



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

Date: August 1, 2006  
To: Ways & Means/Budget Committee  
Referral to:

**Subject:** James and Gayle Wilson v. City of Minneapolis  
Court File No.: 05-12861

**Recommendation:** That the City Council approve the settlement of this case by payment of \$22,500.00 payable to James and Gayle Wilson and their attorney, Robert L. Lazear, from Fund/Org. 6900 150 1500 4000 and authorize the City Attorney's Office to execute any documents necessary to effectuate settlement.

**Previous Directives:** None.

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

Approved by: \_\_\_\_\_  
Jay M. Heffern  
City Attorney

Presenter in Committee: Jay M. Heffern, 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 matter arises out of a motor vehicle accident that occurred on July 10, 2001. James Wilson, a Minneapolis Police Lieutenant, was on duty and a passenger in an unmarked squad car when the vehicle was struck in the rear by a vehicle driven by Threse Welsch. The officers transported themselves for medical treatment immediately after the accident.

As a result of this accident, Lt. Wilson suffered injuries to his neck and back. Lt. Wilson was evaluated for a possible neck fracture, but the tests proved negative. Lt. Wilson suffered new injuries to his cervical and lumbar spine and exacerbated pre-existing injuries. He has received extensive treatment related to the injuries suffered in the accident and retired with a disability pension on March 8, 2003, at age 49. Lt. Wilson has continuing medical issues as a result of this accident. As a result of this accident Lt. Wilson has incurred substantial wage loss. Under the terms of his disability retirement he receives 60% of his salary. A lieutenant with Lt. Wilson's seniority would currently be earning approximately \$77,000.00.

James and Gayle Wilson settled with the tortfeasor's insurance company for \$22,500.00 on a policy with limits of \$50,000. Pursuant to Minn. Stat. § 65B.51, subd. 3, James Wilson has filed suit against the City of Minneapolis seeking underinsured motor vehicle coverage. The City provides statutory coverage in the amount of \$25,000.00. Under Minnesota law, if Lt. Wilson can prove in excess of \$50,000.00 in damages he would be entitled to the limits of the City underinsured motorist coverage. The courts have consistently ruled that the fact that the claimant settled with the tortfeasor for less than the policy limits is not relevant to the calculation of the underinsured motorist claim. The City would be responsible for the difference between the damage award and the payment received from the tortfeasor to the limits of \$25,000.00.

It is our opinion that Lt. Wilson would be able to prove damages exceeding the tortfeasor's policy limits of \$50,000.00. Disregarding the elements of damages suffered for which he has received partial compensation through the settlement with Ms. Welsch and from Worker's Compensation benefits, Lt. Wilson has suffered a substantial compensable wage loss. We estimate Lt. Wilson's annual wage loss at approximately \$30,000.00.

We have reached a tentative settlement of James and Gayle Wilson's underinsured motorist claims against the City in the amount of \$22,500.00. We believe that the settlement is in the best interests of the City and recommend approval by this Committee.