

MEMORANDUM



TO: MAYOR AND CITY COUNCIL
FROM: VICTOR CARDENAS, CITY MANAGER
SUBJECT: FORMER EMPLOYEE LITIGATION
DATE: JUNE 25, 2026

CONFIDENTIAL

I shared earlier this week that I'd be participating in the Michigan Municipal League's Workers Comp Pool, which we are a member of and on whose board I also serve as Vice Chair. One of the matters the board considered and ultimately approved was a settlement agreement with a former Novi employee, Gerald Orchard (56). The City Council previously approved a settlement through our liability insurance in 2023. Please see the attached letter that the Council saw during the executive session. Following that litigation, a claim was filed with our workers' comp carrier. After many months of mediation, it was decided to settle his claim for \$135,000. There are no additional charges or expenditures from the City to facilitate the settlement. At this point, Mr. Orchard has exhausted all his avenues regarding his employment with the City.

Here is a quick background of the situation:

In this lawsuit, the plaintiff, Gerald Orchard, is a former long-term employee of the City, employed as a sign technician. In 2017, Mr. Orchard suffered an on-the-job injury to his shoulder. After several years of treatment for the injury and light-duty work, Mr. Orchard wanted to return to work full-time with a lifting restriction. The City determined that it could not accommodate this restriction and terminated his employment. He filed a lawsuit in federal court in March 2021, asserting that the termination of his employment was discriminatory in violation of the Americans with Disabilities Act ("ADA"). Mr. Orchard also asserted claims regarding the City's alleged failure to reasonably accommodate him and retaliation for having filed a prior charge of discrimination with the Equal Employment Opportunity Commission ("EEOC"). Following many weeks of negotiations between the two attorneys, it was agreed to resolve the matter for \$475,000, down from the initial amount he requested, \$1.75 million. The City's insurance carrier agreed to fully fund this settlement

amount. In exchange for the settlement amount, the plaintiff will dismiss the instant lawsuit and release the City from any and all claims he has or could have against it arising out of his employment, except for a separate workers' compensation claim. City Council agreed to the settlement at their June 24, 2023, meeting.

The Workers Compensation (WC) process has also been in the works since 2017. After his surgeries, a vocational rehabilitation was initiated in August of 2021. Mr. Orchard then retained an attorney and filed an Application for Hearing. Once he hired an attorney, WC ceased traditional vocational rehabilitation efforts and referred his claim for a Post-Injury Wage Earning Capacity evaluation ("PIWEC"). This showed open positions within Mr. Orchard's skill set, averaging \$24/hour, which resulted in the elimination of his workers' compensation benefits because the PIWEC estimate exceeded his weekly workers' compensation rate. WC paid this claim voluntarily from June 7, 2017, through August 8, 2023, at which time they disputed benefits because the PIWEC estimate exceeded his weekly workers' compensation rate. In October of 2025, in an attempt to resolve the matter, the City offered Mr. Orchard a janitorial position within his restrictions, but he rejected it. Plaintiff's attorney argued this offer of employment would be unreasonable as Mr. Orchard moved to the west side of the state. This is a reasonable rejection of the offer.

A facilitation took place in April 2026. The facilitator recommended a settlement of \$125,000 plus funding of a Medicare Set-Aside (MSA) Trust in the amount of \$10,000, for a total settlement of \$135,000.

Again, this matter is now closed, and there are no financial obligations from the City.

If you have any questions, please let me know.