



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 2/22/2022

REQUESTER: Jeanne Snider

PRESENTER: Jeanne Snider, Assistant City Attorney

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF A COURT ORDER: CITY ATTORNEY'S RECOMMENDATION IN THE AMOUNT OF \$17,600 REGARDING SEAN LANDRUM VS. THE CITY OF NORMAN, OKLAHOMA WORKERS' COMPENSATION COMMISSION CASE NO. 2019-05618L.

BACKGROUND:

Sean Landrum is a former Utility Distribution Worker II for the City of Norman's Water Line Maintenance Division of the Utilities Department. Mr. Landrum filed Oklahoma Workers Compensation Commission Case No. 2019-05618L on September 4, 2019 alleging a single event injury to the head, headaches, face, jaw, teeth, tongue, neck, and right shoulder when a saw bound up and jerked back striking him in the face on July 26, 2019. The City admitted the claim. The case proceeded through the normal litigation process. A trial was held February 1, 2022. On February 7, 2022, the Court awarded Mr. Landrum 5 percent Permanent Partial Disability regarding the Teeth (Dental) for \$6,300 and 5 percent Permanent Partial Disability regarding the Face/Jaw for \$6,300 to be paid at a weekly rate of \$350 commencing February 12, 2021, until the entire award is paid in full. In addition, the Court awarded Mr. Landrum \$5,000 for disfigurement to the Chin/neck to be paid to as a lump sum as well as granted continuing medical maintenance for repair or replacement of medical devices relating to Claimant's jaw or teeth. It is recommended that the City comply with this Order.

DISCUSSION:

Mr. Landrum was hired May 30, 2017 as a Maintenance Worker I, reclassified July 1, 2018 to Utility Distribution and May 13, 2019, and promoted May 13, 2019 to Utility Distribution Worker II. He separated from employment on April 30, 2021.

Mr. Landrum was examined at Norman Regional Healthplex Emergency Room the day of his injury and underwent oral surgery to his lower jaw with a synthetic bone graft, extractions of teeth twenty-three and twenty-four with closure of facial and oral lacerations. He was discharged from the hospital the following day. He followed up postoperatively with his oral surgeon, Dr. Miller, and then underwent removal of the four intermaxillary fixation screws on September 6, 2019 and implants on March 2, 2020. Mr. Landrum was then referred a cosmetic dentist, Dr. McCaskill, for restorative dental work and a bridge over his lower front teeth which was placed on

February 12, 2021.

Issues for Trial. The issues tried on February 1, 2022, before the Oklahoma Workers' Compensation Commission were the extent of permanent partial disability benefits and continuing medical maintenance. Permanent partial disability is a factual determination made by the Workers' Compensation Commission Trial Judge based on doctors' opinions and medical records regarding the extent of permanent partial impairment.

Evaluations. On May 24, 2021, Mr. Landrum was rated by Dr. Lance Rosson. Dr. Rosson reported that Mr. Landrum had reached his maximum medical improvement and opined 10% (\$12,600) permanent partial impairment to the whole person regarding the facial/jaw injury, 10% (\$12,600) permanent partial impairment to the whole person regarding dental injuries and resulting dysfunction of mastication, and disfigurement. He also opined continuing medical benefits in the nature of prescriptions and medications on an as needed basis as well as other treatment that his treating physicians or further selected physicians might deem necessary with respect to this job-related injury. The City had Mr. Landrum evaluated by Dr. Pettigrew on October 4, 2021 who opined 2% (\$2,520) permanent partial impairment to the whole person regarding the face/jaw, 0% (\$0) permanent partial impairment to the whole person regarding the head, 0% (\$0) permanent partial impairment to the whole person regarding the teeth. He also opined that Mr. Landrum was in no further need of medical care, continuing medical maintenance, prescription medication, or maintenance for an implant medical device. The Workers' Compensation Commission Trial Judge is free to make a ruling within the range of medical evidence presented at the time of trial. The City's maximum permanent partial impairment exposure would be \$25,200 and disfigurement.

Court Award: The case was heard by the Workers' Compensation Commission on February 1, 2022. After hearing the Claimant's testimony and considering the expert medical evidence, the Court entered its Order on February 7, 2022, awarding 5% (\$6,300) permanent partial disability regarding the teeth (dental), 5% (\$6,300) permanent partial disability regarding the face/jaw, \$5,000 disfigurement regarding the Chin/neck as well as granted continuing medical maintenance for repair or replacement of medical devices relating to Claimant's jaw or teeth.

The Court's findings are set out in Paragraph Nos. 3 through 6 of the Order, as follows:

-3.- "That as a result of said injury, Claimant has sustained 5% Permanent Partial Disability to the TEETH (DENTAL) and 5% Permanent Partial Disability to the FACE/JAW. At Claimant's rate of compensation, this is equal to an award of \$12,600.00, which shall be paid to Claimant weekly at the rate of \$350.00 commencing February 12, 2021, until the entire award is paid in full."

As can be noted in No. 3 of the Commission's Order, PPD compensation is expressed in terms of "weeks" of compensation with an accompanying "weekly wage rate." Workers' Compensation awards are normally paid at the weekly rates over a period of time. Mr. Landrum's weekly wage PPD rate is \$350.00. In this instance, the entire portion of the award has accrued less the claimant's attorney fee and is to be paid in a lump sum.

If approved by Council, Mr. Landrum and his attorney will be paid the accrued lump sum of \$12,600.

-4.- "1As a result of the compensation injury, the Claimant suffered serious and permanent disfigurement to the CHIN/NECK for which the Claimant is entitled to benefits pursuant to 85A O.S., §45(F) in the amount of \$5,000.00, which shall be paid by the Respondent to the Claimant in lump sum. (less attorney fee)."

-5.- "That pursuant to 85A O.S. Section 50(F) and Section 114 continuing medical maintenance is granted for repair or replacement of medical devices relating to Claimant's jaw or teeth."

-6.- "Maximum attorney fees of 20% of the permanent partial disability benefits are awarded herin, pursuant to 85A O.S., §82."

Further, in complying with the Order, the City will incur additional costs and fees as set out in Paragraph Nos. 7 through 10. Special Occupational Health and Safety Fund Tax in the amount of \$132.00, Workers' Compensation Administration Fund in the amount of \$252.00, Multiple Injury Trust Fund Assessment in the amount of \$378.00, filing fee to the Workers' Compensation Court in the amount of \$140.00; and filing fee to Cleveland County in the amount of \$154.14. The costs and fees total \$1,056.14, which brings the total cost of this Order to \$18,278.14. Adequate funds are available in the Order/Settlements Account (43330102-42131).

RECOMMENDATION:

The issues tried on February 1, 2022, were the extent of Mr. Landrum's injury and whether this injury was permanent in nature and continued medical maintenance. The Court Award in this case is within the medical evidence submitted. It is not anticipated a more favorable ruling for the City could be achieved by further litigation. It is recommended that the City move forward to comply with this Order.

Acceptance of the Order would require the award to be paid in a lump sum. The Order would be certified to the Cleveland County District Court to be placed on the property tax rolls for collection over the next three years in accordance with 85 O.S. § 313, 51 O.S. § 159, and 62 O.S. § 361, *et seq.* Certifying the Order to the property tax rolls would, in effect, reimburse the City's Workers' Compensation Fund over the next three years.