

11-R -1118

(Do Not Write Above This Line)

**A RESOLUTION
BY THE PUBLIC SAFETY AND LEGAL
ADMINISTRATION COMMITTEE**

A RESOLUTION AUTHORIZING THE SETTLEMENT OF ALL CLAIMS AGAINST THE CITY OF ATLANTA IN THE CASE OF J. D. PHILLIPS, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED V. CITY OF ATLANTA, CIVIL ACTION FILE NUMBER 1:10-CV-2427-HLM-WEJ, IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION, IN THE TOTAL GROSS AMOUNT OF \$271,028.44, TO BE DISTRIBUTED TO PLAINTIFFS. OF THIS AMOUNT, AUTHORIZING PAYMENT OF \$271,028.44 TO BE CHARGED TO AND PAID FROM FUND 1001 (GENERAL FUND), CENTER NUMBER 200101 (NON-DEPARTMENTAL), (ACCOUNT 5212005 (LITIGATION EXPENSES) and FUNCTIONAL ACTIVITY NUMBER 151200 (ACCOUNTING) AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE THE SETTLEMENT AMOUNT; AND FOR OTHER PURPOSES.

ERIC RICHARDSON
ERIC RICHARDSON, Deputy City Attorney

ADOPTED BY

AUG 15 2011

COUNCIL

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
Date _____
Chair _____
Referred To _____

PSLA Committee
Date *7/26/11*
Chair *[Signature]*
Action _____
Fav, Adv, Hold (see rev. side) _____
Other _____

Members
James M. Steyer
J. Adams

Refer To _____

Committee _____
Date _____
Chair _____
Action _____
Fav, Adv, Hold (see rev. side) _____
Other _____

Members _____
Refer To _____

Committee _____
Date _____
Chair _____
Action _____
Fav, Adv, Hold (see rev. side) _____
Other _____

Members _____
Refer To _____

Committee _____
Date _____
Chair _____
Action _____
Fav, Adv, Hold (see rev. side) _____
Other _____

Members _____
Refer To _____

FINAL COUNCIL ACTION

- 2nd
- 1st & 2nd
- 3rd
- Readings
- Consent
- V Vote
- RC Vote

CERTIFIED

CERTIFIED
AUG 15 2011
ATLANTA CITY COUNCIL PRESIDENT
[Signature]

CERTIFIED
AUG 15 2011
Rhonda Daughin Johnson
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

AUG 24 2011

WITHOUT SIGNATURE
BY OPERATION OF LAW

RESOLUTION

11-R-_____

**BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION
COMMITTEE**

A RESOLUTION AUTHORIZING THE SETTLEMENT OF ALL CLAIMS AGAINST THE CITY OF ATLANTA IN THE CASE OF J. D. PHILLIPS, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED V. CITY OF ATLANTA, CIVIL ACTION FILE NUMBER 1:10-CV-2427-HLM-WEJ, IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION, IN THE TOTAL GROSS AMOUNT OF \$271,028.44, TO BE DISTRIBUTED TO PLAINTIFFS. OF THIS AMOUNT, AUTHORIZING PAYMENT OF \$271,028.44 TO BE CHARGED TO AND PAID FROM FUND 1001 (GENERAL FUND), CENTER NUMBER 200101 (NON-DEPARTMENTAL), (ACCOUNT 5212005 (LITIGATION EXPENSES) and FUNCTIONAL ACTIVITY NUMBER 151200 (ACCOUNTING) AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE THE SETTLEMENT AMOUNT; AND FOR OTHER PURPOSES.

WHEREAS, *J. D. Phillips, Individually And On Behalf Of All Others Similarly Situated v. City of Atlanta*, is a case in which the Plaintiffs, J. D. Phillips, et al., sought remedy and redress for alleged violation of the Fair Labor Standards Act, 29 U.S.C. § 201 (the "FLSA"), by classifying Fire Lieutenant Investigators ("Arson Investigators") as employees engaged in fire protection activities subject to the partial overtime pay exemption provided in 29 U.S.C. § 207(k), whereby employees are entitled to overtime pay only for all hours worked in excess of 212 hours in any given twenty-eight (28) day work period; and

WHEREAS, Plaintiffs have agreed to accept the total gross amount of \$271,028.44 in full settlement of all claims against the City of Atlanta, inclusive of interest and attorney's fees, to be distributed to plaintiffs Johnny Buck, Taurus Durrah, Troy Junnier, Daverick Marcus, Scott McLane, J. D. Phillips, Jairus Porter, Irbing Reese, Michael Russell, Thomas Tyree, and Jamey Willis; and

WHEREAS, The City Attorney has done extensive review of the facts and the law and has determined that the City's potential financial exposure in defending Plaintiffs' claims is in excess of the settlement amount; and

WHEREAS, The City Attorney considered it to be in the best interest of the City to pay the amount of \$271,028.44 to settle all claims against the City of Atlanta.



THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA hereby resolves as follows:

SECTION 1. The City Attorney is hereby authorized to settle and execute all documents in the case of *J.D. Phillips vs. City of Atlanta, et al.* in the amount of Two-hundred-seventy-one-thousand-twenty-eight-dollars and 44 cents (\$271,028.44).

SECTION 2. Said payment is to be charged, paid and issued as follows:

The Chief Financial Officer is authorized to make payment from **Fund 1001 (General Fund), Center Number 200101 (Non-Departmental), (Account 5212005 (Litigation Expenses) and Functional Activity Number 1512000 (Accounting)). Payment shall be in the form of a check in the amount of \$271,028.44 payable to Billips and Benjamin, counsel for the plaintiffs.** Such payment shall be in full consideration of the dismissal of all claims against the City of Atlanta and its current and former officers and employees.

A true copy,

Shonda Daughin Johnson
Municipal Clerk

ADOPTED by the Atlanta City Council
APPROVED as per City Charter Section 2-403

Aug. 15, 2011
Aug. 24, 2011

RCS# 1345
8/15/11
8:02 PM

Atlanta City Council

REGULAR SESSION

CONSENT I

CONSENT AGENDA SECTION I
EXCEPT 11-R-1121, 11-R-1104, 11-O-1141
ADOPT

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 1
ABSENT 1

B Smith	Y Archibong	Y Moore	Y Bond
Y Hall	Y Wan	Y Martin	Y Watson
Y Young	E Shook	Y Bottoms	NV Willis
Y Winslow	Y Adrean	Y Sheperd	NV Mitchell

CONSENT I

RCS# 1344
8/15/11
8:01 PM

Atlanta City Council

REGULAR SESSION

CONSENT I

CONSENT AGENDA SECTION I
EXCEPT 11-R-1121, 11-R-1104
RECONSIDER

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 1
ABSENT 1

B Smith	Y Archibong	Y Moore	Y Bond
Y Hall	Y Wan	Y Martin	Y Watson
Y Young	E Shook	Y Bottoms	Y Willis
Y Winslow	Y Adrean	Y Sheperd	NV Mitchell

CONSENT I

RCS# 1312
8/15/11
4:23 PM

Atlanta City Council

REGULAR SESSION

CONSENT I

CONSENT AGENDA SECTION I
EXCEPT 11-R-1121, 11-R-1104
ADOPT

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 1

B Smith	Y Archibong	Y Moore	Y Bond
Y Hall	Y Wan	Y Martin	Y Watson
Y Young	Y Shook	Y Bottoms	NV Willis
Y Winslow	Y Adrean	Y Sheperd	NV Mitchell

CONSENT I