

**A RESOLUTION
BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE**

A RESOLUTION AUTHORIZING THE SETTLEMENT OF ALL CLAIMS IN THE CASE OF MICHAEL WILLIS V. CITY OF ATLANTA, FULTON COUNTY SUPERIOR COURT, CIVIL ACTION FILE NO. E-65437, IN THE AMOUNT OF \$43,000.00; SAID PAYMENT IS TO BE CHARGED TO AND PAID FROM FUND 1A01 (GENERAL FUND), ACCOUNT 529017 (PROPERTY LIQUIDATION) AND CENTER NUMBER T31001 (NON-DEPARTMENTAL); AND FOR OTHER PURPOSES.

WHEREAS, *Michael Willis v. City Of Atlanta* is a case in which the Plaintiff, Michael Willis, is suing for back pay and damages for working out of class pursuant to City Code Section 114-134; and

WHEREAS, Plaintiff alleges that he has been functioning in a higher classified position in the Bureau of Motor Transport Services since December, 1991; and

WHEREAS, the City maintains that Plaintiff was simply assigned a position number funded for the higher classified position, and that Plaintiff did not possess the requisite certifications in order to hold, or be compensated for, the higher classified position; and

WHEREAS, a Motion for Summary Judgment was filed on behalf of the City, which was granted by the Court; and

WHEREAS, the Plaintiff appealed the Court's order granting summary judgment to the City to the Georgia Court of Appeals, and the Court of Appeals remanded the case for trial; and

WHEREAS, the City was prohibited by the Court from introducing any evidence regarding Plaintiff's lack of certifications to hold the higher classified; and

WHEREAS, the case has been vigorously litigated, and as a result, it was

determined that there exists a bona fide factual dispute as to whether Plaintiff was in fact functioning in a higher classified position; and

WHEREAS, the City is the sole Defendant in this action; and

WHEREAS, the Plaintiff has agreed to accept \$43,000.00 as full settlement of all claims against the City, including attorney's fees; and

WHEREAS, the City Attorney has done extensive review of the facts and the law and has determined that the City's potential financial exposure in defending Plaintiff's claim is in excess of the settlement amount; and

WHEREAS, the settlement of the case of *Michael Willis v. City of Atlanta* shall not be deemed to be an admission of liability or wrongdoing on the part of the City of Atlanta, or any current or former employee or agent of the City of Atlanta; and

WHEREAS, the City Attorney considers it to be in the best interest of the City to pay the amount of \$43,000.00 to settle all claims.

THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA hereby resolves as follows:

SECTION 1. The City Attorney is hereby authorized to settle the case of *Michael Willis v. City of Atlanta* in the amount of Forty Three Thousand Dollars (\$43,000.00).

SECTION 2. Said payment is to be charged to and paid from Fund 1A01 (General Fund), Account 529017 (Property Liquidation) and Center Number T31001 (Non-Departmental). Payment shall be in the form of a check in the amount of \$43,00.00, payable to Michael Willis. Such payment shall be in full consideration of the dismissal of all claims against the City of Atlanta, and its current and former officers and employees.

RCS# 6392
1/03/05
3:59 PM

Atlanta City Council

Regular Session

MULTIPLE

03-R-1705 & 03-R-2218 AND
04-R-1241
FILE

YEAS: 10
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 6
EXCUSED: 0
ABSENT 0

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	NV Martin	NV Norwood
NV Young	Y Shook	NV Maddox	Y Willis
Y Winslow	Y Muller	NV Sheperd	NV Borders

MULTIPLE

RCS# 5933
7/19/04
3:44 PM

Atlanta City Council

Regular Session

Willis

04-R-1241

SETTLEMENT MICHAEL ~~WILLIAMS~~ V. CITY OF
ATLANTA \$43,000.00
REFER

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 1

Y Smith	Y Winslow	Y Shook	Y Martin	Y Mitchell
Y Starnes	Y Archibong	Y Muller	Y Maddox	NV Norwood
NV Young	Y Fauver	Y Moore	B Mosley	Y Willis

04-R-1241

04-~~R~~-1241
 (Do Not Write Above This Line)

A RESOLUTION AUTHORIZING THE SETTLEMENT OF ALL CLAIMS IN THE CASE OF MICHAEL WILLIS V. CITY OF ATLANTA, FULTON COUNTY SUPERIOR COURT, CIVIL ACTION FILE NO. E-65437, IN THE AMOUNT OF \$43,000.00; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE THE SETTLEMENT AMOUNT; AND FOR OTHER PURPOSES.

Jerry L. DeLoach, Deputy City Attorney

FILED BY
 CITY COUNCIL

JAN 03 2005

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 7/19/2004
 Referred To: Legal Administration

Date Referred Referred To: Public Safety

Date Referred Referred To: Full Council to PSA 7/19/04

Date Referred

Referred To:

First Reading

Committee _____
 Date _____
 Chair _____
 Referred To _____

PSA Committee

Date 7/23/04

Chair [Signature]

Action Fav, Adv, Hold (see rev. side) Other

Members

[Signature]

[Signature]

[Signature]

Refer To

PSA Committee

Date 12/14/04

Chair [Signature]

Action Fav, Adv, Hold (see rev. side) Other

Members

Refer To

PSA Committee

Date 7/23/04

Chair [Signature]

Action Fav, Adv, Hold (see rev. side) Other

Members

[Signature]

[Signature]

[Signature]

Refer To

- FINAL COUNCIL ACTION
- 2nd
 - 1st & 2nd
 - 3rd
 - Consent
 - V Vote
 - RC Vote

CERTIFIED

JAN 03 2005

CERTIFIED
 JAN 03 2005

[Signature]
 MUNICIPAL CLERK

MAYORS ACTION