



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

Date: April 20, 2010  
To: Ways & Means/Budget Committee  
Referral to:

**Subject:** *Phillip Kelly vs. City of Minneapolis*  
Minneapolis Department of Civil Rights File No.: A4169-PS-1A  
Minnesota Court of Appeals File No.: A09-81

**Recommendation:** That the City Council approve the settlement of this case by payment of \$16,410.58, payable to Phillip Kelly and Walker Law Offices, P.A., his attorneys, from Fund/Org. 06900 1500100 145400 and authorize the City Attorney's Office to execute any documents necessary to effectuate the settlement.

**Previous Directives:** None.

Prepared by: Timothy S. Skarda Phone: (612) 673-2553

Approved by:  \_\_\_\_\_  
Susan L. Segal  
City Attorney

Presenter in Committee: Susan L. Segal, 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. 06900 1500100-145400  
 Request provided to department's finance contact when provided to the Committee Coordinator.

**Community Impact:** Build Community

**Background/Supporting Information**

This is a Charge of Discrimination before the Minneapolis Civil Rights Commission brought by Phillip Kelly on March 30, 2004, arising from his arrest on January 8, 2004. Mr. Kelly was stopped by a Minneapolis Park Police officer because he matched the description of the perpetrator of a resent armed robbery in the area. Minneapolis police officer stopped to assist the Park Police officer with whom Mr. Kelly was struggling. Minneapolis officers used force to control and handcuff Mr. Kelly. Mr. Kelly was taken to the scene of the robbery where the victims indicated that he was not the robber. Minneapolis police officers arrested and booked Mr. Kelly into the Hennepin County Jail for disorderly conduct and interfering with legal process.

On June 6, 2006, the Minneapolis Department of Civil Rights made a finding that probable cause existed to believe Mr. Kelly had been subjected to discrimination based on race through the use of excessive force and because he was taken into custody rather than issued a citation and released.

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A hearing was held before a panel of the Minneapolis Commission on Civil Rights on June 17–19, 2008. On December 18, 2008, the Panel issued a decision finding that the officers had not used excessive force. The Panel found that the decision to take Mr. Kelly into custody rather than issue a citation constituted discrimination. The panel awarded compensatory damages of \$5,382.50; punitive damages of \$8,500.00; and a civil penalty of \$8,500.00.

The City appealed the decision of the Panel to the Minnesota Court of Appeals. On February 12, 2010, in a 2-1 decision, the Court of Appeals affirmed the decision of the Panel. The City petitioned the Minnesota Supreme Court to review the decision of the Court of Appeals. The Petition for Review was denied on March 30, 2010.

Mr. Kelly is entitled to interest on the compensatory damages awarded. We have calculated the value of the compensatory damages, punitive damages and interest at \$15,310.58. Mr. Kelly is also entitled to recover costs and expenses related to the appeal. The parties have agreed to an amount of \$1,100.00, as reasonable. The total recommended payment to Mr. Kelly is \$16,410.58.

The Panel also awarded a civil penalty of \$8,500.00. Since the civil penalty was awarded against the City of Minneapolis and is payable to the City of Minneapolis, the Court of Appeals ruled that the civil penalty could be handled internally by the City.

We believe that payment of the above amounts is required by law and recommend approval by this Committee and the City Council.