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NOTICE OF CLAIM

TO: Ronald D. Leonhardt, Clerk
City of Milwaukee
City Hall, Room 205
200 East Wells Street
Milwaukee Wisconsin 53202

Board of Fire and Police Commissioners
c/o Department of Employee Relations, City Hall
200 East Wells Street, Room 706
Milwaukee Wisconsin 53202

Nannette Hegerty, Chief
City of Milwaukee Police Department
749 West State Street
Milwaukee, Wisconsin 53223

CITY OF MILWAUKEE
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RONALD D. LEONHARDT
CITY CLERK

The following claim for damages is made pursuant to section 893.80, *Stats.*

1. Claimant Matthew R. Quist is an adult resident of the State of Wisconsin and is employed as a Detective by the City of Milwaukee Police Department.
2. The City of Milwaukee is a municipal corporation organized and existing under the laws of the State of Wisconsin, with principal offices located at City Hall, 200 East Wells Street, Milwaukee, Wisconsin 53202.
3. The Board of Fire and Police Commissioners is a division of the City of Milwaukee Department of Employee Relations
4. Nannette Hegerty is the Chief of the City of Milwaukee Police Department, with principal offices located at 749 West State Street, Milwaukee, Wisconsin 53223.

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CITY ATTORNEY

5. In 2003, Detective Quist met the requirements for inclusion on a list of persons eligible for promotion to the position of Lieutenant of Detectives, which list was created on May 8, 2003. Detective Quist is currently next on the list for promotion.

6. Pursuant to Rule X of the Rules of the Board of Fire and Police Commissioners, the eligibility list is to be effective for a period of two years, absent action by the Board of Fire and Police Commissioners abolishing, rescinding or extending the list. Thus, based solely on the calendar, the eligibility list for promotion to the position of Lieutenant of Detectives is due to expire on May 8, 2005.

7. On April 29, 2005, a vacancy was created in the Milwaukee Police Department in the position of Inspector as a result of the departure of Inspector Steven Settingsgaard. Based on clearly established past practice, that vacancy is to be filled by "trickle-down" promotions from within the Department, whereby a Deputy Inspector would be nominated to fill the vacant Inspector position, a Captain would be nominated to replace the nominated Deputy Inspector, a Lieutenant would be nominated to replace the Captain and a Detective would be nominated to fill the vacant position of Lieutenant.

8. In addition, the Department has an established past practice of nominating persons before an eligibility list expires, even if the actual promotion does not occur until after the list expires.

9. Chief Hegerty has advised Detective Quist and his counsel that although she will promote someone to fill Inspector Settingsgaard's vacant position, she will make no promotions and will not even nominate anyone to fill vacancies that would normally be created by that promotion in accord with the Department's established "trickle-down" promotion process.

11. Chief Hegerty bases that position on the action of Alderman Michael Murphy, Chairman of the City of Milwaukee Finance and Personnel Committee. At an April 6, 2005 Committee meeting, Alderman Murphy announced that there were no Captain or Lieutenant positions listed on the vacancy requests presented to the Committee because he had asked and had those positions held until a determination by the courts as to how they should be filled. This was a reference to the recent verdict in a federal discrimination lawsuit. Alderman Murphy added that the Chief "strongly feels" she wanted to fill those positions right away, but he felt it was appropriate to await the resolution of the action. In other words, Alderman Murphy imposed a promotion "freeze" for the positions of Captain and Lieutenant.

12. Alderman Murphy has advised Detective Quist that the "freeze" is to be lifted on May 17, 2005, just eight days after the eligibility list expires.

13. As a result of the "freeze" and Chief Hegerty's refusal to even nominate candidates for promotion in accord with past practice, the eligibility list

was in effect terminated by Alderman Murphy's action on April 6, 2005, thirty-two days prior to the list's expiration date.

14. This result is clearly contrary to the Rules of the Board of Fire and Police Commissioners in that Rule X expressly provides that an eligibility list is effective for a full two years unless action is taken by the Board.

15. On May 5, 2005, Detective Quist and counsel appeared before the Board to seek a determination extending or, more accurately, tolling the list for a period of thirty-two days after the "freeze" is lifted. By doing so, the Board would have fulfilled its obligation to ensure that persons on the eligibility list were truly eligible to be promoted for the entire two-year period.

16. The Board did not expressly refuse to toll the list, but instead determined that because there were no current vacancies in the position of Lieutenant of Detectives, Detective Quist's request would be denied. This determination ignored the Department's established past practices of "trickle-down" promotions and nominations.


17. Thus, the action taken to "freeze" promotions as described above precluded promotions to vacancies that otherwise would have been created in accord with past practice following Inspector Settingsgaard's departure, thereby denying Detective Quist a promotion to the position of Lieutenant of Detectives as the next person on the eligibility list.

WHEREFORE, Matthew R. Quist demands that the Board of Fire and Police Commissioners toll the eligibility list for the thirty-two day period of the freeze imposed by the Personnel and Fire Committee and direct that the eligibility list remain in full force and effect for a period of thirty-two days after the freeze is lifted. In the alternative, Detective Quist seeks a determination that on and after the expiration of the list, he be afforded any and all economic benefits of the position of Lieutenant of Detectives.

Dated this 6th day of May, 2005.

GIMBEL, REILLY, GUERIN & BROWN

By:



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