



Legislation Details (With Text)

File #: 2144-2023 **Version:** 1
Type: Ordinance **Status:** Passed
File created: 7/7/2023 **In control:** Criminal Justice & Judiciary Committee
On agenda: 7/17/2023 **Final action:** 7/21/2023

Title: To authorize and direct the City Attorney to pay the attorneys' fees and costs in accordance with the Opinion and Order entered on May 1, 2023, in the case of Melissa McFadden v. City of Columbus, in the United States District Court for the Southern District of Ohio, case no. 2:18-cv-544; to authorize a transfer within the general fund; to authorize the expenditure of the sum of two hundred sixteen thousand, seven hundred thirty-two dollars and seventy-one cents (\$216,732.71); and to declare an emergency. (\$216,732.71)

Sponsors:

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
7/21/2023	1	CITY CLERK	Attest	
7/20/2023	1	ACTING MAYOR	Signed	
7/17/2023	1	COUNCIL PRESIDENT	Signed	
7/17/2023	1	Columbus City Council	Approved	Pass

Background:

This ordinance is submitted to pay attorneys' fees and costs as ordered by the Court in its Opinion and Order entered on May 1, 2023, in favor of Melissa McFadden in the amount of two hundred sixteen thousand, seven hundred thirty-two dollars and seventy-one cents (\$216,732.71).

Plaintiff's lawsuit arose out of claim that she was discriminated against on the basis of her race and retaliated against for engaging in protected activity, both in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C § 2000e, et seq. ("Title VII"), and Ohio Revised Code § 4112.02. Plaintiff also asserted that the City of Columbus ("the City") violated her due process and equal protection rights because of her race.

On June 4, 2018, Plaintiff filed her complaint in the United States District Court for the Southern District of Ohio, against the City of Columbus, in which she claimed she was discriminated against on the basis of her race and retaliated against for engaging in protected activity, both in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C § 2000e, et seq. ("Title VII"), and Ohio Revised Code § 4112.02. Plaintiff also asserted that the City of Columbus violated her due process and equal protection rights because of her race. The Court granted summary judgement to the City of Columbus and dismissed Plaintiff's due process claim. The remaining claims were tried to a jury in June 2022. On June 13, 2022, the jury entered a verdict against the City of Columbus and found that the City discriminated and retaliated against Plaintiff and awarded her one dollar (\$1.00) for each count. Post-trial Plaintiff filed a Bill of Costs and a Motion for Attorney Fees. On May 1, 2023, the Court granted Plaintiff's motion and ordered the City to pay one hundred eighty-eight thousand, seven hundred sixty-eight dollars and fifty cents (\$188,768.50) in attorney fees, twelve thousand nine hundred eighty-nine dollars and sixty-three cents (\$12,989.63) in expert costs and fourteen thousand nine hundred seventy-four dollars and fifty-eight cents (\$14,974.58) in its Bill of Costs, totaling a sum of two hundred sixteen thousand, seven hundred thirty-two dollars and seventy-one cents (\$216,732.71).

Fiscal Impact:

Funds were not specifically budgeted for this settlement; however, sufficient monies are available within the Department of Finance's Citywide Account for this purpose.

Emergency action is requested for this ordinance to be effective immediately for the City to comply with Court's Opinion and Order to pay attorneys' fees and costs in the sum of two hundred sixteen thousand, seven hundred thirty-two dollars and seventy-one cents (\$216,732.71) as ordered without delay.

To authorize and direct the City Attorney to pay the attorneys' fees and costs in accordance with the Opinion and Order entered on May 1, 2023, in the case of *Melissa McFadden v. City of Columbus*, in the United States District Court for the Southern District of Ohio, case no. 2:18-cv-544; to authorize a transfer within the general fund; to authorize the expenditure of the sum of two hundred sixteen thousand, seven hundred thirty-two dollars and seventy-one cents (\$216,732.71); and to declare an emergency. (\$216,732.71)

WHEREAS, on June 4, 2018, Plaintiff filed her complaint in the United States District Court for the Southern District of Ohio, against the City of Columbus, in which she claimed she was discriminated against on the basis of her race and retaliated against for engaging in protected activity, both in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C § 2000e, et seq. ("Title VII"), and Ohio Revised Code § 4112.02. Plaintiff also asserted that the City of Columbus violated her due process and equal protection rights because of her race; and

WHEREAS, on June 13, 2022, the jury entered a verdict against the City of Columbus and found that the City discriminated and retaliated against Plaintiff and awarded her one dollar (\$1.00) for each count; and

WHEREAS, post-trial Plaintiff filed a Bill of Costs and a Motion for Attorney Fees. On May 1, 2023, the Court granted Plaintiff's motion and ordered the City to pay one hundred eighty-eight thousand, seven hundred sixty-eight dollars and fifty cents (\$188,768.50) in attorney fees, twelve thousand nine hundred eighty-nine dollars and sixty-three cents (\$12,989.63) in expert costs and fourteen thousand nine hundred seventy-four dollars and fifty-eight cents (\$14,974.58) in its Bill of Costs, totaling a sum of two hundred sixteen thousand, seven hundred thirty-two dollars and seventy-one cents (\$216,732.71); and

WHEREAS, by reason of the foregoing an emergency exists in the usual daily operation of the Department of Public Safety, Division of Police, and the City is required to promptly pay the amount ordered by the Court on May 1, 2023;
NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That the City Attorney be and hereby is authorized and directed to pay attorneys' fees and costs, payable to Marshall Forman & Schlein, LLC , in the total amount of two hundred sixteen thousand, seven hundred thirty-two dollars and seventy-one cents (\$216,732.71) as provided in the May 1, 2023 Opinion and Order in the case of *Melissa McFadden v. City of Columbus*, in the United States District Court for the Southern District of Ohio.

SECTION 2. That the transfer of \$216,732.71, or so much thereof as may be needed, is hereby authorized between object classes within the General Fund from the Department of Finance's Citywide account to the Department of Public Safety per the accounting codes in the attachment to this ordinance.

SECTION 3. That the expenditure of \$216,732.71, or so much thereof as may be needed, is hereby authorized to be expended from the General Fund, object class 05 per the accounting codes in the attachment to this ordinance.

SECTION 4. That to carry out the purposes of this ordinance the amount of two hundred sixteen thousand, seven hundred thirty-two dollars and seventy-one cents (\$216,732.71) be made payable in the following manner:

Marshall Forman & Schlein, LLC
250 Civic Center Drive
Suite 480
Columbus, Ohio, 43215

SECTION 5. That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.