



Legislation Details (With Text)

File #: 18-1721 **Version:** 1 **Name:** Workers Compensation Settlement - Elbin Garnier
Type: Resolution **Status:** Adopted
File created: 11/2/2018 **In control:** Law
On agenda: **Final action:** 7/23/2019

Title: Dept/ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Settlement of Workers' Compensation
C.P. No.: 2013-22192
Claimant: Elbin Garnier
Claimant's Attorney: Birkhold & Maider, LLC.
Attorney's Address: 189 Franklin Avenue, Suite 1, Nutley, New Jersey 07110
Settlement Amount: \$42,078.48
Funding Source: Insurance Trust Fund
Additional Comments:
Invitation: Corporation Counsel

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
7/23/2019	1	Municipal Council	Adopt	Pass

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WHEREAS, the Petitioner, Elbin Garnier, instituted suit in the Division of Workers Compensation of New Jersey, Essex County, bearing C.P. Number 2013-22192 against the City of Newark seeking workers' compensation benefits due to injuries to his lumbar spine from a fall on March 14, 2012, while employed by the City of Newark, Department of Public Safety, Division of Police as a Police Officer; and

WHEREAS, following settlement negotiations through Petitioner's attorney, Birkhold & Maider, LLC, 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 Thirty-Six Thousand Nine Hundred Fifty-Four Dollars and Zero Cents (\$36,954.00). 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's fee of Four Thousand Four Hundred Thirty-Four Dollars and Forty-Eight Cents (\$4,434.48), a medical evaluation fee of Six Hundred Dollars and Zero Cents: Three Hundred Dollars and Zero Cents (\$300.00) for Dr. Theodora Maio, and Three Hundred Dollars and Zero Cents (\$300.00) for Dr. Morris Horwitz, and a transcription fee of Ninety Dollars and Zero Cents (\$90.00) for a total settlement amount of Forty-Two Thousand Seventy-Eight Dollars and Forty-Eight Cents (\$42,078.48); 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, 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 Forty-Two Thousand Seventy-Eight Dollars and Forty-Eight Cents (\$42,078.48);

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. 2013-22192 is hereby approved.

2. Upon receipt by the 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) \$33,397.68 (Thirty-Three Thousand Three Hundred Ninety-Seven Dollars and Sixty-Eight Cents) made payable and mailed to: Elbin Garnier, 616 Belgrove Drive, Kearny, New Jersey 07032 (It is understood that pursuant to the terms of the Settlement Order to be entered by the Judge of the Division of Workers' Compensation, \$2,956.32 Two Thousand Nine Hundred Fifty-Six Dollars and Thirty-Two 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) \$4,434.48 (Four Thousand Four Hundred Thirty-Four Dollars and Forty-Eight Cents) made payable to Birkhold & Maider, LLC., 189 Franklin Avenue, Suite 1, Nutley, New Jersey 07110.

(c) \$300.00 (Three Hundred Dollars and Zero Cents) made payable to Dr. Theodora Maio, 100 Hamilton Avenue Plaza Paterson, New Jersey 07509-2947.

(d) \$300.00 (Three Hundred Dollars and Zero Cents) made payable to Dr. Morris Horwitz, 100 Hamilton Avenue Plaza Paterson, New Jersey 07509-2947.

(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 is the certification of the Comptroller of the City of Newark which states 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 NW 024, Dept. ID 24T, Div./Proj. 5T24, Account Code 96310. A copy of the Comptroller's certifications shall be filed by the 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 Corporation Counsel.

STATEMENT

This resolution authorizes 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 \$42,078.48, brought by Elbin Garnier who suffered injuries to the lumbar spine from a fall on March 14, 2012, while employed by the City of Newark, Department of Public Safety, Police Division as a Police Officer.