



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 4/08/25

REQUESTER: Jeanne Snider

PRESENTER: Jeanne Snider, Assistant City Attorney

ITEM TITLE: CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF RESOLUTION R-2425-113: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AUTHORIZING JOINT PETITION SETTLEMENT OF THE CLAIM FILED BY LEVI WILKINS UNDER THE PROVISIONS OF THE WORKERS' COMPENSATION STATUTES OF THE STATE OF OKLAHOMA IN THE CASE OF *LEVI WILKINS V. THE CITY OF NORMAN*, WORKERS' COMPENSATION COMMISSION CASE NO. 2019-05323 X, DIRECTING THE LEGAL DEPARTMENT TO THEN FILE SUCH SETTLEMENT AND ALL ATTENDANT COSTS IN THE WORKERS' COMPENSATION COMMISSION, OKLAHOMA CITY, OKLAHOMA; AND AUTHORIZING AND DIRECTING THE FINANCE DIRECTOR TO SUBSEQUENTLY PURCHASE SUCH WORKERS' COMPENSATION COMMISSION JUDGMENT FROM THE RISK MANAGEMENT INSURANCE FUND.

BACKGROUND:

Levi Wilkins filed an Oklahoma Workers Compensation Commission claim 2019-05323 X on August 22, 2019, alleging injury to the body as a whole (Cancer) as a result of cumulative trauma with the date of awareness of August 5, 2019 and date of last exposure of August 9, 2019. The claim was denied by the City. A trial was held October 6, 2022 and on November 3, 2022, the Court found the claim compensable. On November 17, 2022, the City filed an appeal and then on May 24, 2023, the Workers' Compensation Commission vacated the Court Order and remanded the matter for further proceedings.

On September 22, 2023, Mr. Wilkins passed away due to a cause unrelated to this claim. On April 2, 2024, the court ordered his surviving spouse, Emily Wilkins, as the proper party to be appointed the representative of the estate of Mr. Wilkins to pursue a revivor action.

Prior to a trial being held, a mediation was held on March 13, 2025 and Mrs. Wilkins agreed to settle the claim in a lump sum amount of \$50,000 for revivor benefits. The settlement offer is recommended and is being presented to the City Council for consideration.

DISCUSSION:

Mr. Wilkins, a former Fire Driver Engineer for the City of Norman's Suppression Division of the Fire Department, was hired as a Firefighter on January 3, 2012 and promoted to Fire Driver Engineer January 3, 2019.

Medical Treatment.

Mr. Wilkins was initially seen by his primary care provider, Dr. Connery, due to fatigue, flu like symptoms, and shortness of breath and found to be anemic and was sent to gastroenterologist and hematologist specialists. Following radiology imaging, he returned to Dr. Connery and was diagnosed with a mass and pleural effusion. After further evaluation by a pulmonologist and urologist, he was found to have cancer of the kidney or adrenal glands. Mr. Wilkins was referred to Dr. Karam at MD Anderson Cancer Center and found to have a large mass on the left adrenal gland and left-sided pleural effusion as well as a nodule. Dr. Karam recommended shrinking the mass and surgery. Mr. Wilkins was then referred to Dr. Varghese for urological evaluation. Mr. Wilkins continued to be seen locally and underwent thoracentesis approximately every two weeks between December 2019 and January 2020. He also continued to follow up with endocrinologist Dr. Varghese and oncologist Dr. Campbell at MD Anderson. Mr. Wilkins was diagnosed with metastatic adrenal cortical carcinoma and underwent four rounds of IV chemotherapy with Dr. Morton at Mercy in Oklahoma City. On January 24, 2020, Mr. Wilkins underwent left adrenal gland radical adrenalectomy, en bloc left radical nephrectomy, and en bloc lymph node dissection followed by radiation therapy. Mr. Wilkins was released to regular work without restrictions on May 18, 2020 and continued to follow-up with his treating physicians at MD Anderson and local oncologist.

Issues for Trial. The primary issue to be tried in this case before the Workers' Compensation Commission is whether the injury was compensable.

Mr. Wilkins was evaluated by Lance Rosson, D.O. on December 17, 2020, regarding the above claim. Dr. Rosson opined the major cause of injury, ongoing complaints, and symptomatology was a repetitive and cumulative trauma and repetitive exposure to smoke, chemicals, fumes, products of combustion, diesel exhaust, and multiple carcinogens with date of awareness of August 5, 2019 and last date of exposure of August 9, 2019. Dr. Rosson found Mr. Wilkins to be temporarily totally disabled until resolution of symptoms by additional testing and/or treatment or until reaching medical maximum improvement. He also opined continued care by his treating specialists at MD Anderson Cancer Center as well as Dr. Morton and other local treating physicians.

On October 22, 2020, Mr. Wilkins was re-evaluated by Dr. Rosson. Dr. Rosson opined ratings of 15 percent (\$18,900) permanent partial impairment (PPI) to the whole person as a result of the adrenal gland dysfunction, 10 percent (\$12,600) PPI to the whole person as a result of removal of the left kidney, 10 percent (\$12,600) PPI to the whole person as a result of metastatic lung disease, 7 percent (\$8,820) PPI to the whole person as a result of thyroid dysfunction, and 7 percent (\$8,820) PPI to the whole person as a result of liver dysfunction. He also opined the need for ongoing medication management and follow-up visits with his specialists indefinitely for monitoring the cancer for possible recurrence/progression.

Mr. Wilkins was evaluated by C. B. Pettigrew, D.O., the medical expert for the City, on March 5, 2021 and opined that his employment with the City of Norman as a firefighter was not the major cause of the adrenocortical cancer. Dr. Pettigrew also stated that this cancer was extremely rare, more common in children and adults over 50 years of age, and most likely caused by a hereditary predisposition and not his employment as a firefighter with the City of Norman. He also stated that there was no known cause for this particular cancer. The City's maximum exposure for total PPD would be \$61,740.

Trial. The case proceeded through the normal litigation process; however, Mrs. Wilkins has agreed to a settlement of this case as outlined below.

Proposed Settlement. The proposed settlement closes the case in a lump sum payment of \$50,000 (less 20% attorney fee) for revivor benefits.

It is felt that the settlement to close this case is fair and reasonable. A settlement is beneficial to the City in that it is a full, final and complete settlement of any and all claims. This settlement is beneficial to Mrs. Wilkins in that it provides certainty for an award and would be paid in a lump sum.

Furthermore, if this case were settled in this manner, the City would incur additional costs and fees of:

Special Occupational Health & Safety Tax in the amount of \$375 and Workers Comp Commission Filing fee in the amount of \$140.00. In addition, the City would incur an additional cost and fee for the Cleveland County Court Filing Fee in the amount of \$154.14.

These additional costs and fees total \$669.14, which brings the total cost of this settlement to the City to \$50,669.14. Adequate funds are available in the Order/Settlements Account (43330102-42131).

RECOMMENDATION:

For the reasons outlined above, it is believed this settlement is fair, reasonable, and in the best interest of the City. Acceptance of the settlement would require the payments as outlined above. If approved, the settlement amount for revivor benefits would be paid in a lump sum to Mrs. Wilkins and her attorney. The settlement 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 85A O.S. § 107, 51 O.S. § 159, and 62 O.S. § 361, *et seq* and 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.