



# City of Norman, OK

Municipal Building  
Council Chambers  
201 West Gray  
Norman, OK 73069

## Master

**File Number: GID-1415-83**

**File ID:** GID-1415-83

**Type:** Court Order

**Status:** Consent Item

**Version:** 2

**Reference:** Item No. 25

**In Control:** City Council

**Department:** Legal Department

**Cost:** \$32,300.00

**File Created:** 06/16/2015

**File Name:** Court Order - Glenn Lauderdale v. City of Norman

**Final Action:**

**Title:** CONSIDERATION OF THE CITY ATTORNEY'S RECOMMENDATION FOR APPROVAL OF A COURT ORDER IN THE AMOUNT OF \$32,300 REGARDING GLENN LAUDERDALE VS. THE CITY OF NORMAN, WORKERS' COMPENSATION COURT CASE NO. WCC 2013-05128 J.

**Notes:** ACTION NEEDED: Motion to approve or reject the City Attorney's recommendation; and, if approved, authorize compliance with the Workers' Compensation Court Order and direct payment of claims totaling \$33,453.95 which will constitute judgment against the City of Norman.

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

**Agenda Date:** 06/23/2015

**Agenda Number:** 25

**Attachments:** Text File, Lauderdale Order, Payment Schedule  
Lauderdale 6-23-15 CC, Lauderdale Reqs 6-23-15  
CC

**Project Manager:** Jeanne Snider

**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:
2	City Council	06/23/2015					

### Text of Legislative File GID-1415-83

Body

#### **BACKGROUND:**

Glenn Lauderdale is a System Support Technician in Information Technology who filed Workers' Compensation Case No. 2013-05128 J on May 14, 2013 alleging a work related single incident injury to left shoulder/left arm on February 7, 2013. The City denied the claim but the court appointed Independent Medical Examiner found the injury to be work related. Mr. Lauderdale had arthroscopic shoulder surgery with debridement of a bursa tear and rotator cuff tear, a distal clavicle resection, and an acromioplasty on March 29, 2013 and was released without restrictions to return to work July 15, 2013. A second surgery was required on January 17, 2014, which included a left shoulder rotator cuff repair, subacromial decompression and distal clavicle excision and revision of the biceps tendon and was released without restrictions to return to work May 19, 2014. The case proceeded through the normal litigation process. A trial was held on May 19, 2015. On June 10, 2015 the

Court awarded 20% permanent partial impairment benefits to the body as a whole attributable to the left shoulder for the total sum of \$32,300 to include reasonable and necessary continuing medical maintenance with his treating physician and prescription medications, if any, for the use of Schedule II drugs and review upon application of either party.

**DISCUSSION:**

Mr. Lauderdale is a sixteen (16) year employee of the City of Norman who was hired as System Support Technician for Information Technology on November 2, 1998.

Issues for Trial. The issues to be tried May 19, 2015 before the Workers' Compensation Court were nature and extent of permanent partial impairment benefits, temporary total disability, rehab, continued medical maintenance, and commute. 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. Lauderdale was evaluated on June 18, 2014 by Dr. Litchfield. Dr. Litchfield opined 34% whole person permanent partial impairment as well as continued care in form of pain management in regard to his left upper extremity pain and entitlements for prescription medications or any treatments his treating physician deems necessary in regard to this work related injury. The City's maximum exposure would be \$54,910.

The City had Mr. Lauderdale evaluated by Dr. Young on August 25, 2014 who opined 9% (\$14,535) permanent partial impairment to the body as a whole. 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 May 19, 2015. After hearing the Claimant's testimony and considering the expert medical evidence, the Court entered its Order on June 10, 2015, awarding 20% (\$32,300) permanent partial disability to the body as a whole attributable to the left shoulder. 20% percent to the body as a whole represents less than one-half the difference in the medical opinions.

The Court's findings are set out in Paragraph Nos. 5 through 7 of the Order, as follows:

-5- "THAT as a result of said injury, claimant sustained 20 percent partial impairment to the BODY AS A WHOLE ATTRIBUTABLE TO THE LEFT SHOULDER, for which claimant is entitled to compensation for 100 weeks at \$434 per week, or the total amount of \$32,300 of which 53 weeks have accrued and shall be paid in a lump sum of \$17,119."

-6- "THAT respondent or insurance carrier shall provide the claimant with reasonable and necessary continuing medical maintenance with DR. BOBB (claimant's treating physician). Prescription medications, if any, are subject to the rules, limitations, and requirements of the Oklahoma Treatment Guidelines for the use of Schedule II Drugs and review upon application of either party."

-7- THAT respondent or insurance carrier shall pay claimant the accrued portion of the award herein in the lump sum of \$17,119 and pay the balance of said award at the rate of \$323 per week until the total award of \$32,300 (less attorney fee) has been paid to claimant."

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 rates over a period of time. Mr. Lauderdale's weekly wage PPD rate is \$323. In this instance, a portion of the award has accrued and is to be paid in a lump sum.

If approved by Council, Mr. Lauderdale and his attorney will be paid the accrued lump sum amount and attorney's fee plus an additional four weeks for processing and Council approval in the lump sum of \$24,871, with the balance of the award of \$7,429 to be paid in weekly payments of \$323 until paid in full as set forth in the Payment Schedule attached.

Further, in complying with the Order, the City will incur additional costs and fees as set out in Paragraph Nos. 9 and 10. Special Occupational Health and Safety Fund Tax in the amount of \$242.25; Workers' Compensation Administration Fund in the amount of \$646; 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 \$1,153.95.

The total cost of this Order is \$33,453.95.

**RECOMMENDATION:** The issues tried on May 19, 2015, were nature and extent of permanent partial impairment to the left shoulder due to the February 7, 2013 injury. 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.