



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

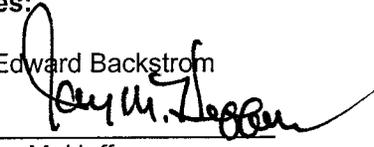
Date: December 19, 2006
To: Ways & Means/Budget Committee
Referral to:

Subject: Brian Goff and Janel Goff v. John Tepper and the City of Minneapolis
Court File No.: PI 06-008484

Recommendation: That the City Council approve the settlement of this case by payment of \$9,000.00 payable to Brian Goff and Janel Goff and their attorney, James Schloner, from Fund/Org. 6900 150 1500 9320 and authorize the City Attorney's Office to execute any documents necessary to effectuate settlement.

Previous Directives:

Prepared by: Edward Backstrom Phone: (612) 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 (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): Fund/Org. 6900 150 1500 9320
- Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact

City Goal(s): Build Community

Background/Supporting Information

This personal injury lawsuit arises from an accident which occurred on November 29, 2001 between a vehicle being driven by Brian Goff and a City of Minneapolis sewer truck being driven by John Tepper. Tepper's employment with the city has since been terminated for an unrelated matter. The Goff vehicle was traveling eastbound on Hennepin Ave and was stopped for the light at 6th St. According to Tepper the truck he was driving had slowed almost to a stop when it struck the Goff vehicle. Mr. Goff disputes this stating that the truck forcefully struck his vehicle pushing it 3 to 6 feet forward. There was no damage to the City truck and \$504.01 damage was done to Mr. Goff's vehicle.

Mr. Goff treated with Dr. Eric Faehn, a Chiropractor, from December 4, 2001, until October 8, 2003 for cervical and thoracic sprain and strain and for headaches. He also treated at the Minnesota Institute of Neurology in November of 2002. He had a MRI on November 13, 2002, which found nothing abnormal. Mr. Goff also claims that he is unable to pursue athletic activities such as golf because of the pain to his neck and back resulting from the accident. Mr. Goff is claiming that the injury he received from the accident affected his ability to perform his job as a real estate agent, resulting in a loss of over \$50,000.00 in commissions. He states that pain limited the amount of time he could spend in his car, thus limiting his ability to show houses. His wife Janel has made a claim for loss of consortium.

Mr. Goff was involved in prior rear end accident in 1993 or 1994 which resulted in an injury to the right side of his neck. His medical records of the treatment received as a result of this accident have been destroyed by the provider. Goff claims he was feeling fine before the 2001 accident. The City's IME doctor concurred stating that the prior accident did not contribute to the injuries complained of after the 2001 accident. However, the City's IME doctor has opined that any treatment received by Mr. Goff 6 weeks after the 2001 accident was unnecessary and that Mr. Goff did not receive a permanent injury as a result of the accident.

Mr. Goff's insurer, State farm, paid Mr. Goff's medical expenses in the amount of \$11,964.06. The city vehicle qualifies as a commercial vehicle, giving State Farm subrogation rights for its payments. The city has paid State Farm \$8,973.00 to settle the subrogation claim. Mr. Goff claims that he has \$2,200.00 in outstanding medical bills that were not paid for by State Farm.

The city is clearly liable in this matter, the only issue being the amount of damages to which the plaintiffs are entitled. Plaintiffs' attorney initially made a settlement demand of \$27,500.00. The plaintiffs have now agreed to settle this matter for \$9,000.00. Settlement in this amount has been approved by the City Attorney's office litigation committee.