



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

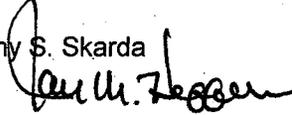
Date: June 21, 2007
To: Ways & Means/Budget Committee
Referral to:

Subject: Hector Lopez Martinez vs. City of Minneapolis
Court File No. 27-CV-06-17906

Recommendation: That the City Council approve the settlement of this case by payment of \$26,000.00, payable to Hector Lopez-Martinez and his attorney, Paul J. Phelps, from Fund/Org. 6900 150 1500 4000 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: 
 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 4000
- Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact: Build Community

Background/Supporting Information

This case arose from an automobile accident on June 9, 2006. Mr. Lopez-Martinez is 32 years old, working full time as assistant manager at *Chipotle*. He emigrated from Mexico in 1989 and speaks limited English. He was alone in his vehicle stopped at a red light on Lake Street when he was struck from the rear by an unmarked Minneapolis squad car driven by Officer Christopher House. He was wearing a seat belt at the time of the accident. Lake Street was under construction and when the officer first saw brake lights, he did not have time to stop. Mr. Lopez-Martinez was uninsured at the time of the accident. Liability clearly rest with the City and the only issue presented by the case is an evaluation of the level of damage suffered by the Plaintiff.

Mr. Lopez-Martinez began to experience pain at the scene of the accident and was evaluated and transported to the Hennepin County Medical Center by ambulance.

Currently, Mr. Lopez-Martinez complains of pain in his upper back and neck, all of the way down to the lower back. The pain is burning in the thoracic spine and aching in the low back. He states the pain in his back increases with standing and walking. He also complains of some right ankle pain. He is able to drive a car. He

does his normal activities of daily living. He states he does some back exercises. He does not play any sports and does no aerobic exercises. He has some problems with anxiety, and he states he has a phobia about driving a car since the accident. Dr. Alfonso Morales of Central Medical Clinic diagnosed trigger points with a cervical strain, cervicothoracic myofascial pain, posttraumatic lumbar strain and a right ankle contusion. On July 26, 2006, an MRI of his cervical spine showed a central disc bulge at C4-5 with extension to the cord, creating a mild central stenosis. The examination also revealed a central protruding disc at C5-6 with extension posteriorly, approximately 1-2 mm. An MRI of the lumbar spine was completely normal. An MRI of the right ankle revealed an osteochondral defect on the right lateral talar dome.

In an independent medical evaluation conducted by the City, the doctor believed that Mr. Lopez-Martinez did not sustain any significant injury to his cervical, thoracic, lumbar spine or ankle. The evaluation indicated that the medical problems were pre-existing or injuries from which he should have recovered within three months.

The Plaintiff incurred medical expenses of approximately \$12,238.58 and alleges damages to his vehicle of \$2,262.42. The Plaintiff asserts a claim for \$7,500.00 for future medical expenses and \$25,000.00 for pain and suffering. The Plaintiff demanded \$44,738.58 in settlement of all claims. Because the Plaintiff was not insured, the City is responsible for the medical treatment expenses for the Plaintiff that would normally have been assumed by the Plaintiff's insurance provider.

The squad car suffered approximately \$6,300.00 in damage.

A settlement conference was scheduled for June 20, 2006, in Hennepin County District Court before the Honorable Richard S. Scherer. Prior to the settlement conference, the Plaintiff accepted the final settlement offer of the City in the amount of \$26,000.00, including all past and future claims. The proposed settlement has been reviewed and approved by the City Attorney Litigation Committee. Chief Dolan has reviewed the proposed settlement and recommends its approval. We believe that the settlement is in the best interest of the City given that liability rests with the City and the level of injury suffered and recommend approval by this Committee and the City Council.