



a series of racially inflammatory social media posts on his Facebook account. The Facebook account identified him by his real name and stated that he is a fire captain.

On July 22, 2020, a local television station aired a report about Mr. Turner's Facebook posts. The report quoted a state legislator and a Metro Council member who expressed dismay at how Mr. Turner's posts reflected on NFD. Within hours, NFD began receiving angry messages from Council members, residents of Nashville, and individuals from around the country in response to Mr. Turner's posts. There were also angry comments from Nashville residents on Facebook.

Director Chief Swann anticipated that Mr. Turner's racially inflammatory posts would damage NFD's mission and disrupt its operations and charged Mr. Turner with violating several NFD policies, including the NFD Social Media Policy. After a hearing, Mr. Turner was demoted to firefighter for six months.

Mr. Turner filed a lawsuit in federal court against the Metropolitan Government in January 2021 alleging First Amendment retaliation arising out of this disciplinary action. Based on legal authority, Metro Legal argued that Metro did not violate Mr. Turner's First Amendment rights. In addition, Metro's motion for summary judgment included affidavits attesting to the disruptive impact Mr. Turner's social media posts had on NFD and its ability to serve the residents of Nashville.

The trial court denied Metro's motion for summary judgment and based upon that denial, the indication is that Metro will not prevail at trial. While Metro could ultimately prevail on an appeal, this is unpredictable and would increase the costs to Metro. Under 42 U.S.C. § 1988, if Mr. Turner were to prevail, he would be entitled to recover attorney's fees which could amount to several hundreds of thousands of dollars through a trial and appeal.

The Metropolitan Department of Law recommends and presents the opportunity to settle Mr. Turner's First Amendment claims for \$105,000 as a business decision and not an indication of support of the underlying action. Of the total settlement amount, \$97,000 would be paid from the Judgments and Losses fund and \$8,000 in back pay would be paid from the NFD's operating budget. Resolving this case through the settlement offered now will prevent litigation costs from rising and avoid a more costly outcome if Metro does not prevail.

*Fiscal Note: This settlement would be paid from the Judgment and Losses Fund in the amount of \$97,000 and \$8,000 from the Nashville Fire Department operating budget. This settlement, along with the settlement per Resolution No. RS2024-287, would be the 4<sup>th</sup> and 5<sup>th</sup> payment from the Judgment and Losses Fund in FY24 for a cumulative total of \$534,656. The fund balance would be \$17,549,493 after this payment.*