

Governor Joe Lombardo  
*Chairman*

Amy Stephenson  
*Clerk of the Board*



Attorney General Aaron D. Ford  
*Member*

Secretary of State Francisco Aguilar  
*Member*

## STATE OF NEVADA BOARD OF EXAMINERS

209 East Musser Street, Room 200 / Carson City, Nevada 89701-4298  
Phone: (775) 684-0222 / Fax: (775) 684-0260  
<http://budget.nv.gov/Meetings>

### PUBLIC MEETING NOTICE AND AGENDA

- Date and Time:** January 12, 2023, 10:00 AM
- Location:** Old Assembly Chambers of the Capitol Building  
101 North Carson Street  
Carson City, Nevada 89701
- Video Conference Location:** Grant Sawyer Building  
555 East Washington Avenue, Suite 5100  
Las Vegas, Nevada 89101

### AGENDA

- 1. Call to Order / Roll Call**
- 2. Public Comment** The first public comment period is limited to comments on items on the agenda. No action may be taken upon a matter raised under this public comment period unless the matter itself has been specifically included on the agenda as an action item. The Chair of the Board has imposed a time limit of three minutes.
- 3. Request for Approval to Pay a Tort Claim Pursuant to NRS 41.036**  
(For possible action)

Pursuant to NRS 41.036, the Office of the Attorney General submits the following Tort Claim requests for approval:

Claimant:	Clifford Miller
Claim No:	TC20329
Settlement Amount:	\$463,597.12
Date of Loss:	March 11, 2016

**4. Public Comment** This public comment period is for any matter that is within the jurisdiction of the public body. No action may be taken upon a matter raised under this public comment period unless the matter itself has been specifically included on an agenda as an action item. The Chair of the Board has imposed a time limit of three minutes.

## **5. Adjournment**

NOTE: Items may be considered out of order. The public body may combine two or more agenda items for consideration. The public body may remove an item from the agenda or delay discussion relating to an item on the agenda at any time. The public body will limit public comments to three minutes per speaker and may place other reasonable restrictions on the time, place, and manner of public comments but may not restrict comments based upon viewpoint. A person may submit comments to be attached to the minutes of the meeting in writing three business days before the meeting date, in addition to testifying or in lieu of testifying. Written comments are limited to 2 pages. Written comments may be submitted electronically by email at [dcastillo@finance.nv.gov](mailto:dcastillo@finance.nv.gov). We are pleased to make reasonable accommodations for members of the public who have disabilities and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify Denice Castillo at (775) 684-0223 as soon as possible and at least two days in advance of the meeting. If you wish, you may e-mail her at [dcastillo@finance.nv.gov](mailto:dcastillo@finance.nv.gov). Supporting materials for this meeting are available at 209 E. Musser Street, Suite 200, Carson City, NV 89701 or by contacting Denice Castillo at (775) 684-0223 or by email at [dcastillo@finance.nv.gov](mailto:dcastillo@finance.nv.gov).

### **Agenda Posted at the Following Locations:**

1. Blasdel Building, 209 E. Musser Street, Carson City, NV 89701
2. Capitol Building, 101 North Carson Street, Carson City, NV 89701
3. Legislative Building, 401 N. Carson Street, Carson City, NV 89701
4. Nevada State Library & Archives, 100 North Stewart Street, Carson City, NV 89701
5. Grant Sawyer Building, Capitol Police, 555 E. Washington, Las Vegas, NV 89101

Posted on the Internet: <http://budget.nv.gov/Meetings/Meetings-new/> and <https://notice.nv.gov>

Joe Lombardo  
Governor



Amy Stephenson  
Director

Robin Hager  
Deputy Director

Jim Rodriguez  
Administrator

**STATE OF NEVADA  
GOVERNOR'S FINANCE OFFICE  
Budget Division**

209 E. Musser Street, Suite 200 | Carson City, NV 89701-4298  
Phone: (775) 684-0222 | [www.budget.nv.gov](http://www.budget.nv.gov) | Fax: (775) 684-0260

Date: January 6, 2023

To: Amy Stephenson, Clerk of the Board  
Governor's Finance Office

From: Jennifer Hamilton, Executive Branch Budget Officer  
Governor's Finance Office

Subject: BOARD OF EXAMINERS **ACTION** ITEM

A handwritten signature in blue ink, appearing to read "Jennifer Hamilton", is written over the "From:" field of the memo.

The following describes an action item submitted for placement on the agenda of the next Board of Examiners meeting.

**OFFICE OF THE ATTORNEY GENERAL**

Agenda Item Write-up:

Pursuant to NRS 41.036, the Office of the Attorney General submits the following Tort Claim requests for approval:

Claimant: Clifford Miller  
Claim No: TC20329  
Settlement Amount: \$463,597.12  
Date of Loss: March 11, 2016

This claim will be paid directly to counsel:

Terri Keyser Cooper, Esq.  
2395 Viejo Place  
Lake Havasu City , AZ 86406

Additional Information:

A settlement agreement and release of all claims have been entered for the total amount of \$463,597.12 as defined in the claim outlined above.

Statutory Authority:

SAM 2905 and NRS 41.036

<p><b>REVIEWED:</b> _____</p> <p><b>ACTION ITEM:</b> _____</p>
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**AARON D. FORD**  
*Attorney General*

**KYLE E.N. GEORGE**  
*First Assistant Attorney General*

**CHRISTINE JONES BRADY**  
*Second Assistant Attorney General*

**JESSICA L. ADAIR**  
*Chief of Staff*

**LESLIE NINO PIRO**  
*General Counsel*

**HEIDI PARRY STERN**  
*Solicitor General*

**STATE OF NEVADA**  
**OFFICE OF THE ATTORNEY GENERAL**

100 North Carson Street  
Carson City, Nevada 89701

## **MEMORANDUM**

**To:** Jennifer Hamilton, Executive Branch Budget Officer

**From:** Nancy Katafias, (775) 684-1252, [nkatafias@ag.nv.gov](mailto:nkatafias@ag.nv.gov)

**Subject:** BOE January 10, 2023, Agenda Submittal

**Date:** December 2, 2022

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Please place the following item on the January 10, 2023, Board of Examiner's agenda for approval. Upon approval, this item will be paid from Budget 1348, category 15.

**Plaintiff:** Clifford Miller  
**Claim No.:** TC 20329  
**Payment:** \$463,597.12

This is a settlement of court ordered attorney fees and costs in litigated matter 3:17-cv-00068-MMD-CSD and 9<sup>th</sup> Circuit of Appeals matter 22-16207.

**Payable to Counsel:**  
Law Office of Terri Keyser-Cooper  
2395 Viejo Place  
Lake Havasu AZ 86406

**TORT CLAIM RECOMMENDATION**

**DATE:** December 1, 2022  
**CLAIMANT:** Clifford Miller #70907  
**CLAIM NUMBER:** TC 20329  
**DATE OF LOSS:** March 11, 2016  
**DAMAGES CLAIMED:** \$562,535.12  
**AGENCY:** NDOC/WSCC

**DISCUSSION**

In the lawsuit filed against the NDOC, through counsel, the inmate alleged medical deliberate indifference and ADA violations in regard to not receiving cataract surgery.

Summary judgment was not granted for either party and the case was set for trial. Prior to trial, counsel for the inmate added two more attorneys to the case.

To avoid the costs of trial, a possible adverse judgment against the State and possible payment of attorney fees for 3 attorneys at trial, an Offer of Judgement was issued in the amount of \$7,500 exclusive of fees and costs. The OOJ was accepted, and the case was settled in the amount of \$7,500.

A motion for attorney fees and costs was heard by the court and the court awarded \$562,535.12 to counsel. This was appealed to the 9<sup>th</sup> Circuit of Appeals and a settlement of this judgment amount was reached. Pursuant to the agreement, claim payment of \$463,597.12 will be payable to counsel.

**RECOMMENDATION**

It is recommended that the claim be paid in the amount of \$463,597.12.

**RECOMMENDATION: PAY**

G/L 7357 Terri Keyser Cooper, Esq.  
2395 Viejo Place  
Lake Havasu City AZ 86406

Approved:

Nancy Katafias December 1, 2022  
NANCY KATAFIAS, CLAIMS MANAGER DATE

Leslie Nino Piro December 1, 2022  
LESLIE NINO PIRO, GENERAL COUNSEL DATE

**Clifford W. Miller v. Romeo Aranas, et al,**

**United States Court of Appeals for the Ninth Circuit, Case No.: 22-16207**

**SETTLEMENT AGREEMENT**

This Settlement Agreement ("Agreement") is made and entered into by Clifford W. Miller ("Miller") and the State of Nevada ("State"), on relation of the Nevada Department of Corrections ("NDOC"), together the "Parties."

1. **Recitals.** The Parties make this Agreement with respect to the following facts and objectives:

1.1. Between 2017 and 2020, through a series of complaints filed in the U.S. District Court for the District of Nevada ("District Court"), Miller sued the NDOC and its former medical director alleging claims under 42 U.S.C. § 1983 and the Americans with Disabilities Act. Said litigation is known as the case of *Clifford W. Miller v. Romeo Aranas and the Nevada Department of Corrections, State of Nevada, et al.*, Case No. 3:17-cv-00068-MMD-WGC ("Litigation").

1.2. In March 2022, the Parties settled the Litigation on the terms and conditions stated in the Settlement Agreement and Full and Final Release ("Settlement"), as filed with the District Court on March 25, 2022. As part of the Settlement, the Parties agreed to have the District Court resolve a single outstanding dispute concerning the amount of costs and fees to be awarded to Miller and/or to his attorneys.

1.3. On July 15, 2022, the District Court issued an order awarding to Miller and/or to his attorneys costs of \$1,948.12, and attorneys' fees of \$560,587.50. The defendants appealed the order on the ground that it overstates the amount of attorneys' fees reasonably contemplated by the Settlement and/or as authorized under federal law with respect to the Litigation. That appeal is pending in the U.S. Court of Appeals for the Ninth Circuit in the case of *Clifford W. Miller v. Romeo Aranas, et al.*, Case No. 22-16207 ("Appeal").

1.4. On the terms and conditions set forth below, the Parties wish to fully and finally resolve all legal and factual issues and disputes concerning the amount of attorneys' fees to be awarded to Miller and/or to his attorneys pursuant to the Settlement with respect to the Litigation and Appeal.

2. **Agreement:** Given the facts and objectives as stated above, the Parties agree as follows:

2.1. Contingent upon approval of the State's Board of Examiners (BOE), as contemplated by paragraph 2.2 below, the State will pay to Miller and/or to his attorneys the sum of \$463,597.12 ("Settlement Funds"), representing costs of \$1,948.12 and attorneys' fees

## **Settlement Agreement**

**Miller v. Aranas, et al, 9th Cir. Case No.: 22-16207**

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of \$461,649.00. The State will disburse the Settlement Funds in accordance with paragraph 2.3 below.

2.2. Payment of the Settlement Funds is contingent upon the BOE's approval of this Agreement. The Parties anticipate that this Agreement will be submitted to the BOE for its consideration and approval at its public meeting in January 2023. On behalf of the NDOC, the Office of the Attorney General will recommend approval of this Agreement.

2.3. If this Agreement is approved by the BOE at its public meeting in January 2023, the State will, within 21 days after such approval, disburse the Settlement Funds in a lump sum to Miller's counsel, Terri Keyser-Cooper ("Keyser-Cooper"), who will be responsible for further distributing the Settlement Funds to Miller and her co-counsel in accordance with any agreement between them. For tax and accounting purposes, the Parties agree that the Settlement Funds will be apportioned as follows:

- costs to Miller in the amount of \$429.90;
- costs to Keyser-Cooper in the amount of \$1,518.22;
- attorney's fees to Keyser-Cooper in the amount of \$373,070.44;
- attorney's fees to Diane K. Vaillancourt in the amount of \$79,897.47; and
- attorney's fees to Peter C. Wetherall in the amount of \$8,681.09.

2.4. The Parties agree to promptly execute any forms that may be necessary to place the matter of this Agreement on the BOE's agenda for its public meeting in January 2023, and to effect a subsequent disbursement of the Settlement Funds in accordance with paragraph 2.3 above.

2.5. Within 14 days after the disbursement of the Settlement Funds as described in paragraph 2.3 above, the Parties will execute and file with the Ninth Circuit a stipulation to dismiss the Appeal, and they will further execute and file with the District Court a notice of satisfaction of judgment, thereby terminating any potential collection action with respect to the Litigation.

3. **Compromise. No Admission of Liability.** The Parties acknowledge that payment of the Settlement Funds under this Agreement represents a complete compromise and final settlement of disputed issues of law and fact regarding the amount of attorneys' fees awarded to Miller and/or his attorneys pursuant to the Settlement and any additional fees that may have been incurred or paid in relation to the Appeal. Consideration given by the NDOC in exchange for Miller's agreement to dismiss the Appeal and enter a satisfaction of judgment in the District Court cannot be construed and will never at any time for any purpose be considered as the NDOC's admission of liability under federal law for Miller's attorneys' fees.

**Settlement Agreement**

**Miller v. Aranas, et al, 9th Cir. Case No.: 22-16207**

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4. **Release of Claims**. Upon distribution of the Settlement Funds to Keyser-Cooper in accordance with paragraph 2.3 above, Miller and his attorneys release the NDOC and its current and former employees, agents, and representatives from any and all known and unknown charges, claims, causes of actions, obligations, promises, rights, or demands for any and all costs and attorneys' fees paid or incurred in connection with the Litigation and Appeal. The Parties understand and acknowledge that all other claims, causes of action, and liabilities, whether known or unknown, asserted or unasserted, relating to or arising from the Litigation were previously released pursuant to the Settlement.
5. **Entire Agreement**. This Agreement represents the only understanding between the Parties concerning the amount of costs and attorneys' fees to be paid or awarded to Miller and/or to his attorneys in connection with the Litigation and/or the Appeal and supersedes all prior negotiations and/or agreements, proposed or otherwise, written or oral, concerning the amount of costs and attorneys' fees in connection with the Litigation and/or the Appeal.
6. **Costs and Fees of Appeal**. The Parties will bear their own costs and fees associated with the Appeal.
7. **Construction and Enforcement**. This Agreement will be construed and enforced in accordance with the laws of the State of Nevada. Any action to enforce this Agreement, or to recover damages for a breach of this Agreement, will be commenced in a court of competent jurisdiction in an appropriate venue within the State of Nevada. The Parties understand and acknowledge that neither the District Court nor the Ninth Circuit has or retains jurisdiction to enforce the terms of this Agreement.
8. **Amendments**. Any agreement to modify the timelines stated above must be set forth in writing by an attorney representative for each of the Parties. Any other amendment or modification to this Agreement must be set forth in writing and signed by the Parties in order to be binding.
9. **Counterparts**. This Agreement may be executed in counterparts.

**SIGNATURE PAGE TO FOLLOW**

Settlement Agreement

Miller v. Aranas, et al, 9th Cir. Case No.: 22-16207

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Plaintiff-Clifford W. Miller

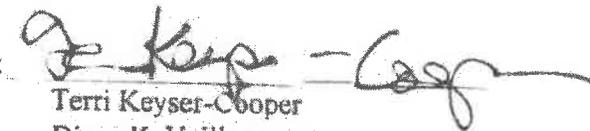
DATED: 11-28-22

  
Clifford W. Miller *on behalf of Clifford Miller*

Counsel for Clifford W. Miller

DATED: 11-28-22

LAW OFFICE OF TERRI KEYSER-COOPER

By:   
Terri Keyser-Cooper  
Diane K. Vaillancourt  
Peter C. Wetherall

Defendant-Nevada Department of Corrections

DATED: 11.29.2022

NEVADA DEPARTMENT OF CORRECTIONS

By:   
Title: ACTING DIRECTOR  
Print: WILLIAM A. GUTERE

Counsel for the Nevada Department of Corrections

DATED: 11/28/2022

OFFICE OF THE ATTORNEY GENERAL

By:   
Gregory L. Zunino, Deputy Solicitor General  
Sabrena Clinton, Deputy Attorney General