



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

Date: July 28, 2004
To: Ways & Means/Budget Committee
Referral to:

Subject: Western National Mutual Insurance Co., Leslie & Audra Biesterfeld v. Anthony Hyser & City of Minneapolis
Hennepin County District Court

Recommendation: That the City Council approve settlement of the above-referenced matter in the amount of \$1,373.81, payable to Western National Mutual Insurance Company from Fund/Org. 6900 150 1500 8500 and further authorize the City Attorney's Office to execute all documents necessary to finalize the settlement.

Previous Directives:

Prepared by: Joel M. Fussy, Assistant City Attorney Phone: 673-2067

Approved by: _____
Jay M. Heffern
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

Financial Impact (Check those that apply)

- No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain): \$1,373.81 payable from Fund/Org. 6900 150 1500 8500
- Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact: Build Community

Background/Supporting Information

This case arises as a result of a vehicular accident that occurred on January 26, 2004 involving automobiles driven by Minneapolis Plumbing Inspector Anthony Hyser and Plaintiff Audra Biesterfeld. The accident investigations conducted by the department as well as by a staff investigator from the City Attorney's Office reveal the following circumstances:

- Inspector Hyser was proceeding southbound on First Avenue North.
- Plaintiff Audra Biesterfeld, with passenger Leslie Biesterfeld, was proceeding westbound on Second Street North.
- Upon entering the intersection of the two roads, Inspector Hyser faced a stop sign as well as a sign which read "Traffic From Left Does Not Stop" while Plaintiff Biesterfeld had no stop or yield signs.
- The collision occurred in the intersection where the respective lanes merge.

Based on the above circumstances, it is likely that the City driver would be determined to be primarily at fault. Plaintiffs filed this lawsuit seeking reimbursement for damage to their automobile, a 2000 Ford Explorer. No personal injuries have been claimed or asserted. Documentation was provided establishing the extent of the damage to the Explorer. Upon negotiation of the claim with Plaintiffs' attorney, an agreement has been reached to dismiss the action with prejudice and execute a release of all claims in exchange for a settlement in the amount of \$1,373.81.

The City Attorney recommends that the finance officer be authorized to issue a settlement check to Western National Mutual Insurance Company in the amount of \$1,373.81 payable from Fund/Org. 6900 150 1500 8500 and further recommends that the City Attorney's Office be authorized to execute any documents necessary to finalize the settlement.