



**Request for City Council Committee Action
From the City Attorney's Office**

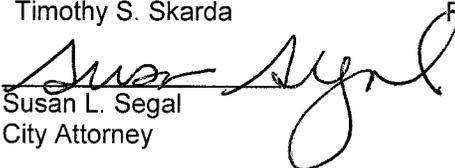
Date: June 10, 2008
To: Ways & Means/Budget Committee
Referral to:

Subject: Nicole and Tyra Chivers v. City of Minneapolis
Notice of Claim

Recommendation: That the City Council approve the settlement of the claims of Nicole Chivers and Tyra Chivers by payment of \$36,000.00, payable to Nicole and Tyra Chivers and their attorney, Frederick Goetz, from Fund/Org. 6900 150 1500 4000 and authorize the City Attorney's Office to execute any documents necessary to effectuate the settlement.

Previous Directives: None.

Prepared by: Timothy S. Skarda Phone: (612) 673-2553

Approved by: 
Susan L. Segal
City Attorney

Presenter in Committee: Susan L. Segal, City Attorney

Financial Impact (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).
 Action requires an appropriation increase to the _____ Capital Budget or _____ Operating Budget.
 Action provides increased revenue for appropriation increase.
 Action requires use of contingency or reserves.
 Business Plan: _____ Action is within the plan. _____ Action requires a change to plan.
 Other financial impact (Explain): Payment from Fund/Org. 6900 150 1500 4000
 Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact: Build Community

Background/Supporting Information

This proposed settlement involves Noticex of Claim by Nicole and Tyra Chivers for personal injuries occurring as the result of an automobile accident with a Minneapolis Police Department squad car on August 30, 2006, at Third Avenue and 36th Street.

Nicole Chivers was driving north on Third Avenue at approximately 5:30 p.m. approaching 36th Street. Ms. Cheevers had a green light for her direction of travel. She was restrained by both her lap and shoulder belts. Ms. Chivers had her 7 year-old daughter, Tyra, in a booster seat in the backseat of the car. Seconds after Ms. Chivers entered the intersection with 36th Street her vehicle was struck on the driver's side by a Minneapolis squad car. The force of the crash caused the Chivers' vehicle to spin through the intersection and come to rest after it struck a vehicle on the north side of the intersection.

Video from the squad car shows the accident. The video reflects that the officer had activated his siren a few miles from the accident. The officer turned the siren off after he crossed over Interstate 35W. As he approached the intersection of Third Avenue and 36th Street, the siren was not sounding. Just as the officer

was entering the intersection, the siren made a split-second "blip" of sound. Almost simultaneously, Ms. Chivers' vehicle entered the picture from behind a white fence and is struck by the squad car.

We have reviewed and evaluated the medical records submitted in support of the Chivers' claims. Nicole Chivers is 23. An MRI of her lumbar spine indicated asymmetric disc bulging in two areas with some impingement. Nicole Chivers alleges that she occasionally misses work and has medical costs to date of approximately \$16,981.32. Approximately \$1600.00 in medical expenses remains unpaid. Ms. Chivers demanded \$36,000.00 in settlement of her claim.

Tyra Chivers sustained traumatic injuries to the cervical, thoracic, and lumbar spines with stretching and tearing of the regional supportive tissues including muscles, tendons, ligaments and cartilage. Her physicians opined that she will experience future episodes of pain and decreased range of motion. Tyra Chivers had medical expenses of approximately \$9,458.70. Tyra Chivers demanded \$30,000.00 in settlement of her claim.

The claims and damages asserted by Nicole and Tyra Chivers were reviewed by the City Attorney Litigation Committee which believed that the City was liable for the injuries and recommended settlement of the claims at the proposed settlement amount. Minn. Stat. §169.03 requires that emergency lights and siren be sounded when a squad car enters an intersection against the light. Minneapolis Police Department policies require the continuous use of emergency lights and siren during emergency driving. The statute and departmental policies also require that squad cars proceed with caution into an intersection.

Settlement discussions were conducted between the Claimant's attorney, Frederick Goetz, and Assistant City Attorney Timothy Skarda through which a proposed settlement in the amount of \$36,000.00 was reached. The proposed settlement has been reviewed and approved Chief Dolan who concurs in recommending its approval by this Committee and the City Council. The proposed settlement includes all claims for damages, costs and fees associated with the claims of Nicole and Tyra Chivers.