



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

Date: August 2, 2005  
To: Ways & Means/Budget Committee  
Referral to:

**Subject:** Richard Davis v. City of Minneapolis  
&  
Victoria Turner v. City of Minneapolis & Richard Davis

**Recommendation:** That the City Council approve settlement of the above-referenced matters in the amounts of (1) \$26,000.00, payable to Richard Davis & Schwebel, Goetz & Sieben, P.A. and (2) \$35,000.00, payable to Victoria Turner & Kane Crumley Law Firm from Fund/Org. 6900 150 1500 2800 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): *\$26,000.00 & \$35,000.00 payable from Fund/Org. 6900 150 1500 2800*
- Request provided to the Budget Office when provided to the Committee Coordinator

**Community Impact:**

**Background/Supporting Information**

These two separate but related lawsuits arose as a result of a vehicular accident that occurred on May 15, 1998 involving a Minneapolis fire rig. On that date, Minneapolis Ladder #10 collided with a 1997 Dodge Stratus rental vehicle being driven by Richard Davis at the intersection of Fremont and Dowling Avenues

North. Plaintiff Davis's then-fiancé, Victoria Turner, was a passenger in his car and is the plaintiff in the second lawsuit, which named both the City and Mr. Davis as co-defendants.

Plaintiff Davis claims that the City's fire rig ran the red light and caused the collision, an assertion supported by at least two unrelated citizen witnesses who were on foot at the scene. The firefighter who was driving Ladder #10 was not its assigned fire motor operator, was somewhat unfamiliar with driving the ladder apparatus, and was driving out-of-grade as a replacement for the ladder's normal driver who left work during the course of that day's shift. Although the driver and crew contend that Plaintiff Davis's vehicle ran the red light, a routine post-accident screen indicated that the ladder's driver was positive for a controlled substance. Based on the above facts and after consultation with the department and with the City Attorney's Litigation Committee, it was decided to pursue settlement of the lawsuits based on the high potential of a jury finding the City liable for the accident.

Plaintiff Davis briefly lost consciousness at the scene and was diagnosed post-accident with a lumbrosacral strain and a tear to his left rotator cuff. In 1999 he underwent surgery to repair his left shoulder and in 2002 he underwent a similar surgery on his right shoulder. Although the right shoulder surgery may have only been tangentially related to the accident, the medical reports—including an independent exam completed by his insurance company—indicate that the left shoulder and lumbar injuries were caused by the accident. Plaintiff Davis had significant claims for lost employment time as an investigator and property manager as well as significant special medical damages. Plaintiff Turner was transported via ambulance to North Memorial from the scene of the accident complaining of back pain. Shortly thereafter she was diagnosed with degenerative disk disease necessitating continued medication and physical therapy inclusive of epidural injections and nerve procedures. She has been recommended for spinal fusion surgery and has an extensively-documented history of missed work due to her back condition at the Ford plant, where she is employed. Plaintiff Turner did have some past back symptoms which could have contributed to her present condition, however her damages have been continuing and well-documented through her employment and medical records.

At a court-ordered mediation conference held on August 1, 2005, the parties reached the above-referenced settlement of all claims which includes contribution from the co-defendant and balances the risks inherent to all parties. The City attorney recommends approval of the settlements.