




OFFICE OF THE CITY ATTORNEY

CLAIMS MEMORANDUM #DC-2021-028

TO: Mayor and Council

FROM: Kelea L. Fisher 
Deputy City Attorney

DATE: October 12, 2021

MEETING: October 26, 2021

RE: Damage claim of Lori and Cory Riley
8687 SW Red Elk Road
Faxon, OK 73540

Submitted in the amount of \$2,762.57 on August 3, 2021

RECOMMENDATION: Approval in the amount of \$2,762.57

BASIS OF CLAIM: Lori and Cory Riley allege on July 18, 2021, a City of Lawton Lakes Division fee collector exited his vehicle without putting the vehicle in park and it rolled into their travel trailer. Claimants are seeking \$2,762.57 in damages, which includes an estimate for repair from RV Connection in the amount of \$2,642.57 plus a \$120.00 fee charged by RV Connection to prepare the estimate.

DATE OF DAMAGE: July 15, 2021

FACTS: According to Jim Bonnarens, Lakes Division Supervisor, on July 15, 2021, a City of Lawton employee was recording information and collecting camping fees at Lake Lawtonka and when he exited his City of Lawton vehicle, he failed to put the vehicle in park. The employee's actions caused the City of Lawton vehicle to roll into Cory and Lori Riley's 2016 Hemisphere 300BH travel trailer. Upon discovering the accident, the City employee checked to make sure no one was injured and called his supervisor. No injuries were reported at the time of the collision. Three (3) points were assessed against the City employee's driving record.

LEGAL BASIS FOR APPROVAL OF CLAIM: Pursuant to Title 51, Oklahoma Statutes, §151 et seq., municipalities are held accountable in the same manner as private entities or individuals for negligent acts or omissions that result in harm to others. Negligence comprehends the failure to exercise due care required by the circumstances. Berbohn v. Pinkerton, 255 P.2d 260 (Okla. 1953). Under Oklahoma law, every person is under a duty to

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exercise due care in using that which he controls so as not to injure the property of another. Missouri-Kansas-Texas R. Co. v. Ingram, 322 F.2d 286 (10th Cir. 1963).

This office recommends approval of this claim in the amount of \$2,762.57 because in this instance:

1. The City employee could be found to have breached his duty to exercise due care by not placing his vehicle in park before exiting the vehicle and this breach of duty may constitute negligence for which the City may be held liable.

KELEA L. FISHER
DEPUTY CITY ATTORNEY


Mincie Beamesderfer, CP
Claims Investigator