



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

Date: October 6, 2003
To: Ways and Means/Budget Committee
Referral to:

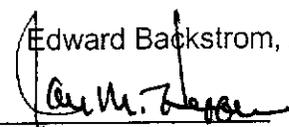
Subject: Yee Yang v. City of Minneapolis

Recommendation: That the City Council approve settlement of this matter by the payment of \$9,000.00 to Yee Yang and her attorney Mark Karney from Fund/Org 690 150 1500 6070.

Previous Directives: None

Prepared by: Edward Backstrom, Assistant City Attorney Phone: 673-2072

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): Fund/Org 690 150 1500 6070
- Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact:

City Goals: Build Community

Background/Supporting Information

This is an accident in which occurred on May 23, 2003 at 10:19 AM, on Theodore Worth parkway near McNair Avenue North. At that time James Gorney was operating a Minneapolis street sweeper proceeding northbound on Theodore Wirth Parkway sweeping the street. The plaintiff, Yee Yang, claims that she was a distance from the street sweeper, but that the sweeper backed up and struck her vehicle. As a result of the impact plaintiff claims injuries to her back, jaw, shoulder, and neck.

Plaintiff's chiropractors found that she had a permanent soft tissue injury to her back and neck. Dr. Norton, an alleged TMJ specialist, ordered a MRI of the TM joint which showed an anterior displacement on the right, with some loss of range of motion on the left. It is claimed that if she does not use a retainer on a permanent basis, her TMJ pain will become substantial worse. A MRI of her shoulder showed no structural damage. However the medical personnel at the Minnesota Institute of Neurology diagnosed her with a cervical sprain/strain. A review of medical records provided refers to "mild" neck pain in the past, for which she had a scan of some type the year before. This apparently showed no structural damage. Dr. Shapiro, MD, also found that plaintiff's present pain was not in the usual area where cervical myofascial pain or cervical sprain are found in a patient. He attributes this to the plaintiff's chest striking the steering wheel.

There is also a subrogation claim by Yang's medical provider for payments it made to Yang for medical costs of approximately \$9,500.00. However, an argument can be made that the street sweeper is not a commercial vehicle. If this is the case, the medical provider would not be entitled to subrogation.

It seems clear that the driver of the sweeper did not pay attention to the vehicles around him when he backed up. Although this was a low speed collision, the sweeper is a heavy vehicle. Therefore the City's liability will be difficult to dispute.

The plaintiff was initially demanding \$32,000.00 to settle the case. However, the plaintiff has agreed to settle the matter for \$9,000.00. This settlement has the approval of the City Attorney's Office litigation committee.