

**Project title:** Settlement Agreement and Release of All Claims for Michael W. Weaver Worker's Compensation Claim

### City Council Agenda Item Cover Sheet

**Council Bill #**

**Agenda dates requested:**  
October 13, 2021

Briefing  
Proposed action  
Consent 10/13/21  
Action  
Ordinance  
Public hearing  
Yes  No

**Budget amendment:**  
Yes  No

**PowerPoint presentation:**  
Yes  No

**Attachments:**  
Settlement Agreement  
Exhibit A

**Department(s) involved:**  
Legal, HR

**Contact person:**  
David Hall  
Kandy Bartlett

**Phone number:**  
425-257-8706

**Email:**  
Kbartlett@everettwa.gov  
Dhall@everettwa.gov

**Initialed by:**

Department head

Administration

Council President

**Consideration:** Authorize the Mayor to sign the Settlement Agreement and Release of All Claims between the Weavers and the City of Everett

**Project:** Settlement Agreement for Worker's Compensation Claim # SH28667

**Partner/Supplier:** NA

**Preceding action:** NA

**Fund:** Self-Insured Worker's Compensation Fund 503

**Fiscal summary statement:**

The settlement is for \$1,200,000 and \$250. Per the agreement, the payment will be made in two parts. The City's excess insurance carrier will be responsible for all amounts above the City's \$750,000 self-insured retention for this claim.

**Project summary statement:**

This worker's compensation claim involves a former employee, who filed a worker's compensation claim in 2011. The claim was ultimately denied.

In 2014, the employee filed a second claim as the medical condition had significantly worsened. The Department of Labor and Industries and the City contended the second application for benefits was barred by the legal theories of collateral estoppel and res judicata.

The matter went on HR to the Washington State Supreme Court of Appeals. The Court ruled that the common law application of res judicata and collateral estoppel do not bar a worker from filing a new claim despite prior denial of the same claim. The City then appealed to the Washington State Supreme Court given this controversial outcome. The Supreme Court issued its opinion in late 2019, siding with the former employee.

With outside counsel, the City's legal and HR teams considered the expense and risk of further litigation and what would best protect the City from future claim exposure in negotiating the terms of the Settlement Agreement.

**Recommendation (exact action requested of Council):** Authorize the Mayor to sign the Settlement Agreement between the City of Everett and Michael E. Weaver and Amy Weaver.

## SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

This is an agreement (“Agreement”) between **Michael W. Weaver and his marital community, Amy Weaver**, (referred to in this agreement as “you”), and the **City of Everett** (referred to in this agreement as the “City,” “us,” or “we”). This Agreement is dated for reference purposes the \_\_\_\_\_ day of September, 2021, which is the date we delivered this Agreement to you for your consideration. The terms of this Agreement are contingent on approval by the City of Everett City Council.

### RECITALS

**Whereas**, Michael W. Weaver was employed by the City of Everett Fire Department beginning in 1996;

**Whereas**, in 2011 Michael W. Weaver was diagnosed with melanoma on his upper scapula, and following diagnosis, Michael W. Weaver made an occupational disease claim against the City of Everett under RCW 51 et seq.;

**Whereas**, during that claim Michael W. Weaver was represented by Ron Meyers and Associates and following a hearing, on February 11, 2013, the Board of Industrial Insurance Appeals determined that Mr. Weaver’s condition, diagnosed as melanoma, did not arise naturally and proximately out of the distinctive conditions of his employment with the City of Everett Fire Department, the statutory presumption of RCW 51.32.185 had been rebutted by a preponderance of the evidence, his melanoma was not an occupational disease under RCW 51.08.140, and the Department of Labor and Industries correctly rejected the claim;

**Whereas**, in January 2014, Michael W. Weaver received a diagnosis of malignant melanoma, after his medical team discovered that he had metastatic brain cancer originating from his prior melanoma;

**Whereas**, Michael W. Weaver filed a second occupational disease claim with the City of Everett under RCW 51 et seq., alleging that his malignant melanoma was the result of his employment with the City of Everett;

**Whereas**, the above-referenced malignant melanoma claim became the subject of extended litigation between Weaver and the City, culminating in the decision of the Washington Supreme Court in *Weaver v. City of Everett*, 194 Wn.2d 464, 450 P.3d 177 (2019), in which the Supreme Court determined that Mr. Weaver’s second malignant melanoma claim was not foreclosed by the rejection of his originating melanoma claim;

**Whereas**, since the time of the Supreme Court decision, Weaver and the City have endeavored to resolve all disputes between them since, on the one hand, Mr. Weaver believes and continues to assert that his malignant melanoma was the result of exposures which occurred during his employment by the City of Everett, and the City of Everett has continued to assert that

Mr. Weaver's malignant melanoma was not related to any exposures which occurred while Mr. Weaver was working for the City of Everett, and

**Whereas**, as a result of further discussions between Weaver and the City, and in the spirit of compromise, the parties now seek to resolve all disputes of any kind, past, present or future, by the settlement agreement which follows.

### **AGREEMENT**

1. **Settlement Request.** On December 19, 2019, you requested that the City consider settling your appeal from the Department's rejection of Claim No. SH-28667, BIIA Docket No. 15-19203, presently pending in Snohomish County Superior Court under Superior Court Cause No. 16-2-02373-6 following the Supreme Court's Mandate on November 14, 2019. Other than this referenced claim and appeal, you warrant by this agreement that no claims or charges have been filed with any state or federal agency or court pertaining to the claim or your employment with the City. You also warrant by this agreement that you have no conditions for which a workers' compensation claim for an industrial injury or occupational disease could be filed that have not already been filed and passed upon by the Washington State Department of Labor & Industries.

2. **Payment.** In exchange for your agreement to release all claims and other terms in this Agreement, including the Stipulated Judgment, Findings of Fact, Conclusions of Law and Order, attached as Exhibit A, we will make a settlement payment to you in the amount of \$1,200,000.00 (One million two hundred thousand U.S. Dollars and No U.S. Cents). In exchange for your agreement to not seek future employment with the City, we will make a settlement payment to you in the amount of \$250.00 (Two hundred fifty U.S. Dollars and No U.S. Cents) less standard withholding and without award of attorneys' fees or costs. The \$1,200,000.00 Settlement Payment will be made in two parts. The first payment of \$600,000.00 (Six hundred thousand U.S. Dollars and No U.S. Cents) will be made within thirty-five (35) calendar days of (a) Everett City Council approval of this Agreement, or (b) within thirty-five (35) calendar days of the 8<sup>th</sup> day after execution of the Agreement, or (c) within thirty-five (35) calendar days the Snohomish County Superior Court entry of the Stipulated Judgment, Findings of Fact, Conclusions of Law, and Order in Superior Court Cause No. 16-2-02373-6, whichever is later made payable to the "Keane Law Offices Trust Account f/b/o Michael W. Weaver."

The second payment of \$600,000.00 (Six hundred thousand U.S. Dollars and No U.S. Cents) will be made no later than 180 (one hundred eighty) days after the first payment is made and made payable to the "Keane Law Offices Trust Account f/b/o Michael W. Weaver." You acknowledge that we are not obligated to make these payments to you, your survivors, or your estate unless you agree to the terms in this Agreement, or if you revoke this Agreement per the terms below.

3. **Settlement Compromise.** The Parties hereto have been engaged in the claim and litigation process for over seven years. Nothing about the past contests between the parties, nor this Agreement, should be interpreted to mean that either party has admitted, or conceded, that the factual, medical, and/or legal position of the other party is correct, or has been adjudicated in favor of the other party. In fact, both parties hereto continue to maintain that their factual,

medical, and legal positions are correct, and that the factual, medical and legal positions of the other party are incorrect, and without merit. The parties have simply agreed to resolve their dispute applying tort law principles.

4. **No Evasion of Benefits or Burdens Under RCW 51.04.060.** The parties hereto are familiar with the provisions of RCW 51.04.060, and the prohibition on evasion or waiver of benefits to which an injured worker is entitled. In view of the history of the present dispute, the caliber of and the magnitude of the evidence each party has assembled in support of its position, and the likelihood that continuing with the historic litigation between the parties will consume time and resources and will likely result in further appeals, delays, and the absence of payment of monies to Mr. Weaver, the parties instead seek to resolve this appeal and avoid their mutual risks and costs of litigation by this Agreement. In doing so, the parties agree that this Agreement is intended to preserve for Mr. Weaver an opportunity to obtain compensation for what he alleges was an occupational illness, while at the same time recognizing the City's right to contend that Mr. Weaver's disease had no connection whatsoever with his employment by the City. In making an election between settling under the present Agreement, and continuing with the now seven year old litigation he initiated in 2014, Mr. Weaver is not waiving nor foregoing any benefits to which he knows he is entitled but is, instead, accepting the compensation provided under this Agreement while avoiding further risk, expense and uncertainty, including the risk that his claim could be rejected, in which event he would receive no compensation of any kind, while still being responsible for expert fees, which is an outcome he wants to avoid.

5. **Indemnification of the City of Everett.** Michael Weaver, and Amy Weaver, a marital community, will receive substantial payments under this Agreement. They wish to receive those payments. The City of Everett, however, has expressed concern that in the event of Michael Weaver's death from malignant melanoma, that he or his estate or his wife, Amy Weaver, could file a claim asserting that his death was caused by an occupational disease and that his spouse and eligible dependents could file a claim for survivors' benefits and death benefits under RCW 51 et seq., be engaged in further litigation regarding those claims, and potentially receive benefits in such claims. Because the City of Everett will not both fund this Agreement in the manner and in the amounts called for hereunder, while at the same time leaving itself exposed to the potential future claims of the Estate of Michael Weaver and/or claims brought by his spouse or eligible dependents, Amy Weaver and eligible dependents, the Weavers hereunder, agree to indemnify the City of Everett up to the full amount of this settlement against any future claims of any kind against the City of Everett, which relate in any way to the employment of Michael Weaver by the City of Everett, which could or may be brought by Michael Weaver, Amy Weaver, the Estate of Michael Weaver, or the successors and assigns of Michael and/or Amy Weaver against the City of Everett now, or at any time in the future up to and including any period following the death of Michael Weaver by any cause of any kind.

6. **Release of Claims.** Subject to Section 7 below (Rights Not Waived), you hereby release the City and all other Released Parties from any and all claims of any kind, known or unknown, that arose on or before the time you signed this Agreement. The Released Parties covered by the prior sentence are the City and its insurers, insurance policies, and benefit plans.

a. Subject to Section 7 below (Rights Not Waived), the claims you are releasing, as stated in the first paragraph of this Section 6, include, but are not limited to, claims of constructive discharge, claims arising out of agreements, representations, or policies related to your employment, claims arising under federal, state, or local laws, statutes, or ordinances prohibiting discrimination, retaliation, or harassment, or requiring accommodation on the basis of age, race, color, national origin, religion, sex, disability, marital status, sexual orientation, or any other status, claims arising under federal, state, or local laws, statutes, or ordinances prohibiting retaliation or discrimination against a person for making complaints or for any other actions or inactions, claims of failure to accommodate a disability or religious practice, claims for violation of public policy, claims of failure to assist you in applying for future position openings, claims of failure to hire you for future position openings, claims for wages or compensation of any kind, claims of willful withholding of wages, claims of tortious interference with contract or expectancy, claims of fraud or negligent misrepresentation, claims of breach of privacy, defamation claims, claims of intentional or negligent infliction of emotional distress, claims of unfair labor practices, claims arising out of any claimed right to stock or stock options, claims for attorneys' fees or costs, and any and all claims that are based on any legal obligations that arise out of or are related to your employment relationship with us.

b. Subject to Section 7 below (Rights Not Waived), the claims you are releasing, as stated in the first paragraph of this Section 6, also include, but are not limited to, claims arising under or based on any of the following statutes, among others: Washington Law Against Discrimination (RCW 49.60), the Washington Prohibited Employment Practices Law (RCW 49.44), the anti-retaliation provisions of the Washington Industrial Insurance Act (RCW 51.48) and Washington Industrial Safety and Health Act (RCW 49.17), the Washington Whistleblower Act (RCW 42.40), the Washington Minimum Wage Act (RCW 49.46), the Washington Industrial Welfare Act (RCW 49.12), the Washington Agricultural Labor Law (RCW 49.30), the Washington Hours of Labor Law (RCW 49.28), Washington's statutes related to wages (including RCW 49.48 and RCW 49.52), the Washington Veterans Employment and Reemployment Act (RCW 73.16), the Washington Military Family Leave Act (RCW 49.77), the Washington Domestic Violence Leave Law (RCW 49.76), the Washington Family Care Act and Parental Leave Law (RCW 49.12), the Washington Little Norris-LaGuardia Act (RCW 49.32), the Washington Fair Credit Reporting Act (RCW 19.182), the Washington Electronic Privacy Act (RCW 9.73), the Civil Rights Act of 1870 (42 U.S.C. § 1981), the Civil Rights Act of 1871 (42 U.S.C. § 1983), the Equal Pay Act of 1963, the Civil Rights Act of 1964 (including Title VII of that Act), the Age Discrimination in Employment Act of 1967 (ADEA), the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (ADA), the Family and Medical Leave Act (FMLA), the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), the Genetic Information Nondiscrimination Act of 2008 (GINA), the Worker Adjustment and Retraining Notification Act (WARN), the Employee Retirement Income Security Act of 1974 (ERISA), the National Labor Relations Act (NLRA), the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), the Sarbanes-Oxley Act, the False Claims Act, the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Consumer Product Safety Improvement Act, the Occupational Safety and Health Act, the Food Safety Modernization Act, and all similar federal, state, and local laws.

c. You represent and warrant that you have not initiated any other complaint, charge, lawsuit, or arbitration involving any of the claims you are releasing in this agreement. This representation does not limit your right to file certain governmental charges in the future, as stated in Section 7 (Rights Not Waived).

d. You represent and warrant that you have all necessary authority to enter into this Agreement (including, if you are married, on behalf of your marital community) and that you have not transferred any interest in any claims to your spouse or to any other third party.

e. You agree that this Agreement gives you fair economic value for any and all potential claims you may have, and that you are not entitled to any other damages or relief. You understand that you are releasing potentially unknown claims, and that you have limited knowledge with respect to some of the claims being released. You acknowledge that there is a risk that, after signing this Agreement, you may learn information that might have affected your decision to enter into this agreement. You acknowledge, for example, that you may learn that you have suffered injuries of which you are not presently aware. You assume this risk and all other risks of any mistake in entering into this Agreement. You agree that this release is fairly and knowingly made.

7. Rights Not Waived. Regardless of any term stated in any other section of this Agreement:

a. This Agreement does not waive your rights, if any, to receive ERISA-covered benefits (*e.g.*, pension or medical benefits) that are vested pursuant to a formally-adopted and properly-authorized written benefit plan.

b. This Agreement does not waive unemployment compensation benefits, workers' compensation benefits, or any other rights that may not lawfully be released by a private agreement.

c. This Agreement does not waive any right you may have to receive a payment or award from a governmental agency (and not the City) for information provided to the governmental agency.

d. Nothing in this Agreement prevents you from filing a charge or complaint with, or from participating in an investigation or proceeding conducted by, the EEOC, SEC, NLRB, DOL, or any other governmental agency; but, as to all of the claims that you have released as provided in this Agreement, you are waiving your right to receive any individual relief in any such investigation or proceeding.

e. Nothing in this Agreement prevents you from (i) providing testimony, information or documents if you are legally compelled to do so, or (ii) communicating with the EEOC, SEC, NLRB, DOL, or other governmental agency, including providing documents or other information; however in all cases, you agree to take all reasonable steps that are available (such as redacting information or providing information under seal) to avoid any public disclosure of confidential information.

f. You do not need the City's prior authorization to engage in conduct protected by the prior two paragraphs, and you do not need to notify the City that you have engaged in such conduct.

g. Nothing in this Agreement prevents you from taking any action to challenge the knowing and voluntary nature of this Agreement under the Older Workers Benefit Protection Act (OWBPA). For example, this Agreement does not prevent you from filing or pursuing a charge of discrimination, lawsuit, or arbitration to the extent it is brought under the federal Age Discrimination in Employment Act of 1967 (ADEA) and challenges the knowing and voluntary nature of this Agreement under the OWBPA. Further, nothing in this Agreement shall cause you to be liable for damages, attorneys' fees, costs, or disbursements in connection with any such charge of discrimination, lawsuit, or arbitration to the extent it is so brought. However, if this Agreement is found to be knowing and voluntary under the OWBPA, your release and waiver of claims under the ADEA, as provided in this Agreement, shall be fully effective.

8. **No Admission of Liability.** Neither this agreement nor the payments made under this agreement is an admission of liability or wrongdoing.

9. **Workers Compensation Claims.** You acknowledge and agree that you have already filed workers' compensation claim(s) for any and all on-the-job injuries you suffered while employed by the City, and that you have not suffered any on-the-job injuries for which you have not already filed a workers' compensation claim. You also represent and warrant that you have filed no workers' compensation claims other than the claim that is the subject of this agreement, and that no set of facts exist that would support any other workers' compensation claim.

10. **Successors and Assigns.** This Agreement will bind and inure to the benefit of the Parties, and their respective legal representatives, successors, and assigns.

11. **Entire Agreement.** This Agreement sets forth the entire agreement between the Parties and supersedes any and all prior oral or written agreements or understandings between the Parties concerning the subject matter of this Agreement. This Agreement may not be altered, amended or modified, except by a further written document signed by the Parties.

12. **Execution in Counterparts.** This Settlement Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same Settlement Agreement. This Agreement and the commencement of the payment schedule are as set forth in Section 2 of this Agreement.

13. **Independent Legal Counsel.** In connection with this Agreement, the law firm of Pratt, Day & Stratton, PLLC, has not represented you, but has only represented the City. You are advised and encouraged to consult with an attorney before signing this Agreement. You acknowledge that you have had an adequate opportunity to do so and have done so.

14. **Acknowledgment of Understanding.** The Parties acknowledge that they have retained counsel of their choice in connection with the negotiation of, drafting of and execution of this Agreement. The Parties further warrant that each Party has read the Agreement and understands its terms, and that each executes it knowingly, voluntarily, and without coercion, after having had the opportunity to consult with counsel. Each Party acknowledges that in executing this Agreement such Party has relied upon its own judgment, belief and knowledge and on such advice as such Party may have received from its own counsel. The Parties further acknowledge that they have not been influenced by any representation or statement made by the other party or by either counsel. No provision in this Agreement is to be interpreted for or against any of the Parties because that Party or his counsel drafted such provision.

15. **Consideration Period.** You have twenty-one (21) days from the date this Agreement is given to you to consider this Agreement before signing it. You may use as much or as little of this 21-day period as you wish before signing. If you do not sign, date and return this Agreement within this 21-day period, you will not be eligible to receive the benefits described in this agreement. You agree that any changes the City may agree to make to this Agreement after first offering it to you for your consideration will not restart the running of this 21-day period.

16. **Revocation Period and Effective Date.** You have seven (7) days after the day you sign this Agreement to revoke it. To revoke this Agreement after signing it you must provide a written notice of revocation to the City's counsel, Marne J. Horstman, of Pratt, Day & Stratton, PLLC, before the seven-day period expires. This Agreement and the commencement of the payment are as set forth in Section 2 of this Agreement and accounts for this seven-day revocation period. If you revoke this Agreement, it will not become effective or enforceable, and you will not receive the benefits described in this Agreement.

17. **Severability.** If any part or aspect of this Agreement is held to be unenforceable, it shall not affect any other part or aspect. If any part or aspect of this Agreement is held to be unenforceable as written, it shall be enforced to the maximum extent allowed by applicable law.

18. **Governing Law; Venue.** This Agreement is governed by the laws of the state of Washington that apply to contracts executed and to be performed entirely within the state of Washington. Venue and jurisdiction of any lawsuit involving this agreement shall exist exclusively in state and federal courts in Snohomish County, Washington.

19. **Headings Not Controlling.** The headings in this Agreement are for convenience only and shall not affect the meaning of the terms as set out in the text.

20. **Waiver.** No waiver of any provision of this Agreement shall be valid unless in writing, signed by the party against whom the waiver is sought to be enforced. The waiver of any breach of this Agreement or failure to enforce any provision of this Agreement shall not waive any later breach.

21. **Binding Effect.** This Agreement is binding upon and shall benefit the parties and their personal representatives, heirs, successors, and assigns.



22. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which, taken together, shall constitute a single Agreement.

23. **Attorneys' Fees.** In any dispute involving this Agreement, the party who substantially prevails shall be entitled to recover reasonable attorneys' fees, costs and disbursements from the other party, except as otherwise expressly provided above.

24. **No Reliance.** You acknowledge that you have had the opportunity to conduct an investigation into the facts and evidence relevant to your decision to sign this Agreement. You acknowledge that, in deciding to enter into this Agreement, you have not relied on any promise, representation, or other information not contained in this Agreement, and also have not relied on any expectation that the City has disclosed all material facts to you. By entering into this Agreement, you are assuming all risks that you may be mistaken as to the true facts, that you may have been led to an incorrect understanding of the true facts, and/or that facts material to your decision to sign this Agreement may have been withheld from you. You will have no claim to rescind this Agreement on the basis of any alleged mistake, misrepresentation, or failure to disclose any fact. None of what is stated in this paragraph, however, will affect your right to challenge the validity of this Agreement under the Older Workers Benefit Protection Act (OWBPA).

25. **Final and Complete Agreement.** This agreement is the final and complete expression of all Agreements between you and the City on all subjects and supersedes and replaces all prior discussions, representations, agreements, policies, and practices. This Agreement may not be amended orally. It may be amended only by a writing that specifically refers to this Agreement and is signed by all parties.

Agreed by the City of Everett:

\_\_\_\_\_  
Authorized Agent for the City of Everett

\_\_\_\_\_  
Date

///

**I, the undersigned, having been advised to consult with an attorney, have consulted with an attorney, agree to be bound by this agreement and confirm that I have read and understood each part of it.**

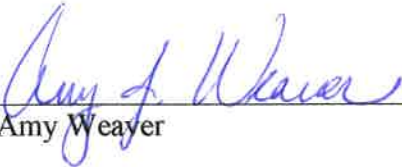
Agreed by Michael W. Weaver:



Michael W. Weaver

9-15-2021

Date



Amy Weaver

9-15-2021

Date

Agreed by T. Jeffrey Keane:



T. Jeffrey Keane,  
Keane Law Offices,  
Attorneys for Michael W. Weaver

9/15/21

Date

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4  
5 SUPERIOR COURT OF WASHINGTON IN AND FOR SNOHOMISH COUNTY

6 MICHAEL W. WEAVER,  
7  
8 Plaintiff,

Superior Court Cause No.  
No. 16-2-02373-6

9 v.

BIIA Dckt. No. 15-19203

10 CITY OF EVERETT and DEP'T OF LABOR  
& INDUS., STATE OF WASHINGTON,

Claim No. SH-26687

11 Defendants.

**STIPULATED FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
JUDGMENT AND ORDER**

12  
13 JUDGMENT SUMMARY (RCW 4.64.030)

- 14 1. Judgment Creditor: THE CITY OF EVERETT and the  
15 DEPARTMENT OF LABOR &  
16 INDUSTRIES, STATE OF WASHINGTON
- 17 2. Judgment Debtor: MICHAEL W. WEAVER
- 18 3. Principal Amount of Judgment: \$-0-
- 19 4. Interest to Date of Judgment: \$-0-
- 20 5. Statutory Attorney Fees: \$-0-
- 21 6. Costs: \$-0-
- 22 7. Other Recovery Amounts: \$-0-
- 23 8. Principal Judgment Amount shall bear interest at 0% per annum.
- 24 9. Attorney Fees, Costs and Other Recovery Amounts shall bear Interest at 12% per annum.
- 25  
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**STIPULATED FINDINGS OF FACT,  
CONCLUSIONS OF LAW, ORDER AND  
JUDGMENT - 1**

PRATT, DAY & STRATTON, PLLC  
2102 N. PEARL STREET, SUITE 106  
TACOMA, WASHINGTON 98406  
(253) 573-1441 (TACOMA)  
(206) 467-6820 (SEATTLE)  
FACSIMILE: (253) 572-5570

1 10. Attorneys for Judgment Creditors: MARNE J. HORSTMAN and ANASTASIA  
2 SANDSTRP,

3 11. Attorney for Judgment Debtor: T. JEFFREY KEANE

4 The Claimant, Michael W. Weaver, by and through his attorneys, Keane Law Offices, per  
5 T. Jeffrey Keane, the Self-insured Employer, the City of Everett, through its attorneys Pratt, Day  
6 & Stratton, PLLC, per Marne J. Horstman, and the Department of Labor & Industries per the  
7 Office of the Attorney General, per Anastasia Sandstrom, stipulate that each party is to bear its  
8 own attorneys' fees and costs and the following Findings of Fact and Conclusions of Law are  
9 supported by the law and the facts of this case and should be entered:  
10

11 **FINDINGS OF FACT**

- 12 1. Michael W. Weaver's melanoma and metastatic brain cancer were not caused or  
13 aggravated by his employment with the City of Everett.

14 **CONCLUSIONS OF LAW**

- 15 1. Based on the record, the Superior Court has jurisdiction over the parties and the subject  
16 matter of these appeals.  
17  
18 2. Michael W. Weaver has no occupational disease or industrial injury within the meaning  
19 of RCW 51.08.140, RCW 51.32.185, or RCW 51.08.100.

20 PRATT, DAY & STRATTON, PLLC

21 DATED: \_\_\_\_\_

22 By \_\_\_\_\_  
23 Marne J. Horstman, WSBA #27339  
24 Attorneys for Employer,  
25 City of Everett  
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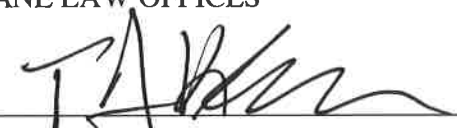
OFFICE OF THE ATTORNEY GENERAL

DATED: \_\_\_\_\_

By \_\_\_\_\_  
Anastasia Sandstrom, WSBA # 24163 \_\_\_\_\_  
Senior Counsel,  
Department of Labor & Industries

KEANE LAW OFFICES

DATED: \_\_\_\_\_

By  \_\_\_\_\_  
T. Jeffrey Keane WSBA #8465  
Attorneys for Claimant, Michael W. Weaver

1 **ORDER ON REMAND**

2 THIS MATTER, having come before the Court, and the Court having reviewed and  
3 considered the records and files herein, including the Stipulation of the parties, finds that  
4 Michael W. Weaver has no occupational disease or industrial injury related to his employment  
5 with the City of Everett.

6 IT IS HEREBY ORDERED that this claim is remanded to the Department of Labor &  
7 Industries with direction to issue an order rejecting Claim No. SH-28667 on the basis that the  
8 Claimant's melanoma and metastatic brain cancer were not caused or aggravated by his  
9 employment with the City of Everett, and the Claimant did not sustain an industrial injury or  
10 occupational disease within the course of his employment with the City of Everett consistent  
11 with the Findings of Fact and Conclusions of Law set forth above.

12 The parties shall bear their respective attorneys' fees and costs.

13 DONE IN OPEN COURT this \_\_\_\_ day of \_\_\_\_\_, 2021.

14  
15  
16  
17 \_\_\_\_\_  
18 JUDGE/COURT COMMISSIONER

19 Presented by:  
20 PRATT, DAY & STRATTON, PLLC

21  
22 By \_\_\_\_\_  
23 Marne J. Horstman, WSBA #27339  
24 Attorneys for Employer,  
25 City of Everett

26 Approved as to form;  
Notice of presentation waived.

**STIPULATED FINDINGS OF FACT,  
CONCLUSIONS OF LAW, ORDER AND  
JUDGMENT - 4**

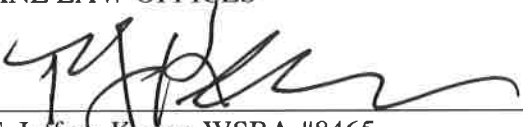
PRATT, DAY & STRATTON, PLLC  
2102 N. PEARL STREET, SUITE 106  
TACOMA, WASHINGTON 98406  
(253) 573-1441 (TACOMA)  
(206) 467-6820 (SEATTLE)  
FACSIMILE: (253) 572-5570

1 OFFICE OF THE ATTORNEY GENERAL

2  
3 By \_\_\_\_\_  
4 Anastasia Sandstrom, WSBA #24163  
5 Senior Counsel,  
6 Department of Labor & Industries

7 Approved as to form;  
8 Notice of presentation waived.

9 KEANE LAW OFFICES

10 By  \_\_\_\_\_  
11 T. Jeffrey Keane, WSBA #8465  
12 Attorneys for Claimant,  
13 Michael W. Weaver