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## CITY COUNCIL AGENDA ITEM

Date: May 16, 2022

To: Honorable Mayor and Troy City Council Members

From: Lori Grigg Bluhm, City Attorney  
Nicole MacMillan, Assistant City Attorney

Subject: Kiera Grier v. City of Troy



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This case stems from an accident that happened on November 12, 2019. On that date, Plaintiff was in a U.S. post office vehicle, which was improperly parked on Robart Street. She reports that she was making a delivery, and a City of Troy truck was plowing snow. The wing plow on the City's truck accidentally scraped the postal truck. The City of Troy employee reports that he was traveling at a speed of less than 10 MPH. When he saw the postal truck, he immediately pushed the button to raise the wing plow, but there was a slight delay. Plaintiff claims that she suffered a shoulder and back injury as a result of the incident.

Immediately after the incident, Plaintiff went to Concentra, where she was given permission to return to work the following day, with restrictions. After about two weeks of working, Plaintiff began to complain of shoulder pain that she alleges resulted from the incident. At that time, Plaintiff claimed that she could no longer work, and made a worker's compensation claim with the U.S. Post Office. Plaintiff attended physical therapy for both her back and shoulder, but claimed that she was not able to obtain any relief from pain. In August 2020, she had shoulder surgery. Plaintiff completed physical therapy for her shoulder, but still complained of back pain. Plaintiff's doctor tried to enroll her in work conditioning, so that she could return to work, but she claimed that she could not tolerate it. To date, Plaintiff has still not returned to work.

Plaintiff filed this lawsuit against her insurance company (first-party claim), as well as the City of Troy and the City of Troy employee (third-party claim). Plaintiff's Complaint seeks replacement services and a supplement for her lost wages against her own insurance company, since worker's compensation is not paying 100% of her wages. She is seeking pain and suffering damages from the City for her shoulder injury and surgery and back pain.

In July of 2021, Judge McMillen ordered the parties to participate in facilitation in lieu of case evaluation. At that time, the facilitator was not able to resolve the case. Since this case is nearing trial, Judge McMillen urged the parties to participate in another round of facilitation, and the parties were agreeable to submit this case to retired Judge Daniel Ryan, who facilitated this case on May 5, 2022. The biggest hurdle during the facilitation was the Federal Department of Labor lien for her worker's compensation payments. In the end, Judge Ryan drafted a settlement proposal to resolve the case, including the lien. Plaintiff and State Farm have agreed to accept this settlement, and we recommend that Council accept this resolution as well. Acceptance is not an admission of liability, and instead is a recognition of the risks inherent in any litigation, and the anticipated costs for proceeding to trial. If accepted, the case would be immediately dismissed.