



## Legislation Text

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File #: 18-1820, Version: 1

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**Dept/ Agency:** Law

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

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

**C.P. No.:** 2008-33747; 2008-30062; 2008-30057, 2013-21201

**Claimants:** Gail Nolton, Jaylin Nolton, Malani Nolton and Kayla Nolton

**Claimant's Attorney:** David A. Bolson, Esq., Michael Glassman, Esq.; Marc Brenner, Esq.

**Attorney's Address:** Bolson: 70 S. Orange Avenue, Ste. 205, Livingston, New Jersey 07039;

Glassman: 20 N. Park Place, Ste. 200A, Morristown, New Jersey 07960; Brenner: 222 Ridgedale Avenue, Cedar Knolls, New Jersey 07927

**Settlement Amount:** \$145,413.78

**Funding Source:** Insurance Fund Commission

**Additional Comments:**

**Invitation:** Corporation Counsel

**WHEREAS**, decedent Firefighter Cornelius M. Nolton, who was previously diagnosed with sickle cell anemia, was injured with smoke inhalation exposure at the scene of a fire on July 22, 2007; and

**WHEREAS**, the Petitioners, Gail Nolton, Jaylin Nolton, Malani Nolton, and Kayla Nolton, are heirs to the decedent and filed Dependency Petitions in the Division of Workers Compensation of New Jersey, Essex County, bearing C.P. Numbers 2008-33747; 2008-30062; 2008-30057; 2013-21201, respectively, against the City of Newark seeking workers' compensation benefits as a result of the decedent sustaining injuries due to smoke inhalation which caused sickle cell complications resulting in Firefighter Nolton's death on July 25, 2007; and

**WHEREAS**, on May 10, 2018 the Municipal Council, by Resolution 7R6-a , adopted and approved the settlement agreement resolving these Dependency Petitions for \$333,024.21; and

**WHEREAS**, since these are Dependency petitions, the settlement calculates weekly payments of \$711.00 per week for the dependents until they reach the age of maturity, and benefits will continue until the death of Gail Nolton (wife) at the rate of \$711.00 per week for her life time; and

**WHEREAS**, the earlier settlement agreement did not compensate the Petitioners for the entire period of time from July 25, 2007 to the date of Municipal Council approval; and

**WHEREAS**, following additional settlement negotiations through Petitioner's attorney, David A. Bolson, Esq., Michael Glassman, Esq., Rothenberg, Rubenstein, Berliner & Shinrod, LLC and Corporation Counsel and/or 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 Twenty Nine Thousand Eight Hundred Thirty Three Dollars and Seventy Three Cents (\$129,833.73). 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 Five Hundred Eighty Dollars and Five Cents (\$15,580.05), for a total settlement of One Hundred Forty-Five Thousand Four Hundred Thirteen Dollars and Seventy-Eight Cents (\$145,413.78); 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, the 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-Five Thousand Four Hundred and Thirteen Dollars and Seventy-Eights Cents (\$145,413.78).

**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. Nos. 2008-33747; 2008-30062; 2008-30057, 2013-21201, 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) \$119,447.03 (One Hundred Nineteen Thousand Four Hundred Forty-Seven Dollars and Three Cents) to be split between the following claimants: Jaylin Nolton, 14 Lake Street, East Orange, New Jersey 07017; Kayla Nolton, 425 18<sup>th</sup> Avenue, Paterson, New Jersey 07504; Gail Nolton 425 18<sup>th</sup> Avenue, Paterson, New Jersey 07504; Milani Nolton 37-39 Chapman Place, Irvington, New Jersey 07111(subtracting an attorney's fee of \$10,386.70 (Ten Thousand Three Hundred Eighty-Six Dollars and Seventy Cents).

(b) \$15,580.05 (Fifteen Thousand Five Hundred Eighty Dollars and Five Cents) split between the following attorneys: David A. Bolson, Esq., Rothenburg, Rubenstein, Berliner & Shinrod, LLC, 70 South Orange Avenue, Suite 205, Livingston, New Jersey 07039; Michael Glassman 20 N. Park Place, Suite 200A, Morristown, New Jersey 07960; Marc Brenner, Esq., 222 Ridgedale Avenue, Cedar Knolls, New Jersey 07927.

3. The Municipal Council approves any additional weekly payments that may accrue between the time that Municipal Council approves this settlement and the date that the matter is placed before the Workers' Compensation Court.

4. 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 Corporation Counsel in the Office of the City Clerk along with a copy of this Resolution.

5. 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 the 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 four Workers' Compensation dependency claims in the amount of \$145,413.78, brought by Jaylin Nolton, Malani Nolton, Kayla Nolton, and Gail Nolton, heirs to the Decedent Cornelius M. Nolton who suffered injuries of smoke inhalation causing sickle cell complications resulting in death on July 22, 2007, while he was employed by the City of Newark as a Fire Fighter.