

January 27, 2005

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

Re: McNeely v. McNulty, Case No. 03-C-0823

Dear Council Members:

Enclosed please find a proposed resolution that we ask be introduced at the meeting of the Common Council scheduled for February 1, 2005, and referred to the appropriate Council Committee for consideration.

This case stems from the arrest of plaintiff R.L. McNeely, which occurred on July 9, 2003. Mr. McNeely was the subject of a traffic stop by Officer McNulty, at approximately 8:30 a.m. on that date. The officer summarily arrested Mr. McNeely, and processed him for traffic citations, obstructing an officer and drunken driving, and held him at the district station until 4:00 p.m., while related paperwork was being prepared. Mr. McNeely was then transferred to the CJF, where he was held until the next morning. There are additional factual considerations, but the above highlights the significant facts.

Mr. McNeely subsequently brought suit, alleging that the officer unlawfully arrested him and unlawfully kept him in custody.

We brought a motion for summary judgment, arguing that all of Mr. McNeely's claims should be dismissed. The court granted our motion, with reference to the claims related to the traffic stop and arrest. However, the court determined that there were significant questions of fact regarding the lawfulness of the length of Mr. McNeely's detention, which could only be resolved by a jury. Therefore, the court allowed that issue to proceed to trial.

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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, Mr. McNeely's attorney's fees and costs total over \$16,000. If we would proceed to trial, his attorney's fees would likely double, and if judgment were entered against the officer, the City would be responsible for paying those fees, in addition to any damages judgment, which could include punitive damages.

Because of the risks associated with trial, we have determined that \$20,000 is a reasonable amount to settle this case. That amount resolves Mr. McNeely's injury claim and attorney's fees. 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
Enclosure

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