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Resolution

Authorize City Attorney to appeal the consolidated cases of Estate of Ricky John Best v. TriMet and Estate of Taliesin M. Namkai-Meche v. TriMet (Circuit Court of the State of Oregon for the County of Multnomah Cases 19CV23250 and 19CV23020)

Adopted

WHEREAS, on or about May 17 and May 21, 2021, in the above-referenced matters, the Circuit Court for the State of Oregon, Multnomah County, entered Orders granting Plaintiffs' Motions to Strike Defendants' Third-Party Complaints (the "Orders"), and entered corresponding Limited Judgments on or about December 22 and 27, 2023 (the "Limited Judgments").

WHEREAS, the Orders and Limited Judgments concern the interpretation of Oregon's comparative fault statutes, ORS 31.600 et seq., statutes in which the City has a substantial interest because they determine when the City can be held solely at fault and when it can allocate fault to others.

WHEREAS, the Orders and Limited Judgments involve the appropriate application of ORS 31.600 et seq., which is critical to the ability of the City to confidently defend lawsuits involving multiple tortfeasors and to otherwise allocate fault to intentional actors.

WHEREAS, the legal implementation of fault allocation is of considerable importance to the City in setting reserves in lawsuits and otherwise appropriately managing risk.

WHEREAS, the Office of the City Attorney recommends that the City seek clarification on the appropriate application of ORS 31.600 et seq. through an appeal of the Limited Judgments.

NOW, THEREFORE, BE IT RESOLVED, that the City Attorney is authorized to take all steps necessary to appeal from the trial court's Limited Judgments in Estate of Ricky John Best. v. TriMet, Circuit Court of the State of Oregon for the County of Multnomah Case No. 19CV23250, and Estate of Taliesin M. Namkai-Meche v. TriMet, Circuit Court of the State of Oregon for the County of Multnomah Case No. 19CV23020, to pursue those appeals to their conclusion in any higher court, and, in furtherance of such appeals, to make any stipulation, agreement, or admission as in the City Attorney's judgment may be in the interest of the City.

Introduced by

[Mayor Ted Wheeler](#)

Bureau

[City Attorney](#)

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Requested Agenda Type

Consent

Date and Time Information

Requested Council Date

January 17, 2024

Impact Statement

Purpose of Proposed Legislation and Background Information

Resolution authorizes City Attorney to initiate appeal of ruling by Circuit Court of the State of Oregon for the County of Multnomah regarding the appropriate application of Oregon's comparative fault statutes found in ORS 31.600 et seq., which determine when the City may be held solely responsible for a negligence claim when the intentional action of a third party is a contributing cause of damage to a plaintiff.

Financial and Budgetary Impacts

Pursuing this appeal would have no immediate financial or budgetary impacts. The legal work will be performed by lawyers and support staff within the City Attorney's Office, using budgeted staff and resources.

Community Impacts and Community Involvement

None are expected at this time.

100% Renewable Goal

Pursuing this appeal would have no impacts on the City's total energy use or renewable energy use.

Budget Office Financial Impact Analysis

No fiscal impact. All costs will be absorbed within existing budgeted resources.

Agenda Items

44 Consent Agenda in [January 17, 2024 Council Agenda](https://www.portland.gov/council/agenda/2024/1/17)
(<https://www.portland.gov/council/agenda/2024/1/17>)

Adopted

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Commissioner Rene Gonzalez Yea

Commissioner Mingus Mapps Yea

Mayor Ted Wheeler Yea