



# City of Norman, OK

Municipal Building  
Council Chambers  
201 West Gray  
Norman, OK 73069

## Master

**File Number: GID-1415-70**

**File ID:** GID-1415-70

**Type:** Court Order

**Status:** Consent Item

**Version:** 2

**Reference:** Item 26

**In Control:** City Council

**Department:** Legal Department

**Cost:** \$36,418.25

**File Created:** 04/22/2015

**File Name:** Court Order-Kyle Wansick v. City of Norman

**Final Action:**

**Title:** CONSIDERATION OF THE CITY ATTORNEY'S RECOMMENDATION FOR APPROVAL OF A COURT ORDER IN THE AMOUNT OF \$36,418.25 REGARDING BRANDON KYLE WANSICK VS. THE CITY OF NORMAN, WORKERS' COMPENSATION COURT CASE NO. WCC 2013-11070 A.

**Notes:** ACTION NEEDED: Motion to approve or reject the City Attorney's recommendation; and if approved, authorize compliance with the Workers' Compensation Order and direct payment of claims in the amount of \$36,418.25, which will constitute judgment against the City of Norman.

ACTION TAKEN: \_\_\_\_\_

**Agenda Date:** 04/28/2015

**Agenda Number:** 26

**Attachments:** Wansick, Brandon - Ct. Order 4-20-15, Wansick Reqs 4-22-15

**Project Manager:** Jeanne Snider, Assistant City Attorney

**Entered by:** deedra.vice@normanok.gov

**Effective Date:**

### History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
---------------	--------------	-------	---------	----------	-----------	-----------------	---------

### Text of Legislative File GID-1415-70

Body

**BACKGROUND:** Brandon Kyle Wansick is a motor patrol officer who filed Workers' Compensation Case No. 2013-11070 A on October 14, 2013 alleging a work related single incident injury to the back (mid and lower), legs and left knee on July 19, 2013. Mr. Wansick had arthroscopic surgery on the left knee on October 3, 2013 and was released without restrictions to return to work November 20, 2013. For the thoracolumbar strain, Mr. Wansick was released to return to work July 9, 2014 without restrictions. The case proceeded through the normal litigation process. A trial was held on April 7, 2015. On April 8, 2015, the Court awarded 4% permanent partial impairment benefits to the middle back and 7% permanent partial disability to the low back, and 21% permanent partial disability to the left leg for the total sum of \$36,418.25.

**DISCUSSION:** Mr. Wansick is a six year employee of the City of Norman who was hired on January 23, 2009 as a patrol officer for the Police Department and on July 23, 2013 reclassified as master police officer.

**Issues for Trial.** The issues to be tried April 7, 2015, before the Workers' Compensation Court were whether Mr. Wansick suffered a disability that is permanent in nature, and if so, to what extent is the disability (nature

and extent) due to the October 14, 2013 job related accident. Permanent partial disability is a factual determination made by the Workers' Compensation Court Trial Judge based on doctors' opinions regarding the extent of permanent partial impairment.

Evaluations. Mr. Wansick was evaluated on March 5, 2015 by Dr. Litchfield. Dr. Litchfield opined 12.5% (\$20,187.50) impairment to the thoracic spine, 46% (\$74,299) impairment to the lumbar spine, and 38% (\$33,753.50) impairment to the left leg. The City's maximum exposure would be \$128,231.

The City had Mr. Wansick evaluated by Dr. Young on May 2, 2015, who opined 10% (\$16,150) to the left leg and no impairment to the thoracic or lumbar spine. The Workers' Compensation Court Trial Judge is free to make a ruling within the range of medical evidence presented at the time of trial.

Court Award: The case was heard by the Workers' Compensation Court on April 7, 2015. After hearing the Claimant's testimony and considering the expert medical evidence, the Court entered its Order on April 20, 2015, awarding 4% (\$6,460) permanent partial impairment to the middle back and 7% (\$11,305) permanent partial disability to the low back, and 21% (\$18,653.25) permanent partial disability to the left leg over and above any pre-existing permanent partial disability. Thirty-two percent to the body as a whole and leg represents less than one-third the difference in the medical opinions.

The Court's findings are set out in Paragraph Nos. 4 and 6 of the Order, as follows:

-4- "THAT as a result of said injury, claimant sustained 4 percent permanent partial impairment to the MIDDLE BACK and 7 percent permanent partial disability to the LOW BACK, 21 percent permanent partial disability to the LEFT LEG over and above any pre-existing permanent partial disability, for which claimant is entitled to compensation for 112.75 weeks at \$323.00 per week, or the total amount of \$36,418.25 of which 87 weeks have accrued and shall be paid in a lump sum of \$28,101.00."

-6- "THAT respondent and/or insurance carrier shall pay claimant the accrued portion of the award herein in lump sum of \$28,101.00 and pay the balance of said award at the rate of \$323.00 per week until the total award of \$36,418.25 (less attorney fee) has been paid to claimant.

As can be noted in Paragraph No. 4 of the Court's Order, PPD compensation is expressed in terms of "weeks" of compensation with an accompanying "weekly wage rate." Workers' Compensation awards are normally paid at the weekly rates over a period of time. Mr. Wansick's weekly wage PPD rate is \$323. In this instance, the entire portion of the award has accrued and is to be paid in a lump sum.

If approved by Council, Mr. Wansick and his attorney will be paid the accrued lump sum of \$36,418.25.

Further, in complying with the Order, the City will incur additional costs and fees as set out in Paragraph Nos. 7 and 8: Special Occupational Health and Safety Fund Tax in the amount of \$273.14; Workers' Compensation Administration Fund in the amount of \$728.37; filing fee to the Workers' Compensation Court in the amount of \$140; and Cleveland County filing fee in the amount of \$125.70. The costs and fees total \$1,267.21.

The total cost of this Order is \$37,685.46.

**RECOMMENDATION:** The issues tried on April 7, 2015, were nature and extent of permanent partial impairment to the middle back, low back and left leg due to the July 19, 2013 injury and whether the disabilities are permanent. The Court Award in this case is within the medical evidence submitted. It is not anticipated a more favorable ruling for the City could be achieved by further litigation. It is recommended that the City move forward to comply with this Order. Acceptance of the Order would require the award to be paid in a lump sum. The Order would be certified to the Cleveland County District Court to be placed on the property tax rolls for collection over the next three years in accordance with 85 O.S. §313, 51 O.S. §159, and 62 O.S. §361, *et seq.* Certifying the Order to the property tax rolls would, in effect, reimburse the City's Workers' Compensation Fund over the next three years.