GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
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CITY OF MILWAUKEE
Office of the City Attorney

THOMAS O. GARTNER
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MAURITA F. HOUREN
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MICHAEL G. TOBIN
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PATRICIA A. FRICKER
HEIDI WICK SPOERL
KURT A. BEHLING
GREGG C. HAGOPIAN
ELLEN H. TANGEN
MELANIE R. SWANK
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LEONARD A. TOKUS
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MIRIAM R. HORWITZ
MARYNELL REGAN
G. O'SULLIVAN-CROWLEY
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MEGAN T. CRUMP
ELOISA DE LEÓN
ADAM B. STEPHENS
KEVIN P. SULLIVAN
BETH CONRADSON CLEARY
THOMAS D. MILLER
Assistant City Attorneys

February 11, 2008

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

Re: Communication from Attorney Laurie A. Eggert, Eggert Law Office, S.C. for legal fees for Police Officer Andrew Stallworth
C.I. File No. 06-S-257 EC 2349

Dear Council Members:

Returned herewith is a document filed by Attorney Laurie Eggert for attorney's fees for representing Police Officer Andrew Stallworth. The claim is in the amount of $3,468.12 including $344.12 in disbursements for 28.40 hours of service billed at the rate of $110.00 per hour. We ask that this matter be introduced and referred to the Committee on Judiciary & Legislation.

We have reviewed this claim and advise that in our opinion, the time spent was reasonable. Legal representation was occasioned by the filing of a citizen's complaint against the officer with the Fire and Police Commission. The complaint was dismissed by the Commission.

As we have advised you under similar circumstances in the past, the Common Council has discretion to reject this claim or to pay it in whole or in part. Sec. 895.35, Stats., Bablitch and Bablitch v. Lincoln County, 82 Wis. 2d 574 (1978).

Very truly yours,

GRANT F. LANGLEY
City Attorney

JAN A. SMOKOWICZ
Assistant City Attorney

JAS:amp
Enc.
1032-2006-2363:124771v1

2349

MILWAUKEE POLICE DEPARTMENT

SIGNED BY MEMBER

MEMORANDUM **September 12, 2006**

TO: P.O. ANDREW STALLWORTH
DISTRICT: FOUR

RE: Receipt of Legal Services from Law Firm of
Attorney Laurie Eggert

Attorney Laurie Eggert has made a claim with the City, indicating the attached was provided with legal services arising out of one of the following situations:

1) An incident occurring on MARCH 28, 2004
2) A citizen's complaint made by LEOLA WEBSTER
3) A police shooting incident occurring on N/A

Is this information correct? YES ✓ NO___

Did you receive legal representation in this matter? YES ✓ NO___

Your signature: Andrew Stallworth

Print your name: Andrew STALLWORTH

Upon completion, please return this memorandum to the Professional Performance Division at the Police Academy (Room 325) as soon as possible.

MKH KJS
MARY K. HOERIG
Deputy Inspector
Professional Performance Division

RECEIVED 06 SEP 27 AM 11:22

MKH:kjs

CERMELE & ASSOCIATES, S.C.

ATTORNEYS AT LAW

JONATHAN CERMELE
LAURIE A. EGGERT
RACHEL L. PINGS
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1840 NORTH FARWELL AVENUE
SUITE 303
MILWAUKEE, WISCONSIN 53202
(414) 276-8750
FAX (414) 276-8906

August 17, 2006

Mr. Ronald D. Leonhardt
Milwaukee City Clerk
800 City Hall
200 East Wells Street
Milwaukee, WI 53202

RE: Citizen Complaint of Ms. Leola Webster
Against PO Andrew Stallworth
Complaint No.: 04-37
Date of Incident: March 28, 2004

Dear Mr. Leonhardt:

The above-named police officer has retained us to represent him in connection with the above-referenced matter. Consistent with its policy, the City Attorney's Office has refused to represent him and, as he was performing the duties of his office at the time of the events giving rise to the incident, this claim is hereby made on his behalf for the indicated legal fees. This incident involved responding to a call regarding a missing juvenile.

The Fire and Police Commission dismissed the complaint. Attached is a copy of the Decision and an itemization of the time and services rendered.

Sincerely,

CERMELE & ASSOCIATES, S.C.

Jon Cermele

JC/kjs
Attachments
STALLWORTH

BOARD OF FIRE AND POLICE COMMISSIONERS
OF THE CITY OF MILWAUKEE

In the matter of the complaint of

LEOLA WEBSTER
Vs.
P. O. ANDREW STALLWORTH

SUMMARY OF PROCEEDINGS AND DECISION

FPC Complaint No. 04-37

SUMMARY OF PROCEEDINGS

This complaint proceeded to hearing on July 5, 2006 before Commissioners Richard Cox, Robert Welch and Leonard Sobczak with Steven Fronk acting as Hearing Examiner. Complainant Leola Webster appeared in person and by Attorney Peter N. Flessas. Police Officer Andrew Stallworth appeared in person and by Attorney Rachel Pings of Eggert & Cermele, S.C. The complaint alleged that Officer Stallworth, on March 28. 2004, failed to utilize appropriate courtesy and civility in violation of MPD Rule 4, Section 2.060.00 and also alleged that Stallworth failed to properly investigate an injury to Webster on that date in violation of MPD Rule 4, Section 2/280.00.

Testimony of Leola Webster: Ms. Webster testified that on Friday March 26, 2004, she and her granddaughter Samantha Webster went to the Children's Court Center and completed forms which Ms. Webster believed gave her temporary custody of Samantha. Later on Friday and again on Saturday police officers came to her home inquiring about Samantha, reviewed the papers, and allowed Samantha to remain with her. On Sunday Officer Stallworth came to the Webster home and advised both Leola Webster and Samantha that Samantha would have to come with him. Samantha resisted and Leola attempted to show Officer Stallworth the paperwork. Leola Webster testified that Officer Stallworth pushed her away and refused to read the papers, claiming he had seen them before. Leola Webster followed them to the squad and, after Stallworth had placed Samantha in the squad, Webster again asked him to "read the papers." According to Ms. Webster, Stallworth "snatched the papers" from her hand, breaking the small finger on her right hand in the process. When Leola advised Officer Stallworth that he had broken her finger, he made no offer of first aid or medical treatment and did not offer to have her transported to a hospital for treatment. According to Ms. Webster, she followed Officer Stallworth to the police district station in her car and again raised the issue of the injury to her finger. No one at the station, including Officer Stallworth, ever offered medical assistance or looked at her finger to determine if medical treatment was necessary. Leola Webster thereafter drove herself to the hospital for treatment. Webster believes that Officer Stallworth should have taken the time to review the paperwork at her home, should have been more courteous in dealing with her, and should have offered medical assistance after he broke her finger.

Testimony of George Webster: George Webster is the husband of Leola and was present on March 28, 2004 when Officer Stallworth was at their home. George continued that Leola had, more than once, attempted to have Stallworth review the paperwork. And that Officer Stallworth stated that he had already seen and reviewed the paperwork. Stallworth refused to take the paperwork from Leola or to review it further. As Officer Stallworth attempted to escort Samantha to the squad, Leola Webster placed herself in the doorway of the home and Stallworth moved her aside with his hip. Leola followed Stallworth outside and George Webster filmed the events with a camcorder. The tape, marked as Exhibit 4 and reviewed by the Commissioners several times, fails to reveal that Stallworth "snatched" the paperwork from Leola as she had said or that he took any action that could be seen as physically aggressive toward Leola. It does reveal that Leola Webster advised Officer Stallworth as he was about to enter the squad that he had broken her finger. Officer Stallworth advised Leola that she could meet him at the District 4 station (which was nearby) but made no further effort to ascertain her condition or offer medical assistance.

Testimony of Samantha Webster: Samantha Webster was picked up at school on Friday March 26, 2004 by her grandmother. They went to the Children's Court Center, filled out some papers, and returned to her grandmother's home. When Officer Stallworth came to the house on Sunday March 28, 2004, and advised Samantha that she would have to come with him, Samantha resisted. She testified that Stallworth "shoved" her grandmother out of the way in attempting to exit the home, twisted her grandmother's finger in taking the papers from her, and ignored her grandmother when she told him that he had injured her finger. The finger was then, and is now, noticeably crooked.

Testimony of Michelle Robles: Robles is a friend of Samantha Webster's mother, Corrie Lopez. Lopez informed Robles on Friday March 26, 2004, that Samantha had not returned home after school and that Lopez suspected that she was at her grandmother's. While sitting in a car near the Webster home during portions of the next two days, Lopez and/or Robles spotted the girl and reported it to police. On Sunday March 28, 2004, Robles saw Officer Stallworth enter the home and exit with Samantha in handcuffs, with Leola Webster following along and shouting. Robles saw Leola Webster put her right hand on the driver's door in an apparent attempt to keep Stallworth from leaving with Samantha, and saw Stallworth grab Leola Webster's hand and move it off of the door handle. Robles never heard her request medical attention or an ambulance, and never heard Stallworth make such an offer. Robles saw Leola Webster at District 4 a few minutes later and does not recall Webster making a request for medical care at the station.

Testimony of Corrie Lopez: Corrie Lopez is the mother of Samantha Webster and the former daughter-in-law of Leola Webster. Lopez reported Samantha missing to the West Allis Police on Friday March 26, 2004. She suspected she might be at Leola Webster's home and parked nearby with Michelle Robles in order to determine if she could see her daughter. When Samantha was seen Ms. Lopez contacted the Milwaukee Police on Friday March 26 and again on Saturday March 27 and asked for assistance. Officers who responded on those dates apparently went to the Webster home but took no action to return Samantha to her mother. On Sunday March 28, 2004 Lopez flagged down Officer Stallworth's squad and asked him to return her daughter to her. Stallworth entered the home and a few minutes later exited with Samantha. Leola Webster also

exited, yelling at Officer Stallworth and obstructing his attempts to get Samantha in the squad. This is corroborated by the videotape (Exhibit 4). Stallworth left with Samantha and went directly to District 4, as did Lopez, Robles and Webster. After the paperwork was reviewed by Sergeant Fidler, Samanatha was turned over to Lopez. Lopez had no first hand knowledge as to how Leola Webster's finger may have been injured.

Testimony of Sergeant James Fidler: Sergeant Fidler was on duty on March 28, 2004 when Officer Stallworth approached him about a dispute which was taking place in the District 4 lobby. Stallworth advised him that a mother had reported her daughter missing, had located the girl at her grandmother's home, and that he (Stallworth) had reviewed paperwork and determined that the grandmother did not have legal custody at this time. Sergeant Fidler also reviewed the documents and confirmed that they consisted of a petition for custody with a court date several weeks in the future, and did not give the grandmother custody. When Sergeant Fidler advised Leola Webster of this fact she became extremely irate and yelled at Fidler and others before storming out of the station. Later Fidler was sent to Columbia Hospital to interview a citizen who claimed to have been injured by a District 4 officer. That person was Leola Webster, and the injury was a broken finger which she claimed had resulted from her interaction with Officer Stallworth. In reviewing the incident both on that date and thereafter Sergeant Fidler felt that Officer Stallworth had acted appropriately. Fidler testified that the other officers who had appeared at the Webster home on Friday and Saturday had been wrong in their interpretation of the paperwork and had, in fact, been the ones who failed to act appropriately by failing to return Samantha Webster to her mother. This failure by the other officers, in Sergeant Fidler's opinion, had exacerbated the situation and made Stallworth's job much more difficult. Sergeant Fidler also testified that medical assistance would have been offered to Leola Webster at District 4 if she had requested it, but that he does not recall any such request being made.

Testimony of Police Officer Andrew Stallworth: Officer Stallworth testified that on Saturday March 27, 2004, Corrie Lopez had come to the District 4 station, indicated that she had reported her 14 year old daughter Samantha as missing, and believed that Samantha was at her grandparent's home near District 4. Stallworth had asked that a squad be dispatched to the home and, because he heard nothing further that day, thought that the matter had been resolved. On Sunday morning March 28, 2004, Corrie Lopez again came into the District 4 station, this time with documents, and again indicated that her daughter was at the home of her grandparents. Stallworth again called dispatch and asked that a squad be sent to the home, and then went about other business. In the early afternoon Stallworth was driving a squad in the area and was flagged down by Lopez, who indicated that no squad had arrived to assist her in retrieving her daughter. Officer Stallworth went to the Webster home, located Samantha, and insisted that she come with him to the station. Samantha resisted so he placed her in handcuffs. Leola Webster attempted to impede his efforts to take Samantha to the squad. Upon arriving at the squad Leola Webster placed her hand on the door handle in an apparent attempt to prevent him from leaving with Samantha, and Stallworth grabbed Webster's hand and removed it from the door. Stallworth states that he "felt something move" in her hand as he did this and heard Webster complain about her hand being injured. Stallworth advised Webster that he was talking Samantha to the District 4 station and that Webster could meet him there if desired, facts which are supported by the video. In viewing the video

during the trial, Stallworth readily admitted that "this was not my finest hour" as a police officer. He testified that he had no intention whatsoever to injure Leola Webster and that when he realized that Webster's finger was injured he also recognized that he was not qualified to attempt to treat such an injury. At the time he honestly believed that the best way to contain and resolve the situation was to get the parties to the station (which was only a couple of blocks away) and attempt to straighten it out there. At the station Leola Webster continued to complain loudly about the removal of Samantha from her home despite the intervention of Sergeant Fidler, but made no request for medical assistance that Stallworth could recall.

DECISION

Police Officer Andrew Stallworth, on March 27 and March 28, 2004, had contact with a mother who requested assistance with her "missing" juvenile daughter. On March 27 and again on March 28, Officer Stallworth attempted to have a squad dispatched to the location where the juvenile was thought to be in order to get the matter resolved. For reasons beyond Stallworth's control, this did not work. On the afternoon of Sunday March 28, 2004, the mother flagged Stallworth down as he drove a squad in the area in an attempt to get assistance in retrieving her daughter. Officer Stallworth took action. He placed the daughter in custody and brought her to the district station in order to sort the matter out personally and with the assistance of his supervisor, Sergeant Fidler. In doing so Stallworth had to deal with physical resistance by the juvenile and an attempt to hinder his efforts by the non-custodial grandmother, Leola Webster. Somewhere along the way Leola Webster's finger was broken, apparently as a result of physical contact with Officer Stallworth. It should be noted that there is no claim of excessive use of force before us and that there is no proof in this record that Officer Stallworth in any way intended to injure Ms. Webster. Stallworth has more than once expressed regret that Leola Webster suffered the injury, and we believe this is sufficient.

In the course of their daily duties police officers often find themselves drawn into heated emotional disputes between friends and/or family members for which there is no immediate solution. They are called upon to make Solomon-like judgments, often based upon a very limited set of facts, and in a highly charged setting. It is apparent that this dispute between mother (Lopez) and grandparents (Websters) had been and is an ongoing problem which has, on more than one occasion, been before the Courts. Andrew Stallworth, acting upon information available to him, responded to a request from a mother who had twice before tried to get assistance from the police without success. Stallworth chose to take action and to bring the minor daughter to the district station where it could be sorted out. There is no proof in this record that, in doing so, Officer Stallworth failed to utilize appropriate courtesy and, although it is apparent that Stallworth knew that Ms. Webster's finger was injured, there is no proof that he knew that such injury required immediate medical attention. Sergeant Fidler testified that Officer Stallworth acted appropriately given the circumstances and resistance he faced in this instance. We believe that Police Officer Andrew Stallworth tried to make the best of

a bad situation by taking the minor into custody and having the parties meet him in a controlled, neutral setting. He should not be faulted for doing so.

We want to make it clear that we are not unsympathetic to Leola's Webster's physical pain or emotional distress related to the events of March 26-28, 2004 and the ongoing custody dispute. We do not believe, however, that there is sufficient proof in this record to show that Officer Stallworth in any way intentionally abused Ms. Webster, was intentionally rude or discourteous, neglected his duty or in any way violated Milwaukee Police Department rules or procedures in taking the action that he did.

IT IS HEREBY ORDERED that this complaint and all charges against Police Officers Andrew Stallworth be and are hereby dismissed.

Signed and dated at Milwaukee, Wisconsin this 26 day of July, 2006

Board of Fire and Police Commissioners
Of the City of Milwaukee

By: _____
Commissioner

CERMELE & ASSOCIATES, S.C.

ATTORNEYS AT LAW

JONATHAN CERMELE
LAURIE A. EGGERT
RACHEL L. PINGS
MATTHEW L. GRANITZ

1840 NORTH FARWELL AVENUE
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August 18, 2006

Mr. Ronald Leonhardt
Milwaukee City Clerk
City Hall
200 East Wells Street
Milwaukee WI 53202

RE: Citizen Complaint of Ms. Leola Webster
Against PO Andrew Stallworth
FPC No: 04-37
Date of Incident: March 28, 2004
Professional services

		Hours
9/24/2004	Telephone call from PO Stallworth; review citizen complaint.	0.20
9/27/2004	Open file; initial conference with client.	0.50
9/28/2004	Memo to file regarding conference with client; open records request.	1.00
9/29/2004	Receive and review correspondence from FPC; file same.	0.10
10/28/2004	Telephone call from FPC.	0.10
10/29/2004	Telephone call from FPC; memo to file.	0.20
1/12/2005	Review of file.	0.10
1/24/2005	Review of correspondence from MPD Open Records.	0.20
1/27/2005	Review of correspondence from MPD Open Records.	0.40
3/7/2005	Telephone call to FPC; schedule and calendar conciliation; memo to file.	0.10

		Hours
3/15/2005	Review Complaint and Appeal Report regarding status.	0.10
3/21/2005	Receive and review correspondence from FPC; review and sign correspondence to client.	0.10
4/13/2005	Review of file in preparation for conciliation; review current status of municipal citation; travel to City Hall; conference with client; conference with FPC Mediator; no conciliation held; telephone call to Circuit Court court reporter for transcript; memo to file; telephone call from court reporter; correspondence to court reporter requesting transcript.	2.50
4/22/2005	Telephone call from client; memo to file.	0.40
4/25/2005	Telephone call from and to client; memo to file.	0.30
5/3/2005	Receive and review correspondence from client and videotape; telephone call to client.	0.50
5/13/2005	Receive and review Circuit Court transcript regarding "obstructing officer" charge against complainant; file same.	0.20
5/3/2006	Receive and review FPC's Scheduling Order; calendar Witness and Exhibit List due date; review and organize file; correspondence to client.	0.50
5/17/2006	Telephone call from and to citizen's attorney; receive and review correspondence from client..	0.20
5/23/2006	Review file; begin drafting Witness and Exhibit List.	1.00
5/24/2006	Review file; draft and send medical authorizations; draft and send Witness and Exhibit List.	2.50
5/26/2006	Review video tape and ER records provided by complainant's counsel.	0.40

		Hours
5/30/2006	Receive and review citizen's Witness and Exhibit List.	0.30
5/31/2006	Telephone call from and to Fronk.	0.10
6/2/2006	Receive and review correspondence to Atty. Flessas; telephone call from Fronk; memo to file.	0.30
6/12/2006	Receive and review correspondence from Atty. Flessas; medical records requests.	0.50
6/19/2006	Receive and review correspondence from Fronk.	0.10
6/20/2006	Telephone call to Fronk; telephone calls to potential witnesses; telephone call to client; review file; telephone call from witness.	1.00
6/21/2006	Review file; prepare subpoenas and correspondence to various witnesses; telephone call to Forjan regarding serving subpoenas; travel to academy and serve subpoenas.	2.00
6/22/2006	Telephone call from and to Fronk; receive and review citizen's medical records; telephone call from witness; memo to file.	2.00
6/23/2006	Receive and review correspondence from Fronk to Atty. Flessas; telephone call from Forjan regarding subpoenas.	0.20
6/26/2006	Telephone call from IAD; memo to file.	0.20
6/27/2006	Conference with client.	1.00
6/29/2006	Telephone call from and to Advanced Healthcare; receive and review complainant's billing records.	0.20
7/3/2006	Receive and review correspondence from FPC; begin preparing for hearing.	0.50
7/5/2006	Continue hearing preparation; prepare exhibits; telephone call to and from witnesses; travel to and perform hearing; return travel.	8.00

		Hours
8/2/2006	Receive and review FPC Decision; correspondence to client; close file.	0.40

			Amount
	For professional services rendered	√28.40	√$3,124.00
	Additional charges:		
1/21/2005	MPD Open Records request		4.83
1/27/2005	MPD Open Records request		11.96
4/13/2005	Parking		6.00
5/9/2005	Transcript of March 4, 2005 hearing before the Hon. Daniel L. Konkol.		16.50
6/21/2006	Subpoenas (7)		42.00
7/5/2006	Parking		12.00
7/7/2006	Process server - Service of subpoenas		175.00
	Medical Records - for Webster from Advanced Healthcare, S.C.		75.83
	Total costs		$344.12
	Total amount of this bill		√ $3,468.12
	Balance due		$3,468.12