



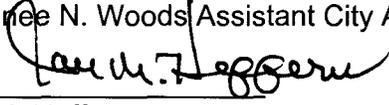
**Request for City Council Committee Action
From the City Attorney's Office**

Date: May 22, 2006
To: Ways & Means/Budget Committee
Subject: Aynababa Abebe v. City of Minneapolis and Sgt. Tim Davison 05I-0090
Hennepin County District Court No. PI 05-009229

Recommendation: That the City Council authorize settlement of Aynababa Abebe v. City of Mpls, et al. for the amount of \$7,000.00 payable to Aynababa Abebe and her attorney, Christina Makens, from Fund/Org. 6900 150 1500 4000, and that the City Attorney be authorized to execute any documents necessary to effectuate this settlement.

Previous Directives:

Prepared by: Sydnée N. Woods Assistant City Attorney Phone: 673-2625

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): \$7,000.00 from Fund/Org. 6900 150 1500 4000
- Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact:

City Goals: Build Community

Background/Supporting Information

On February 27, 2001, at approximately 10am, MPD Sgt. Tim Davison rear-ended Plaintiff Aynababa Abebe, a 31-year old pharmacy technician, while they were both traveling on 38th street in south Minneapolis. Sgt. Davison was traveling eastbound in an unmarked police vehicle. Plaintiff was driving a small, maroon car in front of him. He noted that she repeatedly slowed and then sped up for no apparent reason. Plaintiff then abruptly stopped her vehicle. Davison immediately put his foot on the brake but, due to ice on the road, was unable to avoid hitting her vehicle. Davison then contacted dispatch and an officer arrived, took photos and verified that neither Davison nor Plaintiff was injured. Plaintiff then stated to the officer that she had been looking for an address when she was hit. Davison's vehicle had minor damage to the grill. The impact was not significant enough to deploy Davison's airbag. Plaintiff's car had only minor scratches to the rear bumper.

Plaintiff was involved in a previous car accident in June 2000. She sustained a chest contusion and possible sternal buckle fracture. She did not receive any significant treatment for these injuries. As late as October 2000 (four months prior to the accident at issue) she was seen at Park Nicollet where she complained of "chronic back pain" due to this June 2000 accident.

Following the instant accident, Plaintiff began treating at Community Spinecare on March 20, 2001. She complained of headaches, neck and back pain. It was determined that she had an acute traumatic sprain/strain to the cervical, thoracic and lumbar spine. She treated at Community until May 2001 and then she began treating at Neighborhood Chiropractic Center. He diagnosed post-traumatic cervical sprain with deep and superficial muscle spasm, post-traumatic thoracic sprain, and post-traumatic lumbosacral sprain.

An October 2001 IME determined that she suffered a soft tissue injury that had "gone on to heal" and required no further treatment. In May 2002, however, Neighborhood Chiropractic submitted a narrative report diagnosing Plaintiff with post-traumatic cervical sprain with deep and superficial muscle spasm, post-traumatic thoracic sprain, and post-traumatic lumbosacral sprain and a permanent impairment.

A February 28, 2006 IME diagnosed myoligamentous pain cervical, thoracic and lumbar spine. The doctor determined that she sustained a temporary injury to her spine after the February 2001 accident. He stated that the lack of any significant treatment after the June 2000 accident made it impossible to state how much that accident may have contributed to the cause of her complaints following the February 2001 accident. He did state, however, that he believed the injuries were temporary and that her chiropractic care was excessive.

This case was filed in Hennepin County District Court in February 2005. Given that Sgt. Davison rear-ended Plaintiff, the City concedes liability. Given the conflicting IME reports, it is likely that Plaintiff will be awarded some amount of money for her pain and suffering.

At a court ordered mediation, the Plaintiff agreed to accept \$7,000.00 for full and complete settlement of this matter, including attorney's fees. For the reasons outlined above, we believe this to be a prudent settlement in the best interests of the City.