



# City of Newark

City Hall  
920 Broad Street  
Newark, New Jersey 07102

## Legislation Text

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File #: 18-0440, Version: 1

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**Dept/ Agency:** Law

**Action:** ( ) Ratifying (X) Authorizing ( ) Amending

**Purpose:** Settlement of Workers' Compensation Claim

**C.P. No.:** 2012-32349

**Claimant:** Frank Gaines

**Claimant's Attorney:** Jay H. Bernstein, Esquire

**Attorney's Address:** Kirsch, Gelband & Stone PA, 17 Academy Street, Suite 707, Newark, New Jersey 07102

**Settlement Amount:** \$147,656.40

**Funding Source:** Insurance Trust Fund

**Additional Comments:**

**Invitation:** Acting Corporation Counsel

**WHEREAS**, Petitioner, Frank Gaines, instituted suit in the Division of Workers Compensation of New Jersey, Essex County, bearing C.P. Number 2012-32349 against the City of Newark seeking workers' compensation benefits due to injuries to his lower back as a result of lifting garbage bags on June 18, 2012, while employed by the Department of Neighborhood and Recreational Services, Sanitation Division; and

**WHEREAS**, following settlement negotiations through Petitioner's attorney, Jay H. Bernstein, Esq., from the law office of Kirsch, Gelband & Stone PA and Acting Corporation Counsel and/or his designee, The Woolridge Law Firm LLC ("Outside Counsel") have agreed to amicably resolve and settle this matter under Section 22 of the Workers Compensation Act (N.J.S.A. 34:15-20) by payment in the amount of One Hundred Thirty-One Thousand Two Hundred Twenty Dollars and Zero Cents (\$131,220.00). Pursuant to the terms of the Settlement Order to be executed by the Judge of the Division of Workers' Compensation, the City of Newark will also pay an attorney fee of Fifteen Thousand Seven Hundred Forty-Six Dollars and Forty Cents (\$15,746.40), a medical evaluation fee of Three Hundred Dollars and Zero Cents (\$300.00) for Dr. Cheryl Wong, and a medical evaluation fee of Three Hundred Dollars and Zero Cents (\$300.00) for Theodora Maio and a transcription fee of Ninety Dollars and Zero Cents (\$90.00) for a total settlement of One Hundred Forty-Seven Thousand Six Hundred Fifty-Six Dollars and Forty Cents (\$147,656.40); and

**WHEREAS**, this settlement is subject to approval by the Judge of the Division of Workers' Compensation; and

**WHEREAS**, the total settlement amount may be subject to minor changes in amount or distribution at the time the Settlement Agreement is approved and the Settlement Order executed by the Judge of the Division of Workers' Compensation; and

**WHEREAS**, the Municipal Council believes it is in the best interests of the City of Newark, that minor changes to the amount of the settlement and distribution shall not require subsequent

Municipal Council approval provided the settlement amount is not increased or decreased above \$500.00 and all the terms and conditions are substantially the same as authorized by the resolution; and

**WHEREAS**, based upon all of the facts and circumstances surrounding this matter, Acting Corporation Counsel and/or Outside Counsel deem it is in the best interest of the City of Newark to accept said settlement in the total amount of One Hundred Forty-Seven Thousand Six Hundred Fifty-Six Dollars and Forty Cents (\$147,656.40).

**NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

1. The settlement of the Workers' Compensation matter bearing C. P. No. 2012-32349 is hereby approved.

2. Upon receipt by the Acting Corporation Counsel and/or Outside Counsel of all supporting documents, the Director of Finance is hereby authorized and directed to issue checks in the amounts as follows:

(a) \$120,122.40 (One Hundred Twenty Thousand One Hundred Twenty-Two Dollars and Forty Cents) made payable and mailed to Frank Gaines 175 Walker Avenue Apt. D, Union, New Jersey 07083. (It is understood that pursuant to the terms of the Settlement Order to be entered by the Judge of the Division of Workers' Compensation, \$10,497.60. (Ten Thousand Four Hundred Ninety Seven Dollars and Sixty Cents) is being subtracted from the Petitioner's award to pay attorney's fees, and \$600.00 (Six Hundred Dollars and Zero Cents) is being subtracted to pay for medical evaluations in accordance with the settlement provisions.)

(b) \$26,244.00 (Twenty-Six Thousand Two Hundred Forty-Four Dollars and Zero Cents) made payable to Kirsch, Gelband & Stone, PA 17 Academy Street Suite 707, Newark, New Jersey 07102

(c) \$600.00 (Six Hundred Dollars and Zero Cents) made payable to Cheryl Wong, 100 Hamilton Plaza, 3rd Fl. Paterson, New Jersey 07500

(d) \$600.00 (Six Hundred Dollars and Zero Cents) made payable to Theodora Maio, 100 Hamilton Plaza, 3rd Floor, Paterson, New Jersey 07500

(e) \$90.00 (Ninety Dollars and Zero Cents), made payable to William C. O'Brien Associates, 525 Boulevard, Kenilworth, New Jersey 07033.

3. Attached hereto are the Certifications of the Comptroller of the City of Newark which state that there are available sufficient legally appropriated funds for the purpose set forth hereinabove and which state that the line appropriation of the official budget which shall be charged is Business Unit NW024, Dept. ID 24T, Div./Proj 5T24, Account Code 96310. A copy of the Comptroller's certifications shall be filed by the Acting Corporation Counsel in the Office of the City Clerk along with a copy of this Resolution.

4. A fully executed copy of the Order Approving Settlement shall be filed in the Office of the City

Clerk by the Acting Corporation Counsel.

**STATEMENT**

This resolution authorizes the Acting Corporation Counsel or his designee, The Woolridge Law Firm LLC, on behalf of the City of Newark, to effectuate settlement by entering into an Order Approving Settlement of a Workers' Compensation claim in the amount of \$147,656.40 brought by Frank Gaines, 175 Walker Avenue, Apt. D, Union, New Jersey 07083, who suffered injuries arising out of an accident that occurred on June 8, 2012, while he was employed by the former Department of Neighborhood and Recreational Services for the City of Newark.