



# City of Norman, OK

Municipal Building  
Council Chambers  
201 West Gray  
Norman, OK 73069

## Master

**File Number: GID-1415-29**

**File ID:** GID-1415-29

**Type:** Court Order

**Status:** Consent Item

**Version:** 1

**Reference:** Item No. 37

**In Control:** City Council

**Department:** Legal Department

**Cost:** \$31,977.00

**File Created:** 08/28/2014

**File Name:** WC-2012-99538 L

**Final Action:**

**Title:** CONSIDERATION OF THE CITY ATTORNEY'S RECOMMENDATION FOR APPROVAL OF A COURT ORDER IN THE AMOUNT OF \$31,977 REGARDING JIMMY ANDREWS VS. THE CITY OF NORMAN, WORKERS' COMPENSATION COURT CASE NO. WCC-2012-00538 L.

**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 \$31,977, which will constitute judgment against the City of Norman.

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

**Agenda Date:** 09/09/2014

**Agenda Number:** 37

**Attachments:** Court Order 2013-03568 X, Court Order 2012-00538 L, PRs Jimmy Andrews.pdf

**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-1415-29

Body

**BACKGROUND:** Jimmy Andrews was a Maintenance Worker II in the Stormwater Drainage Division of Public Works who injured his left foot while mowing on August 2, 2011. He filed Workers Compensation Claim WCC 2012-00538 L on January 27, 2012. The case proceeded through the normal litigation process, and a trial was held on August 18, 2014. The Court Award in amount of \$31,977 is being presented to City Council at this time. It is recommended that this Order be accepted.

**DISCUSSION:** Mr. Andrews was a 27-year employee of the City of Norman who was hired on July 24, 1984 as a laborer in Public Works. He was promoted several times with a final promotion on July 1, 1993 as a Maintenance Worker II. On August 2, 2011, Mr. Andrews was mowing, had inadvertently rested his right foot on the exhaust of the mower he was riding and severely burned his right foot. Mr. Andrews had diabetes and, although he had work boots on, he did not feel the burn going through his boot. His third toe was subsequently amputated on January 23, 2012. However, because of his diabetes, the burn wound would not heal, and he underwent a number of treatments in a hyperbaric chamber in an attempt to heal the burn wound. Mr. Andrews continued to receive treatment up until his death from a heart attack on March 16, 2013.

*WCC 2013-03568 X (Death Claim)*

Mrs. Andrews filed Workers' Compensation Case No. 2013-03568 X on April 1, 2013 claiming the heart attack was a consequence of his burn wound and asked for death benefits. A trial on this claim was held on August 18, 2014. The City's exposure in this claim was significant. However, the Court found that Mr. Andrews' heart attack did not arise out of nor was caused by his on the job injury and the claim was denied.

*WCC 2012-00538 L (Right Foot)*

Nature of Claim.

Mr. Andrews filed this Workers' Compensation claim alleging burn to the right foot from a single incident on August 2, 2011.

Issues for Trial. The issues before the Workers' Compensation Court at a trial of this case is the nature and extent of PPD and the establishment of Carla Faye Stokes Andrews as the surviving spouse and surviving dependent pursuant to a Motion for Revivor filed by Mrs. Andrews. 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. Further, the Court also has the discretion to determine survivorship.

Court Award. This case was heard by the Workers' Compensation Court on August 18, 2014. After hearing testimony of Mrs. Andrews and considering the expert medical evidence, the Court entered its Order on August 25, 2014, awarding 20% PPD disability to the right foot and 20% PPD disability to the right leg. The Court's findings are set out in Paragraph Nos. 4, 5 and 7 of the Order, as follows:

-4- THAT CARLA FAYE STOKES ANDREWS is the surviving spouse of the deceased, a surviving dependent heir-at-law and entitled to workers' compensation benefits; that CARLA FAYE STOKES ANDREWS is hereby substituted as the claimant in this case and therefore entitled to the award herein.

-5- THAT claimant's Motion for Revivor is granted.

-7- THAT as a result of said injury, deceased sustained 20 percent permanent partial disability to the RIGHT FOOT (OVER AND ABOVE PRE-EXISTING 10%), and 20 percent permanent partial disparity to the RIGHT LEG (OVER AND ABOVE PRE-EXISTING 10%), for which claimant is entitled to compensation for 99 weeks at \$323.00 per week, or the total amount of \$31,977.00 for which 99 weeks have accrued and shall be paid in a lump sum of \$31,977.00.

-8- THAT respondent or insurance carrier shall pay claimant the award herein in a lump sum of \$31,977.00 (less attorney fee).

As can be noted in Paragraph No. 7 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. Andrews' weekly wage PPD rate is \$323.00. However, in this case the Court has stated all weeks of compensation have accrued and should be paid in a lump sum.

If accepted by Council, Mr. Andrews and his attorney will be paid \$31,977. Additional costs and fees as set out will be paid as follows: \$239.83 to the Special Occupational Health and Safety Fund Tax, \$639.54 to the Workers' Compensation Administration Fund, and \$140 for Workers' Compensation filing fee in the total amount of \$1,019.37 as set out in Paragraph Nos. 9 and 10 of the Order, plus Cleveland County filing fee of \$125.70.

The total cost of this Order to \$33,122.07.

**RECOMMENDATION:** The issues tried on August 18, 2014, were the nature and extent and the revivor issue. The Award is within the medical evidence submitted. Further, in light of Mr. Andrews' years of service with the City, 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 payments as outlined in attached Payment Table. 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.