

CITY COUNCIL REPORT



Meeting Date: June 4, 2024
 General Plan Element: *Provide for the orderly administration of the affairs of the City*
 General Plan Goal: *Fiscal management*

ACTION

Adopt Resolution No. 13152 authorizing the appeal of any judgment, ruling, or other action taken in *Shawn Fuller v. City of Scottsdale, et al.*, and of any adverse decision to a higher court.

BACKGROUND

Plaintiff Shawn Fuller filed a lawsuit against the City of Scottsdale and City Attorney Sherry Scott ("City Defendants") on May 11, 2020, alleging wrongful termination pursuant to A.R.S. § 23-1501 and defamation for statements and opinions made by an outside independent contractor who investigated complaints the Prosecution staff made about Mr. Fuller's conduct as a manager, among other claims. It should be noted that the written investigative report, which Mr. Fuller requested be reduced to writing, was only released pursuant to a public records request in accordance with the City's standard practices and policies. The Superior Court of the State of Arizona County of Maricopa made rulings, decisions, and took other action which the City Defendants believe to be erroneous. Commencing on April 16, 2024, a jury trial was held. On May 14, 2024, the jury returned a verdict adverse to the City Defendants and awarded damages to Mr. Fuller. It is recommended that the City appeal the Court's adverse rulings, judgment, and other actions taken in the case to a higher court.

ANALYSIS & ASSESSMENT

Recent Staff Action

The City has been represented by outside counsel, Wieneke Law Group, PLC pursuant to City Contract No. 2020-031-COS. Staff from the City Attorney's Office have provided assistance to outside counsel as needed. Separate appellate counsel will be engaged to perfect this recommended appeal(s), with the ongoing assistance from the staff of the City Attorney's Office.

Policy Implications

None.

Action Taken APPROVED ON CONSENT; 6-1 WITH COUNCILWOMAN LITTLEFIELD DISSENTING

Significant Issues to be Addressed

There are several important legal issues to be addressed, including but not limited to evidentiary rulings, pretrial and trial rulings, whether Defendants should have been granted judgment as a matter of law, and whether Defendants should be granted a new trial. If the City does not appeal, these important legal issues will not be addressed, and the court's rulings and jury verdict will stand.

Community Involvement

No community involvement is necessary on this item.

RESOURCE IMPACTS

Available funding

Funds are available in the City's Safety and Risk Management Operating Budget.

Staffing, Workload Impact

Approval of the Resolution will result in the City's continuation with the litigation and appeals.

Future Budget Implications

The City may prevail in reversing or vacating the judgment and recover the City's costs on appeal. The City may also be responsible for interest accruing on some or all of the judgment as the appeal remains pending.

OPTIONS & STAFF RECOMMENDATION

Recommended Approach

The City Attorney's Office recommends that the Council adopt Resolution No. 13152 authorizing the City Attorney to appeal any judgment, ruling, or other action taken in *Shawn Fuller v. City of Scottsdale, et al.*, Case No. CV2020-052874 to a higher court.

Proposed Next Steps

If the appeal is approved, outside appellate counsel for the City will file its Notice of Appeal and will begin the process of preparing briefing.


RESPONSIBLE DEPARTMENT(S)

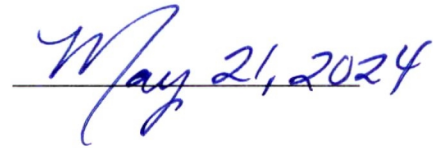
City Attorney's Office – Civil Division
Safety and Risk Management

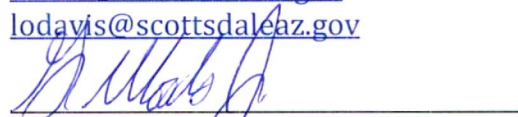
STAFF CONTACTS (S)

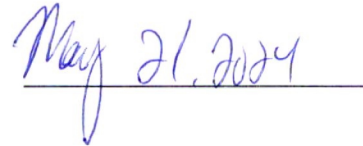
Lori S. Davis, Deputy City Attorney, lodavis@scottsdaleaz.gov

APPROVED BY


Lori S. Davis, Deputy City Attorney
City Attorney's Office
(480) 312-2405
sscott@scottsdaleaz.gov
lodavis@scottsdaleaz.gov




George Woods, Director
Safety and Risk Management
(480) 312-7040
gwoods@scottsdaleaz.gov



ATTACHMENTS

1. Resolution No. 13152

RESOLUTION NO. 13152

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE APPEAL OF ANY JUDGMENT, RULING, OR OTHER ACTION TAKEN IN SHAWN FULLER V. CITY OF SCOTTSDALE, ET AL., AND OF ANY ADVERSE DECISION TO A HIGHER COURT.

WHEREAS, on May 11, 2020, Plaintiff Shawn Fuller filed a lawsuit against the City of Scottsdale and City Attorney Sherry Scott ("City Defendants") alleging wrongful termination pursuant to A.R.S. § 23-1501 and defamation for statements and opinions made by an outside independent contractor who investigated complaints the Prosecution staff made about Mr. Fuller's conduct as a manager, among other claims;

WHEREAS, the Superior Court of the State of Arizona County of Maricopa made rulings, decisions, and other took other action which the City and City Attorney Scott believe to be erroneous;

WHEREAS, on May 14, 2024, a jury returned a verdict adverse to the City Defendants; and

WHEREAS, it is in the best interest of the City for the City Defendants to appeal the Court's rulings, judgment, and other actions taken in the case to a higher court.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. That the City Council hereby authorizes the Office of the City Attorney to perfect the appeal of any ruling, judgment, or other action taken in *Shawn Fuller v. City of Scottsdale, et al.*, and of any adverse decision to a higher court.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona this 4th day of June, 2024.

CITY OF SCOTTSDALE, an Arizona
municipal corporation

ATTEST:

David D. Ortega, Mayor

Ben Lane, City Clerk

APPROVED AS TO FORM:



Lori S. Davis, Deputy City Attorney