

GRANT F. LANGLEY
City Attorney

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Deputy City Attorneys



THOMAS O. GARTNER
BRUCE D. SCHRIMPF
SUSAN D. BICKERT
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ROBIN A. PEDERSON
DANIELLE M. BERGNER
Assistant City Attorneys

July 14, 2009

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

Re: Communication from Attorney Jon Cermele, Cermele & Associates, S.C. for
legal fees for Police Officer Jeffrey Thiele
EC 2648

Dear Council Members:

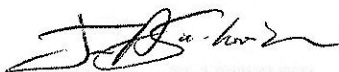
Returned herewith is a document filed by Attorney Jon Cermele for attorney's fees for representing Police Officer Jeffrey Thiele. The claim is in the amount of \$2,491.77, including \$49.77 in disbursements for 22.20 hours of service billed at the rate of \$110.00 per hour. We ask that this matter be 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 and sergeant 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
Enc.

1032-2007-968:147918

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

February 25, 2009

TO: P.O. JEFFREY THIELE
DISTRICT: TWO

RE: Receipt of Legal Services from Law Firm of
Attorney Jonathan Cermele

Attorney Jonathan Cermele 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: September 2, 2006
- 2) A citizen complaint made by: Mr. Sammie GLASS
- 3) A police shooting incident occurring at: N/A

Is this information correct?

YES NO

Did you receive legal representation
in this matter?

YES NO

Your signature:



Print your name:

JEFFREY S. THIELE

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

DENITA R. BALL
Deputy Inspector of Police
Professional Performance Division

DRB: kjs

1032-2009-566.001

CERMELE & ASSOCIATES, S.C.

- ATTORNEYS AT LAW -
WWW.CERMELELAW.COM

JONATHAN CERMELE
MATTHEW L. GRANITZ
SCOTT J. JESS

6310 WEST BLUEMOUND ROAD
SUITE 200
MILWAUKEE, WISCONSIN 53213
(414) 276-8750
FAX (414) 276-8906

January 20, 2009

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

**RE: Citizen Complaint of Mr. Sammie Glass
Against PO Jeffrey Thiele
Complaint No.: 07-28
Date of Incident: September 2, 2006**

RECEIVED
09 FEB 25 PM 12:19
MILWAUKEE POLICE
INTERNAL AFFAIRS
DIVISION

Dear Mr. Leonhardt:

Pursuant to Article 58 of the 2007-2009 Collective Bargaining Agreement between the City and the Milwaukee Police Association, the City should request that this claim be placed on the Common Council Committee agenda within 180 days of its receipt.

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 response to a call for police services.

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

Thank you.

Sincerely,

CERMELE & ASSOCIATES, S.C.



Jon Cermele

/kjs
Attachments
THIELE

CERMELE & ASSOCIATES, S.C.

- ATTORNEYS AT LAW -
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January 20, 2009

Mr. Ronald Leonhardt
Milwaukee City Clerk
City Hall, Room 205
200 East Wells Street
Milwaukee WI 53202

RE: Citizen Complaint of Mr. Sammie Glass
Against PO Jeffrey Thiele
FPC No: 07-28
Date of Incident: September 2, 2006
Professional services

		<u>Hours</u>	<u>Amount</u>
7/7/2008	MG Telephone call from FPC regarding new citizen complaint; calendar hearing date and time; receive and review correspondence from FPC; calendar Witness and Exhibit List deadline; correspondence to client; open file.	1.00	110.00
7/8/2008	MG Receive and review correspondence from FPC confirming hearing date and time.	0.10	11.00
7/14/2008	MG E-mail to FPC regarding need for new hearing date and time; receive and review correspondence from FPC regarding new hearing date; calendar same; correspondence to client regarding same.	0.50	55.00
7/16/2008	MG Intra-office conference with Allan regarding MPD Open Records request.	0.10	11.00
	CA Review file; draft Open Records request.	0.60	66.00

		<u>Hours</u>	<u>Amount</u>
7/22/2008	MG Review file; receive and review correspondence from Atty. Eisenberg confirming withdrawal of representation of complainant.	0.30	33.00
7/25/2008	MG Intra-office conference with Allan regarding Witness and Exhibit List.	0.20	22.00
7/29/2008	CA Telephone call to MPD; fax Section 103.13 request; telephone call to client; draft Witness and Exhibit List.	0.80	88.00
7/31/2008	CA Telephone call from MPD.	0.20	22.00
8/1/2008	CA Review file; finalize Witness and Exhibit List.	0.30	33.00
8/4/2008	MG Telephone call to FPC regarding amendment to Witness and Exhibit List; memo to file.	0.20	22.00
	CA Revise and file Witness and Exhibit List.	0.20	22.00
8/6/2008	MG Receive and review correspondence from FPC; receive and review complainant's Witness and Exhibit List.	0.40	44.00
8/11/2008	MG Receive and review correspondence from complainant.	0.10	11.00
8/15/2008	MG Telephone call from FPC.	0.10	11.00
9/15/2008	CA Travel; serve subpoena; return travel.	1.00	110.00
9/16/2008	CA Telephone call to client regarding scheduling an office conference in preparation for hearing; review file in preparation for office conference with client.	1.20	132.00

		<u>Hours</u>	<u>Amount</u>
9/17/2008	CA Prepare for office conference with client; office conference with client and Granitz; telephone call to witness.	1.60	176.00
9/18/2008	MG Direction to Allan regarding amended witness list and subpoena for witness.	0.10	11.00
	CA Fax subpoena to client; telephone call to witness.	0.20	22.00
9/19/2008	CA Telephone call to witness; travel; deliver subpoena to witness; telephone call to MPD Open Records division regarding request.	1.00	110.00
9/25/2008	MG Intra-office conference with Allan regarding hearing preparation.	0.20	22.00
	CA Correspondence to Atty. Jensen; telephone call from Atty. Jensen's office; prepare exhibits for trial.	0.80	88.00
9/26/2008	CA Travel; attend hearing; return travel.	5.00	550.00
10/31/2008	CA Receive and review Hearing Examiner's Recommendation; telephone call to client; correspondence to client with Decision.	0.50	55.00
11/20/2008	CA Create outline for Brief.	0.40	44.00
11/25/2008	CA Review transcript and tape of hearing testimony; begin drafting Brief.	1.00	110.00
12/1/2008	CA Finish Brief; add citations to same; revisions to same; correspondence to FPC.	3.50	385.00
12/9/2008	CA Meeting with client.	0.20	22.00

	<u>Hours</u>	<u>Amount</u>
1/16/2009 CA Receive and reviewed FPC decision affirming Hearing Examiner's recommendation to dismiss charges; correspondence to client regarding same; close file.	0.40	44.00
For professional services rendered	<u>22.20</u>	<u>\$2,442.00</u> ✓
Additional charges:		
9/20/2008 CA MPD Open Records request		22.00
9/25/2008 CA Photocopies - color copies of photos		22.77
9/26/2008 CA Parking		5.00
Total costs		<u>\$49.77</u>
Total amount of this bill		<u>\$2,491.77</u> ✓
Balance due		<u><u>\$2,491.77</u></u>

(Rate: \$110.00 per hour)



RECEIVED

JAN 14 2009

CERMELE & ASSOCIATES, S.C

Fire and Police Commission

Michael G. Tobin
Executive Director

Richard C. Cox
Chair

Carolina M. Stark
Vice-Chair

Leonard J. Sobczak
Ernesto A. Baca
Earl A. Buford
Kathryn A. Hein
Paci X. Lor
Commissioners

January 12, 2009

Mr. Sammie Glass
3302 North 29th Street
Milwaukee, WI 53216

Chelsie Allan, Esq.
Cermele & Associates, S.C.
6310 West Bluemound Road
Suite 200
Milwaukee, WI 53213

Re: Sammie Glass v. Police Officer Jeffrey Thiele
FPC Complaint No. 2007-28

Dear Mr. Glass and Ms. Allan:

Enclosed is a copy of the Board's decision in the above-captioned matter. We are closing our file at this time.

Feel free to contact the undersigned should you have any questions.

Sincerely,

Michael G. Tobin
Executive Director

MGT:cj

Enclosure

cc: Chief Edward A. Flynn (w/enclosure)
Police Officer Jeffrey Thiele (w/enclosure)
MPD Professional Performance Division (w/enclosure)

BOARD OF FIRE AND POLICE COMMISSIONERS
OF THE CITY OF MILWAUKEE

In the matter of the complaint of

PROPOSED

SAMMIE GLASS

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND RECOMMENDATION

V.

POLICE OFFICER JEFFREY THIELE

FPC Complaint No. 07-28

Hearing Date: September 26, 2008

Conducted Before: Steven Fronk, FPC Hearing Examiner

*Appearances: Sammie Glass in person and by Attorney Jeffrey Jensen
Jeffrey Thiele in person and by Attorney Chelsie Allan*

Allegation(s): That Police Officer Jeffrey Thiele, when dealing with Sammie Glass on one or more occasion in 2006, violated MPD Rule 4, Section 2/060.00 by failing to be appropriately courteous and civil and/or exercise patience and discretion as required.

SUMMARY OF PROCEEDINGS

At the hearing on September 26, 2008 testimony was received from Complainant Sammie Glass, Police Officer Jeffrey Thiele, City of Milwaukee DNS Inspector Angela Ferrill and Police Officer Michael Wawrzyniakowski. A copy of the transcript of the hearing will be made available to the parties and the Commissioners who will ultimately decide this matter. A summary of testimony from each witness will not be provided.

PROPOSED
FINDINGS OF FACT

1. Police Officer Jeffrey Thiele was, at all times pertinent hereto, a member of the Milwaukee Police Department and bound by the rules and procedures thereof.
2. Complainant Sammie Glass, at all times pertinent hereto, resided in a home in the City of Milwaukee located within the assigned squad area of Officer Thiele.
3. Officer Thiele and Mr. Glass were, prior to September 2, 2006, familiar with each other, having met and spoken on several occasions prior to that date.
4. Officer Thiele was aware that Mr. Glass frequently used his two story garage as a workshop, and that it had a wood-burning stove on the upper floor.
5. On September 2, 2006, Officer Thiele received a report of black smoke coming from Mr. Glass's garage, and that the odd smell led the caller to suspect that insulation was being burned off of copper wire.
6. Upon arriving at the location Officer Thiele noted that thick black smoke with a "burnt rubberish" smell was emanating from the garage's chimney.
7. Officer Thiele pounded on the garage door but did not receive an immediate response. Officer Thiele called the Milwaukee Fire Department. Mr. Glass exited the garage at about the same time that the Fire Department arrived.
8. Members of the Milwaukee Fire Department entered and inspected the garage and determined that there was no current need for fire and/or rescue services.
9. Before leaving the scene, the Fire Captain informed Officer Thiele that evidence in the garage led him to believe that copper wire was being burned in the stove.
10. Officer Thiele believed that the activity taking place in the garage was in violation of laws and/or ordinances. He took control of the garage area as a possible crime scene and placed Mr. Glass in the squad car but not in handcuffs.
11. Officer Thiele Then contacted his supervisor and had an identification technician take photographs of the scene. He also contacted the Department of Natural Resources (DNR) and requested that someone be sent to investigate possible violations of environmental regulations.

12. A DNR warden appeared on the scene more than 2 hours later. During this period Mr. Glass was continuously detained in the rear seat area of the squad car.
13. Upon arrival the DNR warden inspected the interior of the garage and interviewed Mr. Glass. No charges or citations were ever issued by the DNR.
14. The City of Milwaukee Department of Neighborhood Services (DNS) subsequently became aware of the allegations and launched its own investigation.
15. On November 14, 2006, Angela Ferrill of the DNS went to Mr. Glass's premises because of the complaint alleging illegal use of the garage. Upon arrival she met Officer Thiele and his partner, Officer Wawrzyniakowski.
16. Ms. Ferrill requested permission to enter and inspect the garage in order to address the complaint and Mr. Glass refused. Ms. Ferrill did not gain entry and left within a few minutes of arriving.
17. Neither Officer Thiele nor Officer Wawrzyniakowski spoke to Mr. Glass or had any direct interaction with him on November 14, 2006.
18. Mr. Glass was subsequently cited by DNS, appealed the alleged code violations, and requested copies of all reports concerning the September 2, 2006 incident from the Police Department.
19. The Police Department provided Mr. Glass with copies of all of the photographs taken by the MPD Identification Technician on September 2, 2006, and informed him that there were no additional reports.
20. Mr. Glass continued to make requests for additional reports and was repeatedly told there were none.
21. In mid-December 2006, after yet another request to the Police Department by Mr. Glass, Officer Thiele informed him that if he continued to demand reports that he had been told did not exist he (Glass) would be cited for disorderly conduct.
22. No narrative reports regarding the September 2, 2006 incident were drafted or on file with the Milwaukee Police Department until January 2007
23. Neither Officer Thiele nor Officer Wawrzyniakowski issued citations to Mr. Glass, testified at the DNS proceedings or had any formal role in the prosecution of Mr. Glass by DNS for the alleged code violations.

APPLICABLE LEGAL STANDARDS & CONCLUSIONS OF LAW

1. In order to prevail, a complainant must show by a preponderance of the evidence that the accused Department member acted inappropriately and in violation of Milwaukee Police Department rules and procedures.
2. The Board of Fire and Police Commissioners, in order to sustain a complaint, must find that the member violated Department rules and/or standard operating procedures as alleged in the complaint and that a preponderance of the evidence supports a finding just cause as defined in section 62.50 (17)(b).
3. The complaint in this case alleges that Police Officer Jeffrey Thiele failed to utilize appropriate courtesy, civility, patience and discretion in dealing with Mr. Sammie Glass. Such actions, if proven, would constitute one or more violations of MPD Rule 4, Section 2/060.00.
4. The record in this case does not contain sufficient evidence to support a finding that Police Officer Jeffrey Thiele failed to utilize appropriate courtesy, civility, patience and discretion in dealing with Mr. Sammie Glass.


RECOMMENDATION OF HEARING EXAMINER

It is obvious from the record in this case that Police Officer Jeffrey Thiele is a hard-working and conscientious officer who takes an active interest in his assigned squad area, and that he was familiar with Mr. Glass prior to September 2, 2006. Under such circumstances the appropriateness of an officer's conduct should not be viewed in a vacuum. The preponderance of credible evidence leads me to believe that Mr. Glass, prior to September 2, 2006, may have been engaged in various activities that were, at the very least, inappropriate in an urban setting and quite possibly illegal. When confronted by Officer Thiele and others regarding the appropriateness of his activities, Mr. Glass denied access to his premises and/or made efforts to avoid detection. Good faith attempts by Officer Thiele to get Mr. Glass to comply with the law failed to resolve the problems, and this led to a degree of understandable frustration on the part of Officer Thiele.

It is this examiner's opinion that the only truly questionable action taken by Officer Thiele was to detain Mr. Glass in the squad car for more than two hours while awaiting the arrival of a DNR warden. In hindsight the same goal could have been accomplished by ordering Mr. Glass to remain in his home and/or away from the garage until after the DNR warden had conducted the necessary investigation, but I do not believe that the action taken by Officer Thiele in having Mr. Glass remain in the squad was malicious or in violation of Milwaukee Police Department rules and procedures.

I would respectfully recommend that the Board of Fire and Police Commissioners determine that just cause does not exist to find a violation of Milwaukee Police Department Rule 4, Section 2/060.00 by Police Officer Jeffrey Thiele in this instance, and that this complaint be dismissed.

Respectfully submitted this 30th day of October, 2008



Steven Fronk
Hearing Examiner