



Legislation Details (With Text)

File #: 1790-2024 **Version:** 1

Type: Ordinance **Status:** Council Office for Signature

File created: 6/12/2024 **In control:** Public Safety & Criminal Justice Committee

On agenda: 7/1/2024 **Final action:**

Title: To authorize and direct the City Attorney to pay attorneys' fees, court costs, and pre-judgment interest in accordance with the Opinion and Order entered on June 4, 2024 in the case *Terry Scott Caskey v. Nathan Fenton, et al.*, United States District Court Case No. 2:20-cv-1549; to authorize the transfer of \$545,210.95 between divisions and object classes within the General Fund; to authorize the expenditure of the sum of Five Hundred Forty-five Thousand, Two Hundred Ten Dollars and Ninety-five Cents (\$545,210.95) in payment of the attorneys' fees, court costs, and pre-judgement interest; and to declare an emergency. (\$545,210.95).

Sponsors:

Indexes:

Code sections:

Attachments: 1. 1790-2024 Court Order, 2. 1790-2024 Financial Coding

Date	Ver.	Action By	Action	Result
7/1/2024	1	Columbus City Council	Approved	Pass

Background:

This legislation is submitted to authorize the payment of attorneys' fees, court costs, and pre-judgment interest in accordance with the Opinion and Order entered on June 4, 2024, in favor of *Terry Scott Caskey*, in the amount of Five Hundred Forty-five Thousand, Two Hundred Ten Dollars and Ninety-five Cents (\$545,210.95).

On November 11, 2018, Columbus Police Officers Nathan Fenton and Charles Harshbarger observed a Nissan Altima stopped on Dana Avenue. The Officers then observed the Altima make a couple of minor misdemeanor traffic violations and initiated their lights and made two audible siren blasts to initiate a traffic stop. At this time, the Altima failed to stop and appeared to be fleeing from the Officers' visible and audible signals to pull over. The Officers then observed the Altima make some dangerous driving maneuvers, including failing to wait for a vehicle in front of them to complete a turn before making its own turn, turning into a lane for travel in the opposite direction, and making a turn when others had the rights of way, causing other cars to stop to avoid a collision. While following the Altima, the Officers were able to observe the driver who matched the OHLEG photo of the car's registered owner, Terry Caskey. This was enough for the Officers to believe that they had probable cause that a felony, Ohio Revised Code 2921.331(B), had occurred. The Officers made a report and charges were presented to a Grand Jury who chose to indict Plaintiff Caskey. A warrant was then issued and Plaintiff Caskey was subsequently arrested for a third-degree felony Failure to Comply with an Order or Signal of Police arising from that November 11, 2018 incident. Plaintiff Terry Caskey spent five (5) nights in jail following this arrest and his criminal case was eventually dismissed.

The civil case went to trial against Officers Fenton and Harshbarger and presented two causes of action against each: (1) seizure without probable cause in violation of 42 U.S.C. §1983; and (2) malicious prosecution claims in violation of 42 U.S.C. §1983. A jury found in favor of the defendant officers on Plaintiff's malicious prosecution claims but the jury

found in favor of the Plaintiff as to both defendant officers on the unlawful arrest claims. The jury awarded \$350,000.00 in compensatory damages and \$0 in punitive damages. Ordinance 3272-2023, passed by Council on December 4, 2023, authorized payment of the jury award to Plaintiff Caskey. Post-trial, Plaintiff filed motions for Award of Attorneys' Fees and for Prejudgment Interest as is authorized for claims made pursuant to 42 U.S.C. §1983. On June 4, 2024, Judge Marbley granted Plaintiff's motions and ordered the City to pay Four Hundred Thirty Thousand, Four Hundred Twenty-nine Dollars and Seventy Cents (\$430,429.70) in attorneys' fees and court costs and One Hundred Fourteen Thousand Seven Hundred Eighty-one Dollars and Twenty-five Cents (\$114,781.25) in interest, totaling Five Hundred Forty-five Thousand, Two Hundred Ten Dollars and Ninety-five Cents (\$545,210.95).

Fiscal Impact:

This ordinance authorizes the payment of attorneys' fees, court costs, and interest assessed from the Opinion and Order entered on June 4, 2024, in the case *Terry Scott Caskey v. Nathan Fenton, et al.*, United States District Court Case No. 2:20-cv-1549. Funds were not specifically budgeted for this award; however, sufficient monies are available within Finance's Citywide Account for this purpose.

Emergency Designation:

This ordinance is being processed as an emergency measure in order for the City to comply with the order of the Court to pay the attorneys' fees, costs, and interest without delay.

To authorize and direct the City Attorney to pay attorneys' fees, court costs, and pre-judgment interest in accordance with the Opinion and Order entered on June 4, 2024 in the case *Terry Scott Caskey v. Nathan Fenton, et al.*, United States District Court Case No. 2:20-cv-1549; to authorize the transfer of \$545,210.95 between divisions and object classes within the General Fund; to authorize the expenditure of the sum of Five Hundred Forty-five Thousand, Two Hundred Ten Dollars and Ninety-five Cents (\$545,210.95) in payment of the attorneys' fees, court costs, and pre-judgment interest; and to declare an emergency. (\$545,210.95).

WHEREAS, Terry Scott Caskey alleged that Columbus Police Officers Nathan Fenton and Charles Harshbarger unlawfully caused his arrest and maliciously prosecuted him, in violation of his Fourth and Fourteenth Amendment rights; and

WHEREAS, a jury found in favor of the Plaintiff on his allegation of unlawful arrest against Columbus Police Officers Nathan Fenton and Charles Harshbarger and awarded \$350,000.00 to be paid to Plaintiff which sum Council authorized payment for via Ordinance 3272-2023; and

WHEREAS, Post-trial, Plaintiff filed motions for Award of Attorneys' Fees and for Prejudgment Interest. On June 4, 2024, the Court granted Plaintiff's motions and ordered the City to pay Four Hundred Thirty Thousand, Four Hundred Twenty-nine Dollars and Seventy Cents (\$430,429.70) in attorneys' fees and court costs, One Hundred Fourteen Thousand Seven Hundred Eighty-one Dollars and Twenty-five Cents (\$114,781.25) in interest, totaling a sum of Five Hundred Forty-five Thousand, Two Hundred Ten Dollars and Ninety-five Cents (\$545,210.95).

WHEREAS, funds are available in Finance's Citywide Account for this purpose, and,

WHEREAS, it is necessary to transfer funds between divisions and object classes within the General Fund in order to

properly align appropriations with projected expenditures, and,

WHEREAS, an emergency exists in the usual daily operations of the Department of Public Safety, Division of Police, in that it is necessary for this ordinance to be effective immediately in order for the City to comply with the order of the Court to pay the attorneys' fees, costs, and interest without delay, for the immediate preservation of the public health, peace, property, safety, and welfare; **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 the attorney fees, and interest of two hundred eleven thousand, three hundred twenty-nine dollars and thirty-one cents (\$211,329.31) made payable to Behal Law Group, two hundred fifty-nine thousand, six hundred thirty-seven dollars and forty-eight cents (\$259,637.48) to Attorney James D. McNamara and court costs and interest in the amount of seventy-four thousand two hundred forty-four dollars and sixteen cents (\$74,244.16) to plaintiff Terry Caskey as provided by the Opinion and Order dated June 4, 2024, in the case *Terry Scott Caskey v. Nathan Fenton, et al.*, United States District Court Case No. 2:20-cv-1549.

SECTION 2. That the transfer of \$545,210.95, or so much thereof as may be needed, is hereby authorized between divisions and object classes within the General Fund per the account codes in the attachment to this ordinance.

SECTION 3. That the expenditure of \$545,210.95, or so much thereof as may be needed, is hereby authorized as follows in the General Fund Fund 1000 object class 05 per the accounting codes in the attachment to this ordinance.

SECTION 4. That, upon the receipt of an invoice approved by the City Attorney, the City Auditor be and is hereby authorized to draw a warrant upon the City Treasurer for the sum of two hundred eleven thousand, three hundred twenty-nine dollars and thirty-one cents (\$211,329.31) made payable to Behal Law Group, two hundred fifty-nine thousand, six hundred thirty-seven dollars and forty-eight cents (\$259,637.48) to Attorney James D. McNamara and court costs and interest in the amount of seventy-four thousand two hundred forty-four dollars and sixteen cents (\$74,244.16) to plaintiff Terry Caskey.

SECTION 5. That for the reasons stated in the preamble hereto, which is made a part hereof, this ordinance is hereby declared to an emergency measure and shall take effect and be in force after passage and approval by the Mayor, or 10 days after passage if the Mayor neither vetoes nor approves the same.