



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

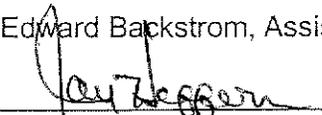
Date: June 1, 2004  
To: Ways and Means/Budget Committee  
Referral to:

**Subject: Robert Hayhurst v. the City of Minneapolis**

**Recommendation:** That the City Council approve settlement in this matter by the payment of \$25,000.00 to Robert Hayhurst and his attorney Michael K. Johnson from Fund/Org 6900 1500 150 6750.

**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 6900 1500 150 6750  
 Request provided to the Budget Office when provided to the Committee Coordinator

**Community Impact:**

City Goals: Build Community

**Background/Supporting Information**

This claim is an underinsured motorist claim that arises from an accident that occurred on December 11, 2000, between a sand truck being driven by City employee Robert Hayhurst and a car being driven by Jesse Clark. The accident occurred when Hayhurst drove the City truck eastbound on 14<sup>th</sup> St. and entered the intersection at Park Ave on a green light. A Ford driven by Jesse Clark entered the intersection on the red light and struck the City truck in the passenger door. Clark's insurer has paid the policy limits of \$30,000 to Hayhurst.

As a result of the accident Hayhurst's lower back was injured. He complained about low back pain and pain radiating down his right leg to his foot. A MRI of his back revealed disc bulging at L4-5 and a herniation at L5-S1 which impinged on the right S1 nerve root. A CT scan done in 1988 had found a bulging disc at that location, but no herniation. On December 15, 2003 Hayhurst had surgery on his back (a lumbar hemilaminectomy at L4-5 and L5-S1 with medial facetectomy and decompression of the L5 and S1 nerve roots)

Since the injury occurred during the course of his employment with the City of Minneapolis he was paid workers' compensation benefits. This covered two-thirds of his claimed wage loss of \$14,706. He returned to work in May of 2004. He claims medical specials of \$24,522.24, and \$5,000 in future medical treatment. Approximately \$9500 of the \$30,000 settlement from the other driver has been given to the City of Minneapolis as a result of the City's Workers' Compensation subrogation interest.

In defending Hayhurst's Workers' Compensation claim, the City disputed that his need for surgery was the result of by this accident. A compensation judge found that the accident was the cause of the herniation and ordered the City to pay for the surgery.

The City is responsible for underinsured motorist (UIM) benefits of up to \$25,000 as the self-insurer of the truck Hayhurst was driving. Hayhurst's personal vehicle insurer, State Farm is responsible for any addition UIM coverage in excess of that amount. The attorney who represented the City in the Workers' Compensation case, believes that Hayhurst would be entitled to damages in excess of \$55,000 for the injuries resulting from the accident. This was also the opinion of the City Attorney's office litigation committee. Because damages for the injuries received by Hayhurst are more than \$55,000, the City will have to pay \$25,000 in UIM benefits to Hayhurst. Hayhurst will also proceed against State Farm for further UIM benefits after the City has paid the limits of it UIM coverage.

Therefore it is recommended that the City Council approve the settlement of the Hayhurst underinsured motorist claim for \$25,000, payable to Robert Hayhurst and his attorney, Michael Johnson.