



OFFICE OF THE  
**CITY ATTORNEY**  
THE CITY OF DAYTONA BEACH

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**MEMORANDUM**

To: City Commission  
From: Robert Jagger, City Attorney *RJ*  
Re: Settlement of Claim: Delbert Rush  
Date: 10/23/18

On May 29, 2015, the claimant, Delbert Rush, was travelling on a motorcycle westbound on International Speedway Boulevard approaching Lincoln Street. Mr. Rush had a green light. As he approached the intersection, a police vehicle was travelling southbound on Lincoln Street, and entered the intersection against a red light. According to two independent witness, the police officer had not engaged his emergency lights until just before entering the intersection. This was substantiated by a traffic camera at the intersection. Further, neither witness heard a police siren. When Mr. Rush saw the police vehicle entering the intersection, he swerved to avoid a collision with the police vehicle, and in the process, he and his motorcycle went down.

As a result, Mr. Rush suffered an acromioclavicular joint separation in his right shoulder. Mr. Rush underwent physical therapy for his shoulder, but has continued pain, and in the future he may require more extensive treatment including injections and surgery according to his doctors. To date, Mr. Rush has incurred medical bills in the amount of \$21,300.28.

Mr. Rush is represented by Michael Politis, Esq. The claimant has agreed to settlement in the amount of \$30,000.00 for all claims, costs, and attorney's fees. The Incident Review Committee recommends City Commission approval for settlement of Mr. Rush's claim in the amount of \$30,000. If this case is not settled, a jury verdict could result in an award substantially in excess of the settlement amount; accordingly, I concur with the recommendation of the Incident Review Committee.

This memorandum is prepared for purposes of client consultation and does not constitute an admission against interest.

cc: James V. Chisolm, City Manager  
Letitia LaMagna, City Clerk