

# CITY OF MILWAUKEE

Form CA-43

GRANT F. LANGLEY  
City Attorney

RUDOLPH M. KONRAD  
PATRICK B. McDONNELL  
LINDA ULISS BURKE  
Deputy City Attorneys



OFFICE OF CITY ATTORNEY  
800 CITY HALL  
200 EAST WELLS STREET  
MILWAUKEE, WISCONSIN 53202-3551  
TELEPHONE (414) 286-2601  
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April 6, 2005

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

Re: Communication from Attorney Laurie A. Eggert, Eggert & Cermele, S.C.  
for legal fees for Police Officers Michael Lutz and Dean Newport  
C.I. File No. 03-S-382; EC 1942

THOMAS O. GARTNER  
BRUCE D. SCHRIMPF  
ROXANE L. CRAWFORD  
SUSAN D. BICKERT  
HAZEL MOSLEY  
STUART S. MUKAMAL  
THOMAS J. BEAMISH  
MAURITA F. HOUREN  
JOHN J. HEINEN  
MICHAEL G. TOBIN  
DAVID J. STANOSZ  
SUSAN E. LAPPEN  
JAN A. SMOKOWICZ  
PATRICIA A. FRICKER  
HEIDI WICK SPOERL  
KURT A. BEHLING  
GREGG C. HAGOPIAN  
ELLEN H. TANGEN  
MELANIE R. SWANK  
JAY A. UNORA  
DONALD L. SCHRIEFER  
EDWARD M. EHRlich  
LEONARD A. TOKUS  
VINCENT J. BOBOT  
MIRIAM R. HORWITZ  
MARYNELL REGAN  
G. O'SULLIVAN-CROWLEY  
DAWN M. BOLAND  
KATHRYN M. ZALEWSKI

Assistant City Attorneys

Dear Council Members:

Returned herewith is a document filed by Attorney Laurie Eggert for attorney's fees for representing Police Officers Michael Lutz and Dean Newport. The claim is in the amount of \$2,355.00 including \$12.00 in disbursements for 21.30 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 a criminal investigation. No criminal charges were brought against the police officers on whose behalf this claim was filed.

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. Wis. Stat. § 895.35, *Bablitch and Bablitch v. Lincoln County*, 82 Wis. 2d 574 (1978).

Very truly yours,

Handwritten signature of Grant F. Langley in cursive.

GRANT F. LANGLEY  
City Attorney

Handwritten signature of Jan A. Smokowicz in cursive.

JAN A. SMOKOWICZ  
Assistant City Attorney

JAS:enm

Enc.

91829/ 1032-2003-3161

**EGGERT & CERMELE, S.C.**

*Attorneys at Law*

Laurie A. Eggert  
Jonathan Cermele  
Rachel L. Schneider

1840 North Farwell Avenue  
Suite 303  
Milwaukee, Wisconsin 53202  
(414) 276-8750  
FAX (414) 276-8906

September 24, 2003

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

**RE: MPD Criminal Investigation of POs Michael Lutz and Dean Newport  
Allegations Regarding Mr. Timothy Nabors  
Date of Incident: August 4, 2003  
Location of Incident: 2539 North 27<sup>th</sup> Street  
EC No.: 1942**

Dear Mr. Leonhardt:

The above-named police officers have retained us to represent them in connection with the above-referenced matter. Consistent with its policy, the City Attorney's Office has refused to represent them, and as they were performing the duties of their office at the time of the events giving rise to the incident, the claim is hereby made on their behalf for the indicated legal fees. This incident involved a traffic stop/officer involved shooting.

The MPD conducted a criminal investigation and investigated the as a critical incident. IAD compelled POs Lutz and Newport to give statements after issuing PI-21s. Later, the DA concluded that PO Lutz's use of force was privileged. Attached is a copy of the DA's letter and an itemization of the time and services rendered.

Sincerely,

EGGERT & CERMELE, S.C.

Laurie A. Eggert  
Attorney at Law

4/3/05  
O.K.  
JAS  
Letter 2276



JC/ldl  
attachment  
LUTZ NEWPORT

03 SEP 25 PM 3:43  
CITY ATTORNEY  
RECORDED

**EGGERT & CERMELE, S.C.**

*Attorneys at Law*

Laurie A. Eggert  
Jonathan Cermele  
Rachel L. Schneider

1840 North Farwell Avenue  
Suite 303  
Milwaukee, Wisconsin 53202  
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September 24, 2003

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

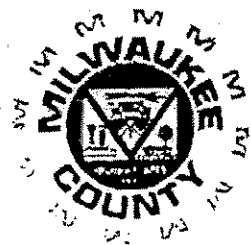
RE: MPD Criminal Investigation re: Mr. Timothy Nabors  
Regarding: POs Michael Lutz and Dean Newport  
Date of Incident: August 4, 2003  
Location of Incident: 2539 North 27th Street  
Professional services

	<u>Hours</u>
8/4/2003 Telephone call from PO Lutz regarding officer involved shooting; open file; memo to file; telephone call to CIB meeting with CIB; meeting with PO Lutz; meeting with PO Newport; attend PO Lutz's statement to CIB/DA; attend PO Newport's statement to CIB/DA; meeting with POs Lutz and Newport; attend PO Lutz's PI-21; attend PO Newport's PI-21; travel; memos to file.	8.50
8/5/2003 Telephone call to and from DDA Reddin; telephone calls to and from POs Lutz and Newport; meeting with POs Lutz and Newport; review PI-21 tapes; attend press conference.	3.50
8/6/2003 Telephone call to and from DDA Reddin.	0.50
8/7/2003 Several telephone calls to and from PO Lutz; telephone call from witness; receive and review several Faxes; several telephone calls to and from various news media.	1.90
8/8/2003 Telephone call to and from DDA Reddin; telephone call to CIB; telephone call to and from PO Lutz.	0.70
8/11/2003 Several detailed telephone calls to and from PO Newport; telephone call to DDA Reddin.	0.80
8/12/2003 Telephone call to PO Newport; telephone call to and from CIB.	0.60

Mr. Ronald D. Leonhardt

Page 2

	<u>Hours</u>	
8/13/2003 Telephone call to and from CIB.	0.30	
8/14/2003 Telephone call to and from PO Newport; telephone call from PO Lutz; telephone call to and from DDA Reddin.	0.60	
8/16/2003 Review of file; meeting with DDA Reddin and DA McCann at DA's office; travel; telephone call to and from client; telephone call to CIB.	2.10	
8/18/2003 Telephone call to and from PO Lutz; telephone call from PO Newport; press conference.	0.90	
8/21/2003 Telephone call from DDA Reddin; telephone call to PO Lutz; telephone call to PO Newport; receive and review Fax from DA McCann; correspondence to clients; close file.	0.90	
		<u>Amount</u>
For professional services rendered	21.30	\$2,343.00
Additional charges:		
8/4/2003 Parking		9.00
8/16/2003 Parking		3.00
		<u>\$12.00</u>
Total costs		<u>\$2,355.00</u>
Total amount of this bill		<u>\$2,355.00</u>
Balance due		<u><u>\$2,355.00</u></u>



OFFICE OF DISTRICT ATTORNEY

Milwaukee County

E. MICHAEL McCANN • District Attorney

Jon N. Reddin
Carol Lynn White
Patrick J. Kenney
James J. Marlin
Thomas A. Schultz
Alexander G. Swiercz
William J. Molter
David S. Jackson
Cris O. Shelton
Terry Magowan
Gary O. Manham
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Peg Taverner
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John M. Stalder
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Kenneth R. Berg
Bentley P. Chaseman, Jr.
Warren D. Zier
Timothy J. Conner
Carol Barry Cloutier
Steven V. Lucas
Brad Verburg
Jane Carrick
Paul Timm
Mihom S. Fink
Phyllis M. DeCarvalho
Dennis P. Murphy
Christine M. Hulse
Phillip A. Jurek
Thomas J. McAdams
Bruce J. Langford
Mary K. McCann
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Jennifer Rygal
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David T. Malone
Kelly L. Hodge
Jonrey J. Weinburg
Richard Gosselink
Julius Kim
Pat Wadsworth
Keri L. Lovren
Paul R. Sander
Bradford J. Logsdon
Joy Barrand
Margaret M. Zimmer
Brian W. Becker
Michael T. Mahoney
Mary M. Goweral
Kathryn K. Barner
Jeanette Cornett
Jeffrey P. Genco
Thomas C. Brigg
David Mads
Jeremy L. Packer
Daniel J. Gubler
Sara P. Scuderi
Ginze M. Hooks
Broni Nisone
T. Christopher Deo
Katherine Kucherski
Lisa P. Fricker
Robin J. Rosche
Tiffany J. Harris
Dante R. Humber
Jacob D. Carr
Joy Hammond
Marni T. Lundquist
Trevor A. Sisk
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Hald E. Galman
Nancy A. Stout
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Stephen W. Sawyer
Elizabeth Mueller
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Catherine Koenig-Lacy
Stephen Edward Nelson
John Piacent
Eric D. DeLong
Chikira M. Quinn
Mustaf A. Ahmed
Mary C. Thorsen
Michelle A. Ackerman
Adam J. Levan
Jeffrey B. Norman
Scott A. Vodka

August 21, 2003

Chief Arthur Jones
Milwaukee Police Department
749 W. State St., Rm. 705A
Milwaukee, WI 53233

RE: Police Officer Michael Lutz

Dear Chief Jones:

Thank you for taking the time off your vacation on August 15, 2003, to meet with Jon Reddin and me.

Enclosed is a copy of a statement issued by our office on August 16, 2003, in connection with the shooting of Timothy Nabors by police officer Michael Lutz on August 4, 2003. I am satisfied that Officer Lutz's conduct was privileged under the law of self-defense and that he committed no criminal offense.

Sincerely yours,

[Handwritten signature of E. Michael McCann]

E. Michael McCann
District Attorney

EMM:ss
Enc.

STATEMENT OF THE MILWAUKEE COUNTY DISTRICT  
ATTORNEY'S OFFICE, AUGUST 16, 2003

It is extremely important to the community that the truth be known about this incident. Nabors's decision to authorize his attorney to state that he, Nabors, had in fact picked up the firearm thrown toward him by his associate serves that purpose.

There obviously has been much pain connected with this incident. Nabors himself was seriously wounded, has had several operations and faces whatever long term physical problems may remain. Officer Lutz has suffered from the false accusation that he shot an unarmed man who was holding his hands in the air. This community as well was divided by the false accusation.

A struggle over a firearm between police and a person who has been carrying that firearm concealed on his person is a life and death struggle. Nabors's associate, who was in such a struggle, threw the firearm toward Nabors in apparently an unplanned act. Nabors is a 26-year-old street-savvy man who spent years in prison for a conviction involving him as a shooter. Nabors surely knew that with officer Lutz shouting for him not to touch the gun and to drop it that he, Nabors, was engaging in a very dangerous act to himself in picking up the weapon.

Nabors was known to officer Lutz, who had reason to believe that Nabors was a dangerous person. As noted above, Nabors has in fact been convicted as an offender in a dangerous shooting. When Nabors picked up the gun contrary to Lutz's order, officer Lutz had reason to believe that with Nabors facing him with a gun, Lutz's own life was in danger and that there were proper grounds to shoot Nabors.

Deputy District Attorney Jon Reddin and I have carefully evaluated the evidence gathered by police and our investigators. We had hoped in our investigation to find a truly disinterested minister, priest or rabbi-type person who had witnessed the whole incident. We did not find such a person. While some persons recanted claims that Nabors was unarmed with his hands in the air, others persisted in maintaining that false position.

The resolution reached today will hopefully put to rest the polarizing nature of this incident, will establish the truth of what occurred, and is far superior <sup>to</sup> ~~than~~ a divisive trial, the result of which might not satisfy anyone.

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

OCTOBER 6, 2003

TO: P.O. MICHAEL LUTZ  
DISTRICT THREE

RE: Receipt of Legal Services from Law Firm of  
Attorney

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 AUGUST 4, 2003
- 2) A citizen's complaint made by TIMOTHY NABORS
- 3) A police shooting incident occurring on AUGUST 4, 2003

Is this information correct? YES X NO \_\_\_\_\_

Did you receive legal representation in this matter? YES X NO \_\_\_\_\_

Your signature: *Michael Lutz*

Print your name: MICHAEL LUTZ

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

*Steven M. Settingsgaard*  
 Steven M. Settingsgaard  
 Police Commander  
 Internal Affairs Division

MILWAUKEE POLICE  
 INTERNAL AFFAIRS  
 DIVISION  
 03 NOV 25 PM 2:05  
 RECEIVED

SMS:kjs

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

OCTOBER 6,

MILWAUKEE POLICE  
INTERNAL AFFAIRS  
DIVISION

03 NOV 20 PM 12:23

RECEIVED

TO: P.O. DEAN NEWPORT  
DISTRICT THREE

RE: Receipt of Legal Services from Law Firm of  
Attorney

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 AUGUST 4, 2003
- 2) A citizen's complaint made by TIMOTHY NABORS
- 3) A police shooting incident occurring on AUGUST 4, 2003

Is this information correct?

YES  NO

Did you receive legal representation in this matter?

YES  NO

Your signature: \_\_\_\_\_

Print your name: \_\_\_\_\_

*[Handwritten signature of Dean Newport]*  
*Dean Newport*

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

*[Handwritten signature of Steven M. Settingsgaard]*  
Steven M. Settingsgaard  
Police Commander  
Internal Affairs Division

SMS:kjs