LAW DEPARTMENT

Coleman A. Young Municipal Center 2 Woodward Avenue, Suite 500 Detroit, Michigan 48226-3437 Phone 313•224•4550 Fax 313•224•5505 www.detroitmi.gov

January 7, 2022

HONORABLE CITY COUNCIL

RE: Neal, Yvette v City of Detroit

Case No: 19-016483-NF File No: L19-00950 PH

We have reviewed the above-captioned lawsuit, the facts and particulars of which are set forth in a confidential memorandum that is being separately hand-delivered to each member of Your Honorable Body. From this review, it is our considered opinion that a settlement in the amount of FORTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS AND NO/CENTS (\$47,500.00) is in the best interest of the City of Detroit.

We, therefore, request authorization to settle this matter in the amount of FORTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS AND NO/CENTS (\$47,500.00) and that Your Honorable Body direct the Finance Director to issue a draft in that amount payable to YVETTE NEAL and HER attorney, GOODMAN ACKER PC, to be delivered upon receipt of properly executed Releases and Stipulation and Order of Dismissal entered in Lawsuit No.19-016483-NF, approved by the Law Department.

Respectfully submitted, Philip Hiltner Assistant Corporation Counsel

APPROVED:

CHARLES RAIMI Corporation Counsel

BY: /s/Krystal A. Crittendon

Krystal A. Crittendon

Supervising Assistant Corporation Counsel

Attachments

RESOLUTION

BY CO	UNCIL MEMB	ER					;
]	RESOLVED, tha	at settlement of t	he above	e matter be and	is hereby auth	orized i	n the amoun
OF FC	ORTY-SEVEN	THOUSAND	FIVE	HUNDRED	DOLLARS	AND	NO/CENTS
(\$47,500	0.00); and be it for	urther					
]	RESOLVED, th	at the Finance I	Director	be and is hereb	y authorized a	and dire	cted to draw
a warrar	nt upon the prope	er account in fav	or of YV	ETTE NEAL	and HER atto	orney, (GOODMAN
ACKE	R PC, in the amo	ount of FORTY	-SEVE	N THOUSANI	D FIVE HUN	DRED	DOLLARS
AND NO	O/CENTS (\$47,5	500.00) in full p	ayment	for any and al	l claims which	h YVE '	TTE NEAL
may hav	ve against the Cit	y of Detroit and	any oth	er City of Detro	oit employees	by reaso	on of alleged
injuries	sustained on or a	about 12/14/201	8, and ot	herwise set for	th in Case No.	.19-016	483-NF, tha
said am	nount be paid u	pon receipt of	properly	y executed Re	leases, Stipula	ation a	nd Order of
Dismiss	al entered in La	awsuit No. 19-0	016483-	NF and, where	e deemed nec	essary	by the Law
Departn	nent a properly e	xecuted Medica	re/CMS	Final Demand	Letter.		
	OVED: LES RAIMI ation Counsel						
BY:	/s/Krystal A. Critt	endon					
	Krystal A. Critt Supervising Assi		n Couns	sel			
Approve	ed by City Counc	cil:					

Approved by the Mayor:

LAWSUIT SETTLEMENT MEMORANDUM

Neal, Yvette v City of Detroit

19-016483-NF L19-00950PH

PLAINTIFF'S NAME: Yvette Neal

DATE OF INCIDENT: December 14, 2018

TIME OF INCIDENT: 10:40

LOCATION OF INCIDENT: State Fair Avenue at/near Ralston

SUMMARY OF INCIDENT: On the above date and time, Plaintiff, Yvette Neal, was a passenger on a City of Detroit bus traveling eastbound on State Fair near the intersection of Ralston. Another driver made a left turn off of Ralston onto eastbound State Fair without ensuring the road was clear. The other car pulled in front of the bus and caused an accident.

The accident caused severe damage to the other car, a 1995 Chevrolet Monte Carlo, crushing its entire back end. The bus's windshield was shattered, the left front head light was broken, and the bike rack on the front of the bus was bent.

Plaintiff claim she was standing on the bus when the accident happened. The accident caused her to fall to the floor of the bus on her left side. At the scene of the accident, Plaintiff complained of wrist pain. She was taken to Henry Ford Hospital by the Detroit Fire Department.

MEDICAL TREATMENT/DIAGNOSIS: At the hospital, Plaintiff presented with complaints of left wrist pain, left arm pain, and left knee pain. The physician assistant at the hospital noted Plaintiff had tenderness around her scapula and her forearm. She was given x-rays of her left wrist, left forearm, left shoulder, and left knee. She had no broken bones, and she was discharged from the hospital.

Plaintiff saw her primary care doctor twice within the first few days after the accident. He prescribed Motrin and muscle relaxers, and on the first visit she was given a Toradol injection.

Exactly one week after the accident Plaintiff went to see Dr. Jeffrey Parker at Spine, Sports, and Occupational Health. Plaintiff had complaints of pain in her neck and lower back, she said she had tingling in her left leg, and she had limited movement in her left shoulder and wrist. He disabled her from work (Plaintiff was a self-employed hair stylist), household chores, and driving. He also referred her for MRIs of her neck and left shoulder.

Plaintiff underwent those MRIs at Premier MRI. The MRI of her neck showed disc bulging at C4-5 and C6-7. Her shoulder MRI showed a partial thickness tear of tendons in her rotator cuff.

In follow up to her shoulder MRI, Plaintiff saw orthopedic surgeon, Dr. Hussein Saad. He recommended surgery to repair Plaintiff's rotator cuff. Plaintiff underwent surgery on April 23, 2019. By the time of her surgery, Plaintiff's only remaining complaints were her pain in her left wrist and shoulder.

After surgery, Plaintiff continued to have pain in her shoulder, but her condition did improve. She did physical therapy for several months and she saw Dr. Craig Peppler, a pain medicine specialist at Spine, Sports, and Occupational Health, through November 2019.

CASE EVALUATION: \$50,000

<u>LIABILITY/EVALUATION</u>: Plaintiff is suing the City of Detroit for No-Fault personal injury protection (PIP) benefits. Under the No-Fault Act, a passenger on a City of Detroit bus without automobile insurance of her own can sue the City of Detroit for PIP benefits regardless of the bus driver's fault. PIP benefits include all medical expenses, up to \$20 per day for help with household services, up to \$20 per hour for help with personal care, and wage loss for up to three years.

In order to claim these benefits, Plaintiff must show that any benefits they are claiming are reasonably necessary and related to the injuries arising out of the accident. Plaintiff is also only able to claim a reasonable amount for these services. Thus, the City defends these claims by arguing Plaintiff's services were not reasonably necessary or related to the accident and that the City is being overcharged for these services.

In this case, the City of Detroit paid for Plaintiff's medical care from the time of the accident through October 2019. The City of Detroit did not pay for any household services or wage loss during that time, but that is only because Plaintiff did not submit the necessary forms showing she had someone providing household services and demonstrating her income.

Plaintiff is claiming she is owed \$69,017.91 in unpaid benefits. She claims she is owed \$15,441.86 in unpaid medical bills, \$4,580 in household services, \$10,782 in attendant care (599 hours at \$18 per hour), and \$38,214.15 in wage loss.

The City of Detroit has had Plaintiff evaluation by independent physicians. Their opinions are that Plaintiff's issues with her wrist and shoulder were more likely degenerative conditions. She worked as a hair braider and she had a bone spur in her left shoulder. The bone spur in combination with her repetitive work with her arms raised could have caused the partial tearing in her shoulder. The constant rotating of her hands and wrists when braiding hair were likely the cause of her wrist pain.

Plaintiff's physicians, and particularly Dr. Saad, the surgeon, disagree. He says Plaintiff's shoulder tear was most likely caused by the fall on the bus.

In many of our PIP cases, the accident was very minor, the plaintiff has medical history from before the accident to undermine his or claims, or the medical bills are obviously overpriced (e.g. \$3,000 for lidocaine cream). This is not one of those cases. Whether a jury will believe Plaintiff is

entitled to any of the benefits she is claiming will depend on whether they believe Plaintiff's treaters or the City's experts. This is very difficult to predict. Additionally, at her deposition, Plaintiff come across as a credible witness as did her friends who claim to have provided her household services.

On the other hand, Plaintiff's claim that she was disabled from work for the entire three years is a stretch, and some of the medical bills she is claiming appear to be unrelated to the accident. Plaintiff's own surgeon testified that the average recovery for the surgery he performed is three months.

Considering all of the above, the proposed settlement of \$47,500 with a waiver of future benefits would be a good outcome for this case. Plaintiff has allegedly suffered additional wage loss since case evaluation, yet she is accepting less than the case evaluation amount. She is also agreeing to waive future PIP benefits. This means she cannot continue medical treatment and seek payment from the City of Detroit. The lawyer handling Plaintiff's case has a track record of settling cases, having his client undergo additional treatment, and then suing the City again for the additional treatment. This settlement will resolve Plaintiff's claims related to this accident forever and will do so for a reasonable amount.

AMOUNT OF SETTLEMENT RECOMMENDED: \$47,500

RISK MANAGEMENT MEASURES: Not applicable as no individual City of Detroit employees were named in this matter and there is no allegation of fault against the City of Detroit or its employees.

<u>DATE CITY COUNCIL APPROVED EMPLOYEE REPRESENTATION:</u> Not applicable as no individual City of Detroit employees were named in this matter.

Philip Hiltner
LAWSUIT SETTLEMENT
\$47,500.00