

# CERMELE & MATTHEWS, S.C.

6310 WEST BLUEMOUND ROAD • SUITE 200 • MILWAUKEE • WISCONSIN 53213  
PHONE (414) 276-8750 • FAX (414) 276-8906  
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JENNIFER R. HELLMER  
jennifer@cermelelaw.com

May 20, 2016

Mr. James Owczarski  
Milwaukee City Clerk  
City Hall, Room 205  
200 East Wells Street  
Milwaukee, WI 53202

RECEIVED

MAY 24 2016

OFFICE OF  
CITY ATTORNEY

CITY OF MILWAUKEE  
2016 MAY 23 P 1:02  
CITY CLERK'S OFFICE

**Re: Claim under §895.35(2)b, Stats  
On Behalf of Milwaukee Police Officers Zachary Thoms and David Letteer**

Mr. Owczarski:

City of Milwaukee police officers Zachary Thoms and David Letteer retained this firm to defend them with respect to the Inquest into the death of Derek Williams, which focused on the official duties of both officers. Consistent with the City Attorney's policy and ethical obligations, the City Attorney was unable to represent either of these officers.

Milwaukee District Attorney John Chishom appointed a special prosecutor to conduct the inquest (a "criminal proceeding" identified under §895.35(2)(a)1, Stats.), after which the D.A.'s office declined to issue criminal charges of any kind.

In addition, neither officer suffered discipline as a result of their conduct in this matter. As a result, none of the exceptions under §895.35(2)(b)1, Stats., apply, and payment of the reasonable attorneys fees incurred in connection with the inquest is required under §895.35(2), Stats.

Attached is a detailed account of the fees (at \$250, \$200 and \$150 per hour) and expenses necessarily expended in the successful defense of Officer Thoms and Officer Letteer.

Consistent with Article 58, §1 of the Labor Agreement between the City and the Milwaukee Police Association, the City must request that this claim be placed on the Common Council's agenda within 180 days of its receipt by your office. Given that expedited time frame, I am providing

REPRESENTING LAW ENFORCEMENT UNIONS AND INDIVIDUAL OFFICERS  
THROUGHOUT THE STATE OF WISCONSIN.

Offices also located in Arbor Vitae, WI - Vilas County (715) 356-5164



Assistant City Attorney Jan Smokowicz with a courtesy copy of this letter and its enclosure.

**RECEIVED**

MAY 24 2016

OFFICE OF  
CITY ATTORNEY

Sincerely,

CERMELE & MATTHEWS, S.C.

Jonathan Cermele

JC/can

Enclosure

pc: Zachary Thoms (w/enc via US Mail)  
David Letteer (w/enc via US Mail)  
Atty. Jan Smokowicz (w/enc via US Mail)

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JACLYN SCHWARTZ  
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January 27, 2017

Mr. Jan Smokowicz  
Assistant City Attorney  
800 City Hall  
200 East Wells Street  
Milwaukee, WI 53202

Re: *Modified Claim under §895.35(2)b, Stats*  
*On Behalf of Milwaukee Police Officers Zachary Thoms and David Letteer*

## Professional Services (Attorney's Fees)

			<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
10/02/2012	BPM	Discussion with DA Chisholm regarding decision to proceed to an inquest into the death of Derek Williams; telephone call to client regarding new issues developing with case; telephone call to Cermele regarding incident.	0.4	\$200.00	\$ 80.00
10/04/2012	JC	Numerous intra-office conferences with Matthews regarding facts, investigation and strategy; direction to Matthews regarding same.	0.9	\$250.00	\$ 225.00
10/04/2012	BPM	Intra-office conference with Cermele regarding case issues and inquest process; office conference with clients regarding incident details; telephone call from DDA Lovern regarding obtaining closed file; office conference with Cermele regarding problems with investigation and special prosecutor.	2.5	\$200.00	\$ 500.00
10/05/2012	BPM	Office conference with Cermele regarding charging strategy and culpability issues/assessment.	0.5	\$200.00	\$ 100.00
10/05/2012	JC	Intra-office conference with Matthews regarding discussion with District Attorneys office on charges.	0.4	\$250.00	\$ 100.00
10/09/2012	JC	Meeting with Matthews regarding Federal prosecutors taking over investigation; direction to Matthews regarding same.	0.4	\$250.00	\$ 100.00
10/11/2012	BPM	Intra-office conference with Cermele regarding case strategy; telephone call from Lt. Salazar and Det. Wilkerson regarding	2.2	\$200.00	\$ 440.00

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case focus and issues; texts to/from Salazar regarding same; review DA's clearance letter from last year (same case); review notes from prior review of that same letter; Westlaw research on potential Wisconsin criminal charges.

10/15/2012	BPM	Telephone call to and from client regarding Professional Performance Division reorganization and case status.	0.6	\$200.00	\$ 120.00
10/18/2012	BPM	Attend Fire and Police Commission hearing regarding Chief Flynn's response/position; attorney notes to file.	1.9	\$200.00	\$ 380.00
10/19/2012	BPM	Telephone call to Chief Deputy District Attorney Lovern regarding reports.	0.2	\$200.00	\$ 40.00
10/23/2012	BPM	Travel to/from Medical Examiners Office; receive documents from Medical Examiners office; attorney notes to file; texts to/from Thoms regarding questions on documents from Medical Examiners office.	3.8	\$200.00	\$ 760.00
10/24/2012	BPM	Instructions to Nerdahl regarding new documents and getting old documents; research and review medical terminology contained in ME's report; attorneys notes to file.	1.2	\$200.00	\$ 240.00
10/25/2012	BPM	Begin reviewing new documents from Medical Examiners office.	0.5	\$200.00	\$ 100.00
10/26/2012	BPM	Finish reviewing new documents; lengthy telephone conversation with Dr. Matthews regarding medical findings and significance.	2.2	\$200.00	\$ 440.00
11/1/2012	BPM	Receive and review correspondence from Medical Examiner's office (Toxicology report); compare with autopsy results and research unknown medical terms; documents to file.	0.8	\$200.00	\$ 160.00
11/20/2012	BPM	Review news article(s) regarding medical examiner stepping down; lengthy telephone call to Dr. Toledo regarding autopsy results/findings; attorney's notes to file.	1.6	\$200.00	\$ 320.00
11/28/2012	BPM	Telephone conference with Dr. Poulos regarding original medical report/autopsy; lengthy telephone call to Dr. Sandoval regarding same and changes between original and revised report; additional medical terminology research; lengthy telephone call to Dr. Matthews regarding toxicology reports, training standards and differences between autopsies; attorney's notes to file.	3.5	\$200.00	\$ 700.00
11/30/2012	BPM	Telephone call to Dr. Peterson regarding autopsies; review both with him; attorney's notes to file.	1.6	\$200.00	\$ 320.00
01/04/2013	BPM	Telephone call from client regarding new statement.	0.2	\$200.00	\$ 40.00
01/14/2013	BPM	Telephone call to and from Lt. Salazar.	0.4	\$200.00	\$ 80.00
01/15/2013	BPM	Telephone call to client; receive and review e-mail from client with document attached.	0.3	\$200.00	\$ 60.00
01/24/2013	BPM	Review documents from Inquest Special Prosecutor; attorney's notes to file.	1.0	\$200.00	\$ 200.00

01/25/2013	BPM	Review news article regarding inquest; attorney's notes to file.	0.2	\$200.00	\$ 40.00
02/01/2013	BPM	Review autopsies and attorney's notes regarding same; telephone call to Dr. Matthews regarding additional medical questions; telephone call to client regarding same.	1.0	\$200.00	\$ 200.00
02/04/2013	BPM	Telephone call to Judge Franke (Special Prosecutor) regarding case; telephone call to client regarding same; intra-office conference with Cermele regarding strategy for dealing with Franke and allegations; review subpoena received by client; texts to/from client regarding testimony.	1.2	\$200.00	\$ 240.00
02/06/2013	JC	Intra-office conference with Matthews regarding strategy and potential statements to Special Prosecutor.	0.2	\$250.00	\$ 50.00
02/06/2013	BPM	Telephone call to client(x2), left VM; attorney's notes to file; intra-office conference with Cermele regarding representation; texts and calls (x3) to/from Thoms regarding Letteer.	0.7	\$200.00	\$ 140.00
02/07/2013	BPM	Telephone call to Special Prosecutor; lengthy office conference with client (Letteer); attorney's notes to file.	1.2	\$200.00	\$ 240.00
02/08/2013	BPM	Inquest prep.	3.2	\$200.00	\$ 640.00
02/11/2013	BPM	Travel to/from Milwaukee Courthouse; attend inquest; attorney's notes to file; intra-office conference with Cermele regarding proceedings; telephone call to Thoms regarding testimony; telephone call to Letteer regarding same; e-mail to Franke regarding Thoms; telephone call from Thoms regarding meeting with him; review additional jury instructions; statutory research regarding Section 940.291; Westlaw research on same; review case on PACER addressing same.	6.5	\$200.00	\$ 1,300.00
02/12/2013	BPM	Receive and review e-mail from Special Prosecutor Franke regarding Thoms; telephone call from same regarding same; review DA's clearance letter; determine potential Section 940.291 liability; attorney's notes to file; attend inquest; meeting with Franke regarding Thoms' testimony and immunity/criminal liability; review articles regarding Dr. Poulos and Special Prosecutor Franke with respect to inquest; attorney's notes to documents and file; office conference with client (Thoms) regarding testimony prep; telephone call to FBI Agent Austin regarding FBI transcript; travel to/from Milwaukee Courthouse.	4.9	\$200.00	\$ 980.00
02/13/2013	BPM	Inquest prep (review crisis management training guide; police reports; DA Chisholm letter; viewfinder information); attorney's notes to file; office conference with client (Thoms); telephone call from MPD regarding testimony; telephone call to client (Letteer); conference with Special Prosecutor Franke regarding potential criminal liability with respect to "actual custody" and failure to render aid; attend inquest, assist and advise client during testimony; attorneys notes to file; office conference with PO Letteer; numerous in-person and	10.4	\$200.00	\$ 2,080.00

telephone conferences with Special Prosecutor Franke; begin research on 5th Amendment application in police inquests; telephone call from and to FBI Agent Austin regarding Thoms' report; receive and review copy of same; telephone call from client (Thoms) regarding testimony; review additional news articles; attorney's notes to file; travel to/from Milwaukee Courthouse (x2).

02/14/2013	JC	Several office conferences with Matthews regarding inquest (facts, testimony and legal strategy).	0.5	\$250.00	\$ 125.00
02/14/2013	BPM	Telephone call to client (Letteer); meeting with same; attend inquest, assist and advise client during testimony; attorney's notes to file; post-testimony conference with client; conference with Special Prosecutor Franke; discuss same with Crivello; telephone call from Thoms; Westlaw research continued regarding "actual custody"; travel to/from Milwaukee Courthouse.	6.8	\$200.00	\$ 1,360.00
02/15/2013	BPM	Travel to/from Milwaukee Courthouse (x2); attend inquest; attorney's notes to file; review additional news articles regarding inquest.	6.4	\$200.00	\$ 1,280.00
02/15/2013	JC	Several telephone calls to and from Matthews regarding evidence admitted at inquest; direction to Matthews regarding same.	0.4	\$250.00	\$ 100.00
02/18/2013	BPM	Travel to/from Milwaukee Courthouse (x2); attend inquest; attorney's notes to file; meeting with Special Prosecutor Franke regarding immunity for Thoms.	5.6	\$200.00	\$ 1,120.00
02/19/2013	BPM	Travel to/from Milwaukee Courthouse (x2); attend inquest; attorney's notes to file; review news articles regarding same.	7.5	\$200.00	\$ 1,500.00
02/20/2013	BPM	Travel to Milwaukee Courthouse; attend inquest (closing statement and jury questions); review news articles; attorney's notes to file.	5.2	\$200.00	\$ 1,040.00
02/21/2013	BPM	Telephone call to clients (both) regarding jury findings; intra-office conference with Cermele regarding jury's findings and conversation with FBI agents; telephone call from Chief Deputy District Attorney Lovern regarding testimony and potential charges; texts to and from Lt. Salazar regarding jury decision; telephone call from client (Thoms) regarding same.	1.6	\$200.00	\$ 320.00
02/22/2013	JC	Discussion with Matthews regarding jury verdict; telephone call to DA regarding same; direction to Matthews regarding proceeding forward.	0.3	\$250.00	\$ 75.00
02/22/2013	BPM	Telephone call from Special Prosecutor Franke.	0.3	\$200.00	\$ 60.00
04/02/2013	BPM	Review final report from Special Prosecutor, discuss same with Cermele.	1.5	\$200.00	\$ 300.00
05/31/2013	BPM	Review file; close file; draft correspondence to client regarding same (Letteer & Thoms).	0.7	\$200.00	\$ 140.00

07/01/2013	BPM	Receive and review final clearance letter from District Attorney; attorneys notes to file; close file.	0.5	\$200.00	\$ 100.00
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			<u>Hours</u>		<u>Amount</u>
		For professional services rendered	<del>94.8</del>		\$ 18,935.00

JAS 93.9

**Costs Incurred/Disbursements Made:**

10/23/2012	Mileage				\$ 5.55
10/31/2012	Photocopies-Medical Examiner Reports				\$ 7.50
02/11/2013	Mileage				\$ 5.65
	Parking				\$ 4.00
02/12/2013	Mileage				\$ 5.65
	Parking				\$ 8.00
02/13/2013	Mileage				\$ 11.30
	Parking				\$ 12.00
02/14/2013	Mileage				\$ 5.65
	Parking				\$ 8.00
02/15/2013	Mileage				\$ 11.30
	Parking				\$ 9.00
02/18/2013	Mileage				\$ 11.30
	Parking				\$ 12.00
02/19/2013	Mileage				\$ 11.30
	Parking				\$ 14.00
02/20/2013	Mileage				\$ 5.65
	Parking				\$ 10.00
	<b>Total Costs/Disbursements</b>				\$ 157.85
	<b>Total amount of this bill</b>				\$ 19,092.85
	<b>Balance Due</b>				\$ 19,092.85

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JACLYN SCHWARTZ  
jackie@cermelelaw.com

January 27, 2017

Mr. Jan Smokowicz  
Assistant City Attorney  
Room 800, City Hall  
200 East Wells Street  
Milwaukee, WI 53202

Re: *Modified Claim under §895.35(1), Stats*  
*On Behalf of Milwaukee Police Officers Zachary Thoms and David Letteer*

## Professional Services (Attorney's Fees)

			<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
10/10/2012	BPM	Telephone call to/from client regarding possible case changes; texts to/from client regarding same; telephone call to Cermele regarding case changes and FBI involvement.	1.1	\$175.00	\$ 192.50
10/11/2012	BPM	Telephone call to and from Thoms (x3) regarding changes in case, FBI involvement and Special Agent Walkowski information; telephone call from Special Agent Walkowski regarding case details; intra-office conference with Cermele regarding case strategy; telephone call from Lt. Salazar and Det. Wilkerson regarding case focus and issues; texts to/from Salazar regarding same; review DA's clearance letter from last year (same case); review notes from prior review of that same letter; Westlaw research on potential Wisconsin criminal charges and potential federal criminal charges.	2.2	\$175.00	\$ 385.00
10/12/2012	BPM	Telephone call from Thoms and Professional Performance Division (Detective Wilkerson) regarding new FBI investigation and Professional Performance Division reorganization; attorney notes to file; discuss both with Cermele.	0.7	\$175.00	\$ 122.50
10/16/2012	BPM	Telephone call from client regarding meeting/FBI; office conference with Cermele regarding FBI agents (Walkowski and Carlson); attorney notes to file.	0.7	\$175.00	\$ 122.50

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01/02/2013	BPM	Telephone call from client regarding FBI investigation; telephone call to FBI Investigator; telephone call to client regarding same and making a statement; office conference with client regarding same.	1.6	\$175.00	\$ 280.00
01/03/2013	BPM	Telephone call from Agent Austin regarding Thoms; telephone call to Thoms regarding new statement.	0.4	\$175.00	\$ 70.00
01/07/2013	BPM	Telephone call to US Attorney Kelly Watzka regarding Thoms statement; intra-office conference with Cermele regarding making statement; telephone call to client; telephone call to FBI Agent Austin regarding Thoms, left VM; telephone call to client regarding schedule; review file (attorney's notes); telephone call from client regarding statement.	1.4	\$175.00	\$ 245.00
01/08/2013	BPM	Telephone call from FBI Agent Austin regarding statement; telephone call to client regarding same; review client's prior statements (x2); office conference with client; telephone call to Agent Austin regarding statement; telephone call to Internal Affairs (Lt. Morales) regarding PI-21 and internal investigation documents; telephone call from FBI Austin regarding proffer and statement; receive and review correspondence from AUSA Watzka with proffer letter attached, review; telephone call to client.	3.1	\$175.00	\$ 542.50
01/09/2013	BPM	Telephone call to and from client; telephone call from FBI Agent Austin; receive and review correspondence from AUSA Kelly Watzka; telephone call to same.	0.9	\$175.00	\$ 157.50
01/10/2013	BPM	Telephone call from FBI Agent Austin regarding hearing and DOJ Prosecutor; telephone call to client; office conference with client; review file; pre-statement meeting with Austin; pre-statement meeting with AUSA Kelly Watzka; pre-statement conference with DOJ (Sayed); review prior statements provided by FBI with client; pre-statement conference with client; attend client's statements with FBI, AUSA, DOJ; attorney's notes to file; travel to/from US Attorney's Office for statement.	6.3	\$175.00	\$ 1,102.50
01/11/2013	BPM	Telephone call to FBI Agent Austin; lengthy telephone call to AUSA Watzka regarding statement; telephone call to client.	0.7	\$175.00	\$ 122.50
01/15/2013	BPM	Telephone call to client and FBI follow-up.	0.3	\$175.00	\$ 52.50
01/16/2013	BPM	Telephone call from and to client regarding FBI follow-up; telephone call to FBI Agent Austin regarding new investigation report/findings; telephone call to client regarding same; attorney's notes to file.	0.9	\$175.00	\$ 157.50
01/24/2013	BPM	Telephone call from FBI Agent Austin regarding follow-up statement.	0.5	\$175.00	\$ 87.50
02/01/2013	BPM	Telephone call to DOJ (AUSA Kelly Watzka) regarding FBI report; telephone call to client regarding same.	1.1	\$175.00	\$ 192.50
02/18/2013	BPM	Telephone call from AUSA Kelly Watzka regarding Thoms	0.4	\$175.00	\$ 70.00

and Letter.

05/28/2013 BPM Telephone call from client regarding FBI investigation; review status of same online; confirm DOJ not issuing charges. 0.4 \$175.00 \$ 70.00

For professional services rendered Hours Amount  
~~21.80~~ \$ 3,972.50

JHS 22.7

**Total amount of this bill** \$ 3,972.50

**Balance Due** \$ 3,972.50