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October 3, 2008

Alderman Ashanti Hamilton, Chair
Judiciary & Legislation Committee
City Hall – Room 205

Re: Retention of Outside Counsel re: *Larry v. ABC Insurance Corporation, et al.*
Case No. 04CV003620

Dear Alderman Hamilton:

Pursuant to Common Council FN 030083 adopted on May 13, 2003 requiring the Judiciary & Legislation Committee be notified in writing of the retention of any outside counsel, I am reporting the following. Our office has retained the services of outside counsel, Gunta & Reak, S.C., in the matter of *Larry v. ABC Insurance Corporation*.

The above-noted case arises from an incident in which two police officers went into the plaintiff's home following her arrest to check on the safety and welfare of her children. The plaintiff claimed that the officers had conducted an illegal search of her house, however, the trial court granted summary judgment dismissing that claim and the plaintiff did not appeal that ruling.

Initially, both defendant officers failed to seek representation by our office and failed to file answer to the complaint. After the plaintiff filed motions for default judgment, one officer sought to file an answer and avoid default. The trial court granted that request, but ordered the entry of default against the other officer.

We subsequently appeared and defended the officer who had avoided default. We then successfully obtained summary judgment, as noted above, not only for that officer but also for the one against whom default had been entered. With regard to that second officer, the court set aside the default and entered summary judgment in his favor.

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The plaintiff then appealed that portion of the ruling regarding the lifting of default judgment. The Wisconsin Supreme Court recently ruled that the trial court properly set aside the default judgment, but improperly granted summary judgment to that officer due to a lack of notice to the plaintiff. The case has now been returned to the trial court.

Upon this remand, the plaintiff is once again arguing that somehow she is entitled to default judgment against that officer. Because it is possible that the court could grant her such relief, and because our office has a conflict regarding any claim for default judgment, we have had to retain the services of outside counsel, Gunta & Reak, S.C., to represent this officer.

Very truly yours,



GRANT F. LANGLEY
City Attorney

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