



Legislation Text

File #: R-1920-16, **Version:** 2

RESOLUTION R-1920-16: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AUTHORIZING JOINT PETITION SETTLEMENTS OF THE CLAIMS FILED BY CHRIS KOSCINSKI UNDER THE PROVISIONS OF THE WORKERS' COMPENSATION STATUTES OF THE STATE OF OKLAHOMA IN THE CASES OF *CHRIS KOSCINSKI V. THE CITY OF NORMAN*, WORKERS' COMPENSATION COMMISSION CASE NOS. 2015-06809 A; 2015-06363 K; 2016-00738 H; and 2017-00239 Q; 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.

BACKGROUND: Chris Koscinski, a firefighter for the City of Norman Fire Department, filed the following four (4) Workers Compensation Commission cases.

Case CM 2015-06809 A (Back 1) was filed on October 14, 2015, alleging a single incident injury to his back on October 3, 2014, while carrying a patient. The claim has proceeded through the normal litigation process.

Case CM 2015-06363 K (Heart/Cardiovascular) was filed on September 24, 2015, alleging injury to his heart/cardiovascular while fighting a house fire on July 6, 2015. The claim was denied by the City of Norman and has proceeded through the normal litigation process.

Case CM 2016-00738 H (Left Shoulder) was filed on February 8, 2016, alleging a single incident injury to his left shoulder while pulling a fire hose on October 20, 2015. The claim has proceeded through the normal litigation process.

Case CM 2017-00239 Q (Back 2) was filed on January 12, 2017, alleging a single incident injury to his back on November 24, 2016, while pulling a hose. The claim has proceeded through the normal litigation process.

Prior to a trial being held, Mr. Koscinski has agreed to settle these claims in the total amount of \$27,500, which represents 5% (\$5,652.50) on Case CM 2015-06809 A (Back 1), dismissal with prejudice (\$2,629.00) on Case CM 2015-06363 K (Heart/Cardiovascular), 12% (\$13,566) on Case CM 2016-00738 H (Left Shoulder) and 5% (\$5,652.50) on Case CM 2017-00239 Q (Back 2). The settlement offer is being recommended and is being presented to the City Council for consideration. A Release of All Claims and Covenant Not to Appeal was executed by Mr. Koscinski and his attorney on July 11, 2019. (See Attached). If approved, the Workers' Compensation case will be dismissed with prejudice.

DISCUSSION: Mr. Koscinski began employment as a firefighter with the Norman Fire Department on October 18, 1999.

Medical Treatment:

Back 1: Mr. Koscinski was seen by Norman Regional Occupational Medicine and diagnosed with an acute lumbar strain. He was referred to physical therapy and received epidural steroid injections. Mr. Koscinski was released without restrictions on April 2, 2015.

Heart/Cardiovascular: Mr. Kocinski had been seen by a physician for heart-related issues prior to his date of injury of July 6, 2015.

Left Shoulder: Mr. Koscinski was originally seen by Dr. Penwell at Norman Regional Occupational Medicine for a shoulder strain. He received conservative treatment, including physical therapy, injections and medication. He was then referred to Dr. Mark Moses for further evaluation and had left shoulder arthroscopy with a posterior labral repair, extensive debridement of anterior and poster labrum and biceps base, arthroscopic distal clavicle excision and arthroscopic acromioplasty on January 21, 2016, followed by postoperative physical therapy. He was released to return to full duty on June 9, 2016.

Back 2: Mr. Koscinski initially was seen by Kim Wiese, PA-C for a lumbar strain. He received three epidural steroid injections and participated in physical therapy. He was released to return to work on July 11, 2017.

Issues for Trial. Both injuries to his back and injury to the left shoulder occurred while in the course of his employment with the City. The City denied the injury to his cardiovascular/heart. The primary issues to be tried in these cases before the Workers' Compensation Commission are the extent of Mr. Koscinski's injuries to his back and left shoulder and if the injuries were permanent in nature. 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. Both parties have agreed to settle all four cases prior to obtaining medical ratings and have agreed to stipulate that medical reports would support the settlement.

Trial. These cases proceeded through the normal litigation process; however, Mr. Koscinski has agreed to a settlement of these cases as outlined below. If a trial was held in these cases, the Judge could determine nature and extent of the injury to the left shoulder and back and award permanent partial disability and determine if the cardiovascular/heart claim was work related.

Proposed Settlement. The proposed settlement to close these cases on a "Joint Petition" basis is for a lump sum payment of \$27,500 (less 20% attorney fee) representing the settlement amount discussed above.

It is felt that the settlement to close these cases is fair and reasonable. A 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 on all four Workers' Compensation cases. This settlement is beneficial to Mr. Koscinski in that it provides certainty for an award and would be paid in a lump sum rather than at a weekly rate over a period of time.

Furthermore, if these cases are settled in this manner, the City would incur additional costs and fees of:

CM 2015-06809 A (Back 1)

Workers' Compensation Administration Fund Tax in the amount of \$113.05; Special Occupational Health & Safety Tax in the amount of \$42.39; and Workers Comp Commission Filing fee in the amount of \$140.

CM 2015-06363 K (Heart/Cardiovascular)

Workers Comp Commission Filing fee in the amount of \$140.

CM 2016-00738 H (Left Shoulder)

Workers' Compensation Administration Fund Tax in the amount of \$271.32; Special Occupational Health & Safety Tax in the amount of \$101.75; and Workers Comp Commission Filing fee in the amount of \$140.

CM 2017-00239 Q (Back 2)

Workers' Compensation Administration Fund Tax in the amount of \$113.05; Special Occupational Health & Safety Tax in the amount of \$42.39; and Workers Comp Commission Filing fee in the amount of \$140.

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 \$1,388.09, which brings the total cost of this settlement to the City to \$28,888.09.

Adequate funds are available in the Risk Management Fund, Order/Settlements Account (043-3002-415.21-31).

RECOMMENDATION: For the reasons outlined above, it is believed this settlement is fair, reasonable, and in the best interest of the City. Acceptance of the settlement would require the payments as outlined above. If approved, the settlement amount would be paid to Mr. Kosciński and his attorney in a lump sum. The 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 85A O.S. § 107, 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.