

**GRANT F. LANGLEY**  
City Attorney

**VINCENT D. MOSCHELLA**  
**MIRIAM R. HORWITZ**  
**ADAM B. STEPHENS**  
**MARY L. SCAHNNING**  
Deputy City Attorneys



Milwaukee City Hall Suite 800 • 200 East Wells Street • Milwaukee, Wisconsin 53202-3551  
Telephone: 414.286.2601 • TDD: 414.286.2025 • Fax: 414.286.8550

**STUART S. MUKAMAL**  
**THOMAS J. BEAMISH**  
**MAURITA F. HOUREN**  
**JOHN J. HEINEN**  
**SUSAN E. LAPPEN**  
**JAN A. SMOKOWICZ**  
**PATRICIA A. FRICKER**  
**HEIDI WICK SPOERL**  
**KURT A. BEHLING**  
**GREGG C. HAGOPIAN**  
**ELLEN H. TANGEN**  
**JAY A. UNORA**  
**KATHRYN Z. BLOCK**  
**KEVIN P. SULLIVAN**  
**THOMAS D. MILLER**  
**JARELY M. RUIZ**  
**ROBIN A. PEDERSON**  
**JEREMY R. MCKENZIE**  
**PETER J. BLOCK**  
**NICHOLAS P. DESIATO**  
**JOANNA GIBELEV**  
**JENNY YUAN**  
**KAIL J. DECKER**  
**ALLISON N. FLANAGAN**  
**LA KEISHA W. BUTLER**  
**PATRICK J. LEIGL**  
**HEATHER H. HOUGH**  
**ANDREA J. FOWLER**  
**PATRICK J. MCCLAIN**  
**NAOMI E. GEHLING**  
**CALVIN V. FERMIN**  
**BENJAMIN J. ROOVERS**  
Assistant City Attorneys

May 20, 2016

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

Re: Proposed Settlement in *Robert Jacoby, et al. v. City of Milwaukee, et al.*  
Case No. 09-CV-013956

Dear Council Members:

Enclosed please find a proposed resolution. We ask that it be introduced and referred to the Committee on Judiciary and Legislation with the following recommendation.

The above-noted lawsuit was filed by Robert and Judy Jacoby and arises from an incident that occurred on September 13, 2006. Robert Jacoby was walking his dog on North 54<sup>th</sup> Street when several males began to yell threateningly at him. Jacoby subsequently stopped to let some children pet the dog when one of the men approached, swearing at him and threatening to kill him. Jacoby ran and tried to call police, but, instead, called his wife. Eventually, he and his wife both called police for help.

A short time later defendant former Officer Kevin Dudley drove down the street and Jacoby flagged him down. Dudley asked if Jacoby had called police and Jacoby said he had done that. Dudley told Jacoby the requested officer would be along soon, that he had another assignment, and drove away.

Shortly after Dudley left, Jacoby's wife and a neighbor appeared. While they were all talking and waiting for police, the threatening male reappeared and began threatening Jacoby again. Jacoby ran into the middle of Center Street, screaming for help. In the meantime, Jacoby's wife and neighbor faced down the threatening individual who retreated.



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Subsequent to the incident, Chief Hegerty ordered that Dudley be terminated and the termination was upheld on appeal. In the course of this civil lawsuit, Chief Hegerty testified that Dudley could have done any number of things in this incident, but the one thing that he could not do and which he did was just simply leave.

The trial court initially granted summary judgment to Dudley, concluding that he was entitled to immunity. On appeal, the court of appeals reversed, concluding that “Dudley had a ministerial duty based on the known danger to actually investigate the threat.”

The parties engaged in settlement discussions leading up to the scheduled trial in the case. The Jacobys have agreed to accept \$10,500 to settle all of their claims, including their claims for emotional distress at the time of and subsequent to the incident. Because settlement in this matter is deemed expeditious, we recommend payment of the proposed settlement amount, and have enclosed an appropriate resolution for your convenience.

Very truly yours,

GRANT F. LANGLEY  
City Attorney

JAN A. SMOKOWICZ  
Assistant City Attorney

Enclosure

JAS/JAS

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