

**IMPACT STATEMENT**

**Legislation title:** Authorize City Attorney to appeal final judgment in *Penoyer Law Office, LLC and Michael Wise & Associates v. State of Oregon ex rel. Dept. of Transportation and City of Portland*, Multnomah County Circuit Court Case No. 18CV52454 (Resolution)

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**Purpose of proposed legislation and background information:**

Resolution authorizes City Attorney to initiate appeal of judgment by Multnomah County Circuit Court ruling that the plaintiffs, attorneys David Penoyer and Michael Wise, were entitled to 40 percent of the settlement proceeds already tendered to their former clients, Colin Christopher and Emily Fuerstenau. The circuit court's ruling turned on its interpretation of the attorney lien statute under which the plaintiffs filed the action. Plaintiffs have also petitioned for attorney fees, and the court's supplemental judgment with respect to that petition remains pending. In addition to the monetary impacts of the judgment and the pending attorney fee award, the court's ruling has the potential to complicate future settlement discussions by preventing the city from relying on the representations of the attorneys of record that the settlement agreement includes all outstanding obligations.

**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:**

This is a matter that indirectly impacts the city's ability to maintain the public fisc. The city enters into settlement agreements based on the legal and financial risks, and the court's ruling injects further uncertainty into the analysis. Pursuing an appeal is not a subject of public involvement but is a matter for the Council's consideration under Portland City Code 3.10.030.G.

**Budgetary Impact Worksheet**

**Does this action change appropriations?**

- YES:** Please complete the information below.
- NO:** Skip this section

<b>Fund</b>	<b>Fund Center</b>	<b>Commitment Item</b>	<b>Functional Area</b>	<b>Funded Program</b>	<b>Grant</b>	<b>Sponsored Program</b>	<b>Amount</b>