

October 4, 2004

To the Honorable
Common Council of
the City of Milwaukee
Room 205 – City Hall

Re: Rex v. City of Milwaukee, et al., Case No. 03-C-0109

Dear Council Members:

Enclosed please find a proposed resolution that we ask be introduced at the meeting of the Common Council scheduled for October 8, 2004, and referred to the appropriate Council Committee for consideration.

This case stems from the arrest of plaintiff Candy Rex, which occurred on July 8, 2002. Officers were called to the scene that day, because of a report that Ms. Rex was soliciting for prostitution. The officers came into contact with Ms. Rex, and were attempting to place her under arrest. During the process of bringing her arms behind her, for the purpose of handcuffing, one of her arms was broken. Ms. Rex had a significant preexisting history of back and bone related problems, including having had both of her shoulders surgically fused. She maintains that she told the officers that she could not be handcuffed, because of the limitations imposed by her shoulder fusions. The officers maintain that she said nothing about any shoulder fusions, or any other type of physical limitations, but rather, when they attempted to effect her arrest, she aggressively, physically resisted same. As a result of her broken arm, Ms. Rex had to have several surgeries. Furthermore, she ultimately reinjured the arm. By the time her arm healed completely, she had incurred over \$70,000 in medical bills. Furthermore, Ms. Rex experienced much pain during the course of her surgeries and healing process, and her arm has significant scarring.

In any event, Ms. Rex brought suit, alleging that the officers used excessive force. She also claimed that the City, via its Police Department, did not properly train or supervise its officers, with regard to use-of-force issues.

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We brought a motion for summary judgment, arguing that all of Ms. Rex's claims should be dismissed. The court granted our motion, with reference to the claims raised against the City. However, the court determined that, given the recitation of facts above, there were significant questions of fact regarding the arrest process, which could only be resolved by a jury. Therefore, the court allowed the use-of-force issue to proceed to trial.

However, the judge also ordered that the parties participate in a settlement conference with him. That conference was held on September 27, 2004. As a result of the conference, the plaintiff agreed to accept \$25,000 to settle this case. While we believe that the officers acted in good faith, and did not perform any action which was outside the normal scope of their duties when effecting arrests, we recognize that a trial before a jury of lay people has certain inherent risks. Furthermore, as of this time, and because we have gone through a motion process, Ms. Rex's attorney's fees are well over \$20,000. If we would proceed to trial, her attorney's fees would likely double, and if judgment were entered against the officers, the City would be responsible for paying those fees, in addition to any damages judgment, which would include plaintiff's medical bills and compensation for her pain and suffering.

Because of the risks associated with trial, we have determined that \$25,000 is a reasonable amount, to settle this case. That amount resolves Ms. Rex's injury claim, attorney's fees, and any liens relative to her medical bills. Therefore, we recommend payment of that settlement amount, and have enclosed the appropriate resolution for your convenience.

Very truly yours,

GRANT F. LANGLEY
City Attorney

SUSAN E. LAPPEN
Assistant City Attorney

SEL:dms

Enc.

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