

**RESOLUTION NO. RS2018-1141** (VERCHER) – This resolution would authorize the Department of Law to settle the personal injury claims of Tamyra Nash and Timothy Nash against the Metropolitan Government in the amount of \$50,000.

On November 23, 2014, Ms. Nash and her two adult daughters were walking to the Bridgestone Arena to attend an event. While traversing the crosswalk on Fifth Avenue at the intersection with Broadway, Ms. Nash's foot was caught in a pothole and she fell, injuring her left arm and shoulder. Metro Public Works had temporarily patched the pothole on three prior occasions in August and September 2014. In 2015, after Ms. Nash's fall, Public Works excavated and repaved this area.

Ms. Nash sought treatment for a fracture of her upper arm bone, which ultimately required surgical repair. Ms. Nash and Dr. Timothy Nash have agreed to accept a total of \$50,000 in full settlement of this case, based upon \$21,832.01 for reimbursement of her medical expenses plus \$28,167.99 for pain and suffering and Dr. Nash's loss of consortium.

It is possible that, if this case were to go to trial, the trial court could find that Metro had notice of the crosswalk condition due to the recurring nature of the problem. Under Tenn. Code Ann. § 29-20-203, Metro's governmental immunity could be removed, and Metro could be found liable for Ms. Nash's injuries.

The Department of Law recommends settlement of this claim for \$50,000.

*Fiscal Note: This settlement would reduce the balance of the Self-Insured Liability Fund by \$50,000.*