



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

Date: May 13, 2005
To: Ways and Means Budget Committee
Referral to:

Subject: Michelle Gearld v. Dustin Dupre and the City of Minneapolis

Recommendation: That the Council approve settlement of this matter for the sum of \$6,500.00 payable to Michelle Gearld and her attorney Justin Fox from Fund/Org. 6900 150 1500 4000.

Previous Directives: None

Prepared by: Edward Backstrom, Assistant City Attorney Phone: 673-2072

Approved by: _____
Jay M. Heffern
City Attorney

Presenter in Committee:

<p>Financial Impact (Check those that apply)</p> <p><input type="checkbox"/> No financial impact - or - Action is within current department budget. (If checked, go directly to Background/Supporting Information)</p> <p><input type="checkbox"/> Action requires an appropriation increase to the Capital Budget</p> <p><input type="checkbox"/> Action requires an appropriation increase to the Operating Budget</p> <p><input type="checkbox"/> Action provides increased revenue for appropriation increase</p> <p><input type="checkbox"/> Action requires use of contingency or reserves</p> <p><input checked="" type="checkbox"/> Other financial impact (Explain): Fund/Org 6900 150 1500 4000</p> <p><input type="checkbox"/> Request provided to the Budget Office when provided to the Committee Coordinator</p>

<p>Community Impact: None</p>
--

Background/Supporting Information

This lawsuit arises out of an automobile accident which occurred during a snowy day on January 4, 2002. Officer Dupre was traveling northbound on Logan in his squad car. At approximately 2:30 PM he approached the intersection with 15th Avenue North. The officer had a stop sign and attempted to stop well before the intersection. However, he was going downhill and the road surface before the stop sign was glare ice. He could not stop and went through the sign into the intersection and was struck by a vehicle driven by Michelle Gearld, the plaintiff.

It is clear that Ms. Gearld had the right of way. The traffic officer investigating the accident states in the accident report that both vehicles were going 10 to 15 miles per hour.

Ms. Gearld treated at University Family Physicians for back pain, neck pain, shoulder pain, and lip pain. She was found to have a significant amount of muscle spasm in her upper and mid thoracic region. She also complained of numbness and tingling into her right hand. She had physical therapy sessions at the Institute for Athletic Medicine from January to May of 2002. She still complained of low back pain after the treatment. Because of her continued pain she went to Dr. Gary Neegard, a chiropractor, for treatment. He determined that she had a permanent injury to her back. Ms. Gearld also has complained about recurring shoulder pain since the accident. An IME done for the City found the accident was the cause of her ongoing shoulder pain.

Ms. Gearld sustained \$4,371.77 damage to her vehicle which was paid for by her insurance company minus a \$250.00 deductible. She is claiming \$6,430.00 in medical bills, \$822.00 of which has not been paid. She is also claiming \$1,815.30 in unpaid lost wages and \$313.35 in unpaid mileage.

Plaintiff's attorney initially demanded \$100,000.00 to settle the case. The plaintiff has now agreed to settle the matter for \$6,500.00. Settlement in this amount was approved by the City Attorney's office litigation committee.