



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

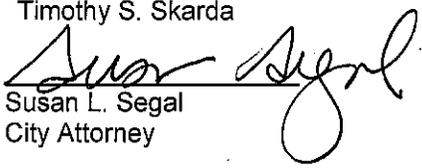
Date: August 17, 2010
To: Ways & Means/Budget Committee
Referral to:

Subject: *James F. Cannon vs. City of Minneapolis*
Minneapolis Department of Civil Rights File No.: A6222-PS-1A
Minnesota Court of Appeals File No.: A09-1154

Recommendation: That the City Council approve the settlement of this case by payment of \$46,374.30, payable to James F. Cannon and David L. Schulman, his attorney, from Fund/Org. 06900 1500100 145400; transfer a civil penalty of \$7,500.00 to the general fund 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. 06900 1500100-145400
- Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact: Build Community

Background/Supporting Information

This is a Charge of Discrimination before the Minneapolis Civil Rights Commission brought by James F. Cannon on October 30, 2006, arising from an incident on September 5, 2006. Mr. Cannon, who is African American, alleged that he was spoken to in a derogatory manner in the presence of his family while waiting to pick up his son's vehicle from the Wrecker Services, Inc. towing facility. Minneapolis police officers had responded to a call for service about disruptive customers at the facility, one of whom had banged on a partition with his fist. Mr. Cannon also alleged that his wife was spoken to in a demeaning manner when she asked for an officers badge number. Finally, he alleges that an officer followed him into the parking lot and wrote down his license plate number. Neither Mr. Cannon nor any member of his family was arrested or cited for any violation.

The Minneapolis Department of Civil Rights found that probable cause existed to believe that Mr. Cannon had been discriminated against. The matter was referred to a panel of the Minneapolis Commission on Civil Rights

for hearing. In pretrial motions the City moved for summary judgment and asked the panel to recuse itself because Mr. Cannon had been a member of the Commission for approximately 10 years. The panel denied all motions and a hearing was conducted on Saturday, April 25, 2009. On May 27, 2009, the Panel made findings that Mr. Cannon had not been discriminated against by the language and actions of the officers inside the towing facility, but that he had been retaliated against for opposing discrimination. The Panel reached its verdict by a 2-1 decision. The Panel awarded \$15,000.00 in damages and doubled the award to \$30,000.00. The Panel also awarded a \$7,500.00 civil penalty and \$22,283.09 in attorney's fees.

The City appealed to the Minnesota Court of Appeals. The Court of Appeals affirmed the decision of the Panel as to liability, but ruled that the damages could not be doubled; reducing the award to \$15,000.00.

Mr. Cannon petitioned the Court of Appeals for attorney's fees related to the appeal in the amount of \$13,725.00, and costs of \$591.21. The City opposed the Petition and the Court of Appeals reduced attorney's fees to \$8,500.00 and granted costs of \$591.21.

We have calculated the total amount owing to Mr. Cannon and his attorney to be \$46,374.30. The City is legally obligated to pay this amount, as well as, transfer \$7,500.00 to the general fund.

We believe that payment of the above amounts is required by law and recommend approval by this Committee and the City Council.