



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: R-1718-103

File ID: R-1718-103

Type: Resolution WCC

Status: Consent Item

Version: 3

Reference: Item 31

In Control: City Council

Department: Legal Department

Cost: \$35,530.00

File Created: 05/01/2017

File Name: Workers' Comp Compromise Settlement - Stephanie Lake v. City of Norman

Final Action:

Title: RESOLUTION R-1718-103: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AUTHORIZING COMPROMISE SETTLEMENT OF THE CLAIM FILED BY STEPHANIE M. LAKE UNDER THE PROVISIONS OF THE WORKERS' COMPENSATION STATUTES OF THE STATE OF OKLAHOMA IN THE CASE OF *STEPHANIE M. LAKE V. THE CITY OF NORMAN*, WORKERS' COMPENSATION CASE NO. 2014-11262 J; DIRECTING THE LEGAL DEPARTMENT TO THEN FILE SUCH SETTLEMENT AND ALL ATTENDANT COSTS IN THE WORKERS' COMPENSATION COURT, OKLAHOMA CITY, OKLAHOMA; AND AUTHORIZING AND DIRECTING THE FINANCE DIRECTOR TO SUBSEQUENTLY PURCHASE SUCH WORKERS' COMPENSATION COURT JUDGMENT FROM THE RISK MANAGEMENT INSURANCE FUND.

Notes: ACTION NEEDED: Motion to adopt or reject Resolution R-1718-130; and, if adopted, direct payment of claims in the amount of to \$35,530 which will constitute judgment against the City of Norman.

ACTION TAKEN: _____

Agenda Date: 04/10/2018

Agenda Number: 31

Attachments: Lake Resoltn-1718-130 cc 4-10-18.pdf, PR-Stephanie Lake - cc 4-10-18.pdf

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-1718-103

Body

BACKGROUND: Stephanie Lake is a Communication Officer in the Communications Center of the Norman Police Department who filed Workers Compensation Case No. 2014-11262 J on December 16, 2014 alleging a single incident injury on July 1, 2013 to the left and right hand, left and right arm, and both shoulders for over and over use. Ms. Lake amended the claim on June 8, 2015 changing the injury to cumulative and added the neck and on November 14, 2016 added low back. The case proceeded through the normal litigation process. A

mediation was held on March 19, 2018, wherein a settlement agreement was reached prior to a trial. Ms. Lake has agreed to settle her claim in the total amount of \$35,530.00 (22 percent body as a whole). The settlement offer is being presented to the City Council at this time. It is recommended that this settlement be accepted.

DISCUSSION: Ms. Lake is an eight (8) year employee of the City of Norman hired as a Communication Officer on November 2, 2009.

Medical Treatment. Ms. Lake was initially treated conservatively for bilateral hand numbness and elbow and shoulder pain to include chiropractic treatment, physical therapy and steroid injections. She was found to have EMG evidence of mild right greater than left ulnar neuropathies across the elbows and minimal bilateral carpal tunnel syndromes and lateral epicondylitis of the elbow, carpal tunnel syndrome and cubital tunnel syndrome, and probable cervical spondylosis with associated medical neck and lumbar pain. Dr. Emery Reynolds was ordered by the Workers' Compensation Court to perform an independent medical examination on the neck and back. On January 25, 2016, Ms. Lake underwent MRIs of the lumbar spine and neck and Dr. Reynolds determined that surgical intervention was not required. Results for the neck determined degenerative disc disease and arthritis and for the lumbar spine disc dehydration at L3-4, L4-5, and L5-S1 levels and small central disc bulge at the L2-3 level. Ms. Lake underwent a course of physical therapy and reached maximum medical improvement on September 30, 2016.

Issues for Trial. The primary issues to be tried in this case before the Workers' Compensation Court are the extent of Ms. Lake's injuries and whether those injuries were permanent in nature. Permanent partial disability is a factual determination made by the Workers' Compensation Court Trial Judge based on doctors' opinions and medical records regarding the extent of permanent partial impairment.

On December 28, 2016, the medical expert for the City, Dr. Hensley opined 5% (\$3,553) to the right hand, 10% (\$7,106) to the left hand over and above a 12% pre-existing impairment, 5% (\$4,441.25) to the right arm, 10% (\$8,882.50) to the left arm, and 0% impairment to the whole man regarding the right and left shoulder, and 0% impairment to the whole man regarding the cervical spine and lumbar spine over and above preexisting impairments (8% to the cervical spine and 7% to the lumbar spine) as a result of underlying degenerative disease with normal range of motion and no findings for radiculopathy. The combined total PPD rating from Dr. Hensley is \$23,982.75.

On November 10, 2016, Ms. Lake was rated by Dr. Wilson who opined 30.5% (\$49,257.50) to the cervical spine due to loss of range of motion, weakness of the cervical flexors and extensors, and weakness of the bilateral upper extremities, as well as five unoperated disc lesions, resulting in permanent anatomical abnormalities and loss of function; 34% (\$54,910) to the lumbar spine due to loss of range of motion, weakness of the lumbar flexors and extensors, weakness of the bilateral hip flexors and extensors, as well as three unoperated disc lesions, resulting in permanent anatomical abnormalities and loss of function; 7.8% (\$12,597) to the right shoulder and 7.8% (\$12,597) to the left shoulder due to mild weakness, resulting in permanent anatomical abnormalities and loss of function; 23.1% (\$37,306.50) combining the left and right arms/elbows; and 18.5% (\$29,877.50) combining the bilateral hands/wrists due to weakness, chronic epicondylitis, and positive findings on the EMG and nerve conduction study, resulting in permanent anatomical abnormalities and loss of function which includes a 21% pre-existing permanent partial impairment to the left wrist. The City's maximum exposure for total PPD would be \$196,545.50.

Trial. This case proceeded through the normal litigation process; however, Ms. Lake has agreed to a settlement of this case as outlined below. If a trial was held in this case, the Judge could determine nature and extent of the injury to left and right hand, left and right arm, both shoulders, neck and low back anywhere within the range of the doctors' opinions as stated above.

Proposed Settlement. The proposed settlement to close this case on a "Compromise Settlement" basis is for a lump sum payment of \$35,530.00 (less attorney fee).

It is felt that the settlement closing 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 this Workers' Compensation case. This settlement is beneficial to Mr. Lake in that it provides certainty for the PPD award. It is also beneficial to her 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 \$710.60; Special Occupational Health & Safety Tax in the amount of \$266.48; and Workers Comp Court 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 \$144.14.

These additional costs and fees total \$1,261.22, which brings the total cost of this settlement to the City to \$36,791.22.

RECOMMENDATION: For the reasons outlined above, it is believed this Compromise Settlement is fair, reasonable, and in the best interest of the City. It is not anticipated a more favorable ruling for the City could be achieved by further litigation. Acceptance of the Compromise Settlement would require the payments as outlined above. If approved, the settlement amount would be paid to Ms. Lake 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.