



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

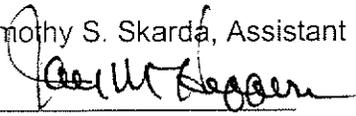
Date: May 3, 2004
To: Ways & Means/Budget Committee
Referral to: None

Subject: Rebecca Caulfield v. City of Minneapolis
Minnesota Department of Human Rights File No.: 41036
Equal Employment Opportunity Commission File No.: 26EA300256

Recommendation: That the City Council approve settlement of all claims filed by Rebecca Caulfield relating to her employment with the City of Minneapolis, in the amount of \$25,000.00 and non-monetary relief, payable to Rebecca Caulfield and her attorney Judith K. Schermer and authorize the City Attorney to execute any documents necessary to effectuate the settlement and release of claims, payable from Fund/Org. 6900 150 1500 8500.

Previous Directives: None.

Prepared by: Timothy S. Skarda, Assistant City Attorney, 673-2553

Approved by: 
 Jay M. Heffern
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

<p>Financial Impact (Check those that apply)</p> <p><input type="checkbox"/> No financial impact - or - Action is within current department budget. (If checked, go directly to Background/Supporting Information)</p> <p><input type="checkbox"/> Action requires an appropriation increase to the Capital Budget</p> <p><input type="checkbox"/> Action requires an appropriation increase to the Operating Budget</p> <p><input type="checkbox"/> Action provides increased revenue for appropriation increase</p> <p><input type="checkbox"/> Action requires use of contingency or reserves</p> <p><input checked="" type="checkbox"/> Other financial impact (Explain): Payment from Fund/Org. 6900 150 1500 4000</p> <p><input type="checkbox"/> Request provided to the Budget Office when provided to the Committee Coordinator</p>

<p>Community Impact: Build Community</p>

Background/Supporting Information

Rebecca Caulfield is a female former employee of the City of Minneapolis who filed employment discrimination charges on December 17, 2002. She was employed by the City of Minneapolis from June 1989, to May 14, 2002, most recently as a Compliance Officer II in the Division of Environmental Health.

Ms. Caulfield alleges that on August 27, 2001, her supervisor pulled her into his arms and kissed her on the cheek on her birthday. She alleges that she reported the incident to the Deputy Director and that at approximately the same time reported the incident to another supervisor in her department. Ms. Caulfield alleges that in September 2001, when work teams were being formed, she was the only employee at her civil service classification not given a team leader role. She alleges that she was not made a team leader in reprisal for the sexual harassment complaint she had made against her supervisor who was also responsible for appointing the team leaders. Ms. Caulfield alleges that in March 2002, after the division was restructured and three new promotional positions were created, she was not promoted because her supervisor and the Deputy Director were on the interview panel for promotions. She alleges that she was not promoted because of the sexual harassment complaint. Ms. Caulfield resigned her position with the City of Minneapolis on May 14, 2002. She alleges that the hostile work environment resulted in her being constructively discharged from employment.

On December 31, 2003, the Minnesota Department of Human Rights completed its investigation and determined that there was no probable cause to believe that Ms. Caulfield had been sexually harassed or constructively discharged, although she had been hugged and kissed on the cheek by her supervisor. The Minnesota Department of Human Rights found that there was probable cause to believe that Ms. Caulfield had been unfairly discriminated against through reprisal by being denied a team leader role and a promotional position.

The probable cause finding was referred to the Office of the Minnesota Attorney General for prosecution of the discrimination finding against the City of Minneapolis. Prior to the institution of litigation against the City, a mediation session was held at the Office of the Attorney General on April 28, 2004. The mediation session was attended by Assistant City Attorney Timothy S. Skarda; Director of Inspections Merwyn Larson; Deputy Director Bill Anderson; Curt Fernandez, Manager of Environmental Services; and Joan Hammell, Administrative Analyst with the Department. Ms. Caulfield initially demanded \$59,200.00, plus attorney's fees, to settle her claims. A proposed settlement of the case was reached in the amount of \$25,000.00, and non-monetary relief in the form of a letter of apology to Ms. Caulfield from the Department and a separate acknowledge of her years of service with the City from the Mayor.

The parties involved in the mediation believe that the proposed settlement is in the best interest of the City of Minneapolis and recommend its approval. Although the MDHR found that Ms. Caulfield had not been constructively discharged, Ms. Caulfield asserts that the failure to promote her, as well as, other circumstances at her job caused her to resign. Additionally, although the findings that Ms. Caulfield had not been sexually harassed or constructively discharged are controlling in the MDHR case asserted by the Attorney General, Ms. Caulfield may withdraw the case from the Minnesota Department of Human Rights and file a civil lawsuit. Should Ms. Caulfield file civil litigation, the issue of constructive discharge and sexual harassment would be re-litigated and ultimately presented to a court or a jury. The constructive discharge claim would involve a claim for past and future wage loss. The difference in salary between the position Ms. Caulfield held and the promotional position that she sought is approximately \$12,000.00 a year. When faced with the uncertainties of continued civil litigation, the potential for the accumulation of substantial attorney's fees, the disruptive impact that continued litigation would pose to the work place and the findings made by the MDHR, we believe that the proposed settlement is in the best interest of the City of Minneapolis and recommend its approval.