



# City of Norman, OK

Municipal Building  
Council Chambers  
201 West Gray  
Norman, OK 73069

## Master

**File Number: R-1516-70**

**File ID:** R-1516-70

**Type:** Resolution WCC

**Status:** Consent Item

**Version:** 2

**Reference:** Item 18

**In Control:** City Council

**Department:** Legal Department

**Cost:** \$4,500.00

**File Created:** 12/15/2015

**File Name:** Workers' Compensation Compromise Settlement -  
Shelby Condit

**Final Action:**

**Title:** RESOLUTION R-1516-70: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AUTHORIZING COMPROMISE SETTLEMENT OF THE CLAIM FILED BY SHELBY CONDIT UNDER THE PROVISIONS OF THE WORKERS' COMPENSATION STATUTES OF THE STATE OF OKLAHOMA IN THE CASE OF *SHELBY CONDIT V. THE CITY OF NORMAN*, WORKERS' COMPENSATION CASE NO. CM 2014-10691 R; DIRECTING THE LEGAL DEPARTMENT TO THEN FILE SUCH SETTLEMENT AND ALL ATTENDANT COSTS IN THE WORKERS' COMPENSATION COMMISSION, OKLAHOMA CITY, OKLAHOMA; AND AUTHORIZING AND DIRECTING THE FINANCE DIRECTOR TO SUBSEQUENTLY PURCHASE SUCH WORKERS' COMPENSATION COMMISSION JUDGMENT FROM THE RISK MANAGEMENT INSURANCE FUND.

**Notes:** ACTION NEEDED: Motion to adopt or reject Resolution R-1516-70; and, if adopted, direct payment of claims in the amount of \$4,500 which will constitute judgment against the City of Norman.

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

**Agenda Date:** 12/22/2015

**Agenda Number:** 18

**Attachments:** Resolution, Purchase Requisitions

**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:
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### Text of Legislative File R-1516-70

Body

**BACKGROUND:** Shelby Condit was a permanent part-time call taker in the Communications Center of the Norman Police Department. On November 18, 2014 she filed a workers compensation claim alleging on September 3, 2014 cumulative injury to both arms from over and over typing and then amended this claim on March 16, 2015 to include cumulative injury to the bilateral hands. The City denied this claim due to concurrent part-time employment with another part-time job utilizing the same job skills. The case proceeded through the normal litigation process. Prior to a Trial being scheduled to determine compensability, Ms. Condit has agreed to settle this claim in the amount of \$4,500. The settlement offer is being presented to City Council for

consideration. It is recommended that this settlement be accepted.

**DISCUSSION:** Ms. Condit was hired on May 31, 2013 as a part-time call taker. She resigned from employment with the City of Norman on July 5, 2015.

Ms. Condit was evaluated and diagnosed with suspect early carpal tunnel bilaterally on September 10, 2014 and sent for physical therapy. She was then released back to work on September 24, 2014 with restrictions to include limiting keyboarding to two hours daily. Ms. Condit was released back to regular duties on October 1, 2014; however, reportedly remained symptomatic. On December 5, 2014 she was diagnosed with median nerve neuritis. Ms. Condit has had no further treatment.

**Issues for Trial.** The issue to be tried before the Workers' Compensation Commission is compensability and how much, if any, permanent disability Mr. Condit suffered due to her cumulative injury to bilateral arms and hands. Permanent partial disability is a factual determination made by the Workers' Compensation Commission Trial Judge based on doctors' opinions and medical records regarding the extent of permanent partial impairment.

On September 17, 2015, Dr. Kent C. Hensley assessed Ms. Condit's onset of hand and arm symptomatology beginning prior to September 3, 2014 and her employment with the City of Norman as inadequate to cause a cumulative trauma injury. He noted that Ms. Condit had other employments, as well as a part-time activity of playing the guitar. Dr. Hensley further assessed that it first remains to be determined if she has any disease process of either hand. In summary, Dr. Hensley reported that Ms. Condit's employment with the City of Norman is not felt to represent the "sole cause" of her bilateral hand and arm symptomatology.

On January 8, 2015, Dr. M. Stephen Wilson opined that the major cause of the injury and need for treatment to her bilateral arms/elbows and bilateral hands/wrists is directly related to the work related duties that she was involved in while employed by the City of Norman. Dr. Wilson also opined that Ms. Condit is in need of further medical evaluation and treatment and should be referred to a board certified hand specialist for further evaluation, additional diagnostic testing to include an EMG nerve conduction study, and treatment as medically indicated to include a course of physical therapy and consideration for injections.

**Trial.** This case proceeded through the normal litigation process. However, Ms. Condit has agreed to a settlement of this case as outlined below. If a trial was held in this case, the Judge could determine compensability and award permanent partial disability within a range of the doctors' opinions.

**Proposed Settlement.** The proposed settlement to close this case on a "Compromise Settlement" basis is for a lump sum payment of \$4,500 with represents approximately 4% permanent partial disability to the hands and 0% permanent partial disability to the arms.

It is felt that this settlement closing of this case is fair and reasonable. A Compromise Settlement is beneficial to the City in that it is a full, final and complete settlement of any and all claims and closes out any continued medical treatment in these Workers' Compensation cases. This settlement is beneficial to Ms. Condit in that it provides certainty for an award. It is also beneficial to Ms. Condit because the entire settlement amount is being paid in a lump sum rather than at a weekly rate over a period of time.

Furthermore, if the case is settled in this manner, the City would incur additional costs and fees of: Workers' Compensation Administration Fund Tax in the amount of \$90; Special Occupational Health & Safety Tax in the amount of \$33.75; and Workers Comp Commission Filing fee in the amount of \$140.00. In addition, the City would incur an additional cost and fee for the Cleveland County Court Filing Fee in the amount of \$125.70.

These additional costs and fees total \$389.45, which brings the total cost of this settlement to the City to \$4,889.45.

**RECOMMENDATION:** For the reasons outlined above, it is believed this Compromise Settlement is fair, reasonable, and in the best interest of the City. Acceptance of the Compromise Settlement would require the payments as outlined above. If approved, the settlement amount would be paid to Ms. Condit and her attorney in a lump sum. The Compromise settlement 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.