



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

Date: November 09, 2006  
To: Ways & Means/Budget Committee  
Referral to:

**Subject:** Ronald Benford v. City of Minneapolis  
Minneapolis Department of Civil Rights File No.: A5029-EM-1A  
Equal Employment Opportunity Commission File No.: 26DA500028  
*and*  
Minneapolis Department of Civil Rights File No.: A6112-EM-1A-RP  
Equal Employment Opportunity Commission File No.: A26D-2006-00850

**Recommendation:** That the City Council approve the settlement of two charges of discrimination filed by Ronald Benford in the amount of \$16,750.00 (\$10,050.00 payable to Ronald Benford and \$6,700.00 payable to Mr. Benford's attorneys, Milavetz, Gallop & Milavetz, P.A.), in addition to a supplemental MCC training session. That the City Council authorize the City Attorney to execute any documents necessary to effectuate the settlement and release of claims, payable from Fund/Org. 6900 150 1500 8650.

**Previous Directives:** r,

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Approved by: (s),k. l L'k,v.  
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 8650

Request provided to department's finance contact when provided to the Committee Coordinator.

**Community Impact**

City Goal(s): Build Community

**Background/Supporting Information**

On December 15, 2004, Ronald Benford filed a claim alleging he was subjected to racial discrimination, harassment, disparate treatment and reprisal by the Minneapolis Convention Center (MCC) in the area of employment. Mr. Benford, an African American male, has been employed by the MC since October 1989. His current job title is Operations Maintenance Specialist (OMS).

On June 23, 2004, Mr. Benford alleges his shift supervisor called him on the radio and told him to go to Hall B "as in boy" to check if the carpet was ready. Mr. Benford states that he advised his supervisor that use of the term "boy" was

offensive. Mr. Benford also alleges that the term "boy" was used frequently by MCC management. Mr. Benford reported this matter to Human Resources. Mr. Benford's supervisor apologized to him for the unintentionally offensive comment.

Ronald Benford also alleges that he did not receive any official notification of mandatory overtime during the July 4, 2004, time period. Hence, Mr. Benford claims that he did not sign up for mandatory overtime because there were people with less seniority to work it. Nevertheless, Mr. Benford received discipline for his failure to work the mandatory overtime. Mr. Benford also claims that one of his supervisors assigned him the worst and dirtiest work assignments such as cleaning the restrooms. Mr. Benford believes he was assigned these duties based upon his race.

In July of 2004, Ronald Benford was given a written warning for taking an unauthorized break during his shift. Mr. Benford alleges that other employees frequently took unauthorized breaks without any discipline. During the pre-determination meeting for the warning, Mr. Benford claims he complained about receiving job assignments based upon his race. In August of 2004, Mr. Benford was discovered reading the newspaper in the Hall A janitor's closet during work time. Consequently, Mr. Benford was given a 3-day suspension for this infraction. Thereafter, Mr. Benford claims his supervisors monitored him more closely than his counterparts. Mr. Benford alleges that all of his discipline was retaliation against him for his complaint to Human Resources. Mr. Benford also claims that he was required to obtain permission to take smoke breaks, whereas other employees did not need permission.

In May of 2006, Ronald Benford filed a second complaint of discrimination alleging continued retaliation by the MCC due to his initial complaint of December 2004. In this second complaint, Mr. Benford claims he was subjected to formal discipline in August of 2005 and on April 18, 2006. Mr. Benford was given a coaching regarding his continued unsafe driving behavior and a suspension resulted from progressive discipline. Mr. Benford also claims that the MCC harassed him by focusing on minor incidents of alleged misconduct and not disciplining non African American employees for the same type of alleged violations.

The Minneapolis City Attorney's Office, with the assistance of MCC management and staff, vigorously defended against Ronald Benford's claims of discrimination via detailed written responses to Mr. Benford's Charges of Discrimination and the Minneapolis Department of Civil Rights' (MDCR) Requests for Information. In general, the City Attorney's Office explained that Mr. Benford's discipline was based upon his continued inappropriate behavior rather than his race. Furthermore, the City Attorney's Office demonstrated that Mr. Benford's job assignments were fair and within his job description. Lastly, the City Attorney's Office indicated that Mr. Benford's supervisor apologized for the unintentionally offensive use of the phrase "Hall B as in 'boy- and the MCC instituted a new policy of using the descriptive term "bravo" to distinguish the letter "B" over the radio.

However, on September 8, 2006, the Minneapolis Department of Civil Rights (MDCR) informed the City Attorney's Office that its investigation of Ronald Benford's initial complaint supported a finding of Probable Cause to sustain Benford's allegations of discrimination based no race in the area of employment. The MDCR concluded that Mr. Benford made a prima facie showing of disparate treatment, a hostile work environment and retaliation based on race. The MDCR also concluded that the MCC's explanations for Mr. Benford's discipline were pretextual due to statements of current and former MCC employees that support Mr. Benford's allegations. The MDCR also noted patterns of inconsistent discipline among MCC employees.

On October 24, 2006, Mr. Benford, the City Attorney's Office and MCC management participated in a conciliation/mediation. Mr. Benford, through his attorney, made an initial settlement demand of \$60,000.00 for damages, in addition to MCC training regarding workplace diversity, sensitivity, and racial harassment. Mr. Benford also demanded an employment promotion and case reimbursement for a disciplinary suspension without pay. During negotiations, it was noted that the MDCR had not made a determination on Mr. Benford's second Charge of Discrimination against the MCC. Ultimately, after much discussion and negotiation, Mr. Benford agreed to settle both of his Charges of Discrimination against the MCC for \$16,750.00 and a supplemental MCC training session, for all staff and supervisors within six (6) months of any settlement agreement, which will address issues of workplace diversity, sensitivity, and racial harassment.

If this matter is not resolved, Ronald Benford's initial Charge of Discrimination will be forwarded to the Minneapolis Commission on Civil Rights for a public hearing. During the public hearing, a three member panel of the Minneapolis Commission on Civil Rights will consider the evidence presented by the parties. The hearing panel has the following broad powers: to award damages, punitive damages, attorney fees, and other "remedies" to correct discriminatory behavior. The panel has the power to triple the value of any awarded damages. The hearing panel may also require a party to pay lost wages and damages for mental anguish, as well as issue orders to implement an affirmative action plan.

Given the uncertainty of a public hearing before the Minneapolis Commission on Civil Rights the MCC management supports this settlement.