELEASE, DISCHARGING THE CITY OF NORTH MIAMI, ITS OFFICERS, AGENTS AND SERVANTS AGAINST ANY AND ALL CLAIMS AND DEMANDS IN CONNECTION WITH THIS ACTION; PROVIDING FOR AN EFFECTIVE DATE AND ALL OTHER PURPOSES.**

**WHEREAS**, this action arises out of a car accident in 2007, where Mr. Omar Mieles, who was not wearing a seat belt, while a passenger in a vehicle was struck and killed by a police vehicle driven by former Police Officer James Thompson; and

**WHEREAS**, the black box indicated that Officer Thompson's police car was traveling at approximately sixty (60) miles per hour and that the driver of Mr. Mieles' vehicle ran through a blinking red light; and

**WHEREAS**, because of the apportioned contributory negligence, after a trial, the jury found both the City of North Miami ("City") and the driver equally responsible for the accident and apportioned fifty (50) percent liability on each; and

**WHEREAS**, the jury awarded a total of Three Million Five Hundred Forty-Two Thousand Dollars (\$3,542,000.00) in damages for the loss of the life of Omar Mieles; and

**WHEREAS**, because of the sovereign immunity cap, the City paid the estate of Mr. Mieles the mother of the deceased, Maricelly Lopez ("Plaintiff"), One Hundred Eight Thousand Five Hundred Seventy-One Dollars and 30/100 Cents (\$108,571.30), leaving a balance of approximately One Million Six Hundred Sixty-Two Thousand Four Hundred Twenty-Eight Dollars and 70/100 Cents (\$1,662,428.70); and

**WHEREAS**, since 2011, the Plaintiff has sought a claims bill in the Florida legislature for the balance of the jury award for approximately \$1.6 million dollars; and

**WHEREAS**, if this matter is not amicably resolved between the parties, the state legislature can award an amount to the Plaintiff for the \$1.6 million dollars sought by the Plaintiff; and

**WHEREAS**, in order to avoid the uncertainty of the legislative claims bill process and put a finality to this tragedy, the Mayor and City Council believe that it is in the best economic interest of the City to authorize the settlement of the claim with the Plaintiff for Two Hundred Thousand Dollars (\$200,000.00).

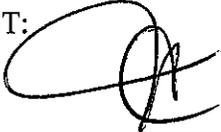
**NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:**

**Section 1. Authorization.** The Mayor and City Council of the City of North Miami, Florida, hereby authorize the City Manager and City Attorney to execute a settlement agreement to settle the claim of MARICELLY LOPEZ AS PERSONAL REPRESENTATIVE OF THE ESTATE OF OMAR MIELES (DECEASED) AND IN HER INDIVIDUAL CAPACITY AS THE MOTHER OF OMAR MIELES V. CITY OF NORTH MIAMI , CASE NO 08-35955 CA 09, SENATE BILL 78 AND HOUSE BILL 3557 (2014-2015), upon the finalization of the claims bill process and the execution of a general release, discharging the City of North Miami, its officers, agents and servants against any and all claims and demands in connection with this action.

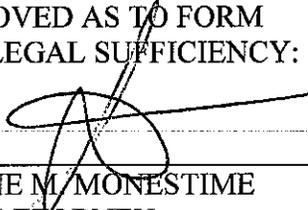
**Section 2. Effective Date.** This Resolution shall become effective immediately upon adoption.

**PASSED AND ADOPTED** by a 5 - 0 vote of the Mayor and City Council of the City of North Miami, Florida, this 24<sup>th</sup> day of March, 2015.

  
~~DR. SMITH JOSEPH~~  
~~MAYOR~~  
Vice Mayor  
CAROL F. KEYS  
Vice Mayor

ATTEST:  
  
\_\_\_\_\_  
MICHAEL A. ETIENNE, ESQ.  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:



REGINE M. MONESTIME  
CITY ATTORNEY

SPONSORED BY: CITY ATTORNEY

Moved by: Joseph

Seconded by: Steril

**Vote:**

Mayor Smith Joseph, D.O., Pharm.D.  
Vice Mayor Carol Keys, Esq.  
Councilman Scott Galvin  
Councilman Philippe Bien-Aime  
Councilwoman Marie Erlande Steril, MSW

<u>X</u>	(Yes)	<u>        </u>	(No)
<u>X</u>	(Yes)	<u>        </u>	(No)
<u>X</u>	(Yes)	<u>        </u>	(No)
<u>X</u>	(Yes)	<u>        </u>	(No)
<u>X</u>	(Yes)	<u>        </u>	(No)