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Houston firefighters blast Mayor Turner over survivor payments to families of Southwest Inn victims

St. John Barned-Smith

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People pray Thursday, May 31, 2018, in Houston at the site of the fire at the Southwest Inn, 6855 Southwest Fwy., where they gathered to honor firefighters killed five years ago. Robert Bebee, Robert Garner, ...

Photo: Melissa Phillip, Staff / Houston Chronicle

Weeks after Houston Mayor Sylvester Turner said the city was not pursuing liens against the survivors of firefighters killed in the 2013 Southwest Inn fire, the families' attorney says the city has refused to waive claims to \$1.4 million it paid in benefits to the families.

Yet, mayoral spokesman Alan Bernstein doubled down on Turner's assertion the city was not pursuing claims on the money, and said it had offered to waive its right to the money, provided

all the money goes to the families of the fallen firefighters, not their lawyer.

“They want to be paid more legal fees for getting more money the city is not pursuing,” Bernstein said.

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Now, the families who felt this fight was over, find themselves once again caught between warring parties.

The Southwest Inn fire sparked several costly lawsuits that lasted years. Relatives of the fallen firefighters — represented by Ben Hall, a former city attorney and Turner’s former opponent during the 2016 mayoral election — recently agreed to a settlement with Motorola Solutions, saying faulty radios slowed rescuers from extricating their loved ones from the building.

Firefighters Robert Bebee, 41, Robert Garner, 29, Matthew Renaud, 35, and Anne Sullivan, 24, died in the fire. William “Iron Bill” Dowling, 43, died in 2017 due to complications from injuries he suffered in the fire.

Court records show outside attorneys hired by then-Mayor Annise Parker’s administration attempted to recoup approximately \$110,000 as far back as 2016. Other filings showed the city placed its costs at more than \$2 million in benefits or other expenses to the firefighters who survived and to the families of those who had perished.

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The so-called “subrogation claims” refer to liens, automatically created by state law when insurers pay out compensation claims after workplace accidents. The law allows insurers — in this case, the city — to step in during later civil lawsuits and claw back money it spent on medical costs or other benefits.

Hall, the attorney for the families, said city officials were advancing “contradictory and confusing positions,” forcing a delay in distributing settlement money to his clients, and complicating the settlement of their last suit, against Motorola.

At a Thursday news conference, Houston Professional Fire Fighters Association President Marty Lancton called for Turner to apologize for “his continued legal stunts” and not to engage in similar behavior in the future.

David Renaud, brother of Matthew Renaud, who attended the conference along with Jacki accused the mayor of trying to pit the families of the fallen firefighters against their attorney.

“Let us be,” he said. “Let our attorney be, and let us move on from this.”

The years-long back-and-forth — which comes at a time when relations between the city and firefighters are particularly fraught due to an ongoing dispute over how much firefighters should be paid — has sparked fury and frustration from fallen firefighters’ relatives and the fire’s survivors.

“Our family lost someone who was lost in the line of duty and you want to play politics on his back? Nope. That’s not cool,” said Nicole Garner, whose brother, Robert Garner, died in the blaze.

After news of the liens came to light in July, Turner pledged the city would not seek to collect money from any of the firefighters or their families.

The city then signed a “waiver” releasing the liens — provided that the attorney who represented the families during the past four years, not be paid attorney’s fees.

“While the City’s recent proposal makes no legal sense, the net effect of the proposal is that the City has not waived or released any claimed lien,” Hall wrote earlier this week in a filing asking a Harris County court to hold settlement funds while his clients sort out the matter with the city.

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Veteran civil attorneys who handle subrogation issues expressed puzzlement over the city’s waiver stipulation.

“That’s the city trying to create a condition that they know the plaintiffs’ lawyer won’t agree to,” said Rogge Dunn, a partner at Rogge Dunn Group who has spent decades filing and defending subrogation claim lawsuits, “So the city has an excuse for pursuing subrogation. That’s how it strikes me.”

“Just because you have the right to subrogate doesn’t mean that’s the right thing to do, in a situation where brave first responders have given their lives to protect the citizens of Houston,

and the city is fighting over money that should go in their pockets,” he added.

Mike Lyons, of Deans & Lyons LLP, said the city was engaging in “gamesmanship.”

“The Plaintiffs can’t settle the case without paying their lawyers,” said Lyons, a Dallas-based attorney who handles subrogation claims and reviewed the case at the Chronicle’s request. “The city knows that.”

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Mary Sullivan’s 24-year-old daughter, Anne Sullivan, was a rookie firefighter with just six weeks on the job when she died in the Southwest Inn fire.

Sullivan said she thinks about her daughter daily.

“It just doesn’t go away,” she said. “And if the city could ... they could have all the money if they can give me 5 minutes with my daughter to say goodbye, but they can’t.”

“We want to move on and we wish the city would move on,” she continued. “What are they trying to prove? What is their point in all of this?”

St. John Barsed-Smith covers public safety and major breaking news for the Houston Chronicle.

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