



# City of Norman, OK

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

## Master

**File Number: GID-1314-33**

**File ID:** GID-1314-33

**Type:** Court Order

**Status:** Consent Item

**Version:** 1

**Reference:** Item No. 26

**In Control:** City Council

**Department:** Legal Department

**Cost:** \$9,145.98

**File Created:** 08/27/2013

**File Name:** WCC William Scott Kent

**Final Action:**

**Title:** CONSIDERATION OF THE CITY ATTORNEY'S RECOMMENDATION FOR ACCEPTANCE OF A COURT ORDER IN THE AMOUNT OF \$9,145.98 REGARDING WILLIAM SCOTT KENT VS. THE CITY OF NORMAN, WORKERS' COMPENSATION COURT CASE NO. WCC-2007-07273L.

**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 \$9,145.98 which will constitute judgment against the City of Norman.

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

**Agenda Date:** 09/10/2013

**Agenda Number:** 26

**Attachments:** Court Orders - Appeal, PR Kent Appeal

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

**Entered by:** denise.johnson@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 GID-1314-33

Body

**BACKGROUND:** William Scott Kent, a Heavy Equipment Operator for Sewer Line Maintenance in the Utilities Department, filed Workers' Compensation Case No. WCC 2007-07273 L on June 27, 2007. Mr. Kent alleged cumulative injury to his foot and ankle with psychological overlay as a result of operating heavy equipment while working for the City of Norman. The case has proceeded through the normal litigation process. A trial was held on December 2, 2010, and the Court awarded Mr. Kent a total of \$60,343.20. This award is currently being paid on a weekly basis through June 5, 2014.

On April 8, 2013, Mr. Kent filed to reopen his case based on a change of physical condition of the left foot. A trial was held on June 11, 2013. The City disputed that there was a change of condition in Mr. Kent's left foot. Therefore, the issue for trial was the extent of the change of condition.

**DISCUSSION:** On June 14, 2013, the Court awarded Mr. Kent an additional 7% permanent partial disability or \$4,450.60. Continuing medical maintenance awarded in Court Orders dated January 5, 2011 and July 5, 2011 remain unchanged. The Court Award dated June 14, 2013 was appealed to the Workers' Compensation Court En Banc Panel on June 25, 2013. The En Banc Panel heard oral arguments in the appeal on August 16, 2013.

and entered their decision on August 21, 2013, affirming in part and modifying in part the Trial Court's decision.

Court Award. The En Banc Panel found that Mr. Kent sustained a change in physical condition for the worse to the left foot of 14% PPD or \$8,901.20 over and above the 40% PPD previously awarded. The En Banc Panel modified the original order paragraphs 5, 8, 9 and 11. All other paragraphs in the original order remain unchanged.

The additional PPD awarded is set out in paragraph 5 as follows:

-5- THAT, as a result of said change of condition, claimant has sustained 14 percent permanent partial disability to the LEFT FOOT, over and above the 40 percent previously awarded, for which claimant is entitled to compensation for 30.8 weeks at \$289.00 per week or a total of \$8,901.20 of which 11 [sic] 21 weeks have accrued and shall be paid in lump sum of \$6,069.00.

As can be noted in Paragraph No. 5 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 rate over a period of time. Mr. Kent's weekly wage rate is \$289. However, as noted, only a portion of the award has accrued to be paid in a lump sum and the balance to be paid in weekly payments until paid in full.

In complying with the Order on Appeal, Claimant and his attorney will be paid the total award in a lump sum of \$8,901.20, as the entire amount will have accrued due to the additional weeks for processing with the Council and the Finance Department.

Also, as noted in Paragraph No. 9 of the Order on Appeal, the City will incur additional costs in the amount of \$66.76 to the Special Occupational Health and Safety Fund and \$178.02 to the Workers' Compensation Administration Fund. The \$130 filing fee for change of condition is paid by Mr. Kent. The total cost of this Order to the City would be \$9,145.98.

**RECOMMENDATION:** The issue tried on June 11, 2013 was a change of physical condition for the worse, and if a change of condition did occur, the extent of additional PPD to the left foot. The Court En Banc also sustained the Trial Court's finding that a change of physical condition for the worse did, in fact, occur. It is not anticipated a more favorable ruling for the City could be achieved by further litigation. Therefore, it is recommended that the City move forward to comply with this Order.

The Order on Appeal 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. § 301, 51 O.S. § 159, and 62 O.S. § 361, *et seq.* Certifying the Order on Appeal to the property tax rolls would, in effect, reimburse the City's Workers' Compensation Fund over the next three years.