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City Attorney

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Assistant City Attorneys

January 2, 2014

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

Re: Communication from Attorney D. Michael Guerin, Gimbel, Reilly, Guerin
Brown, for legal fees for Police Sergeant Robert Thiel

Dear Council Members:

Returned herewith is a document filed by Attorney D. Michael Guerin for attorney's fees for representing Police Sergeant Robert Thiel. The claim is in the amount of \$12,379.94, including legal research expense of \$19.94. The claim for legal fees is for 30.4 hours of service billed at the rate of \$250.00 per hour, 22.70 hours billed at the rate of \$200.00 per hour, and 4.40 hours billed at the rate of \$50.00 per hour, for a total amount of legal fees of \$12,360.00. 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 inquest proceeding. Ultimately, Sergeant Thiel was not charged with any criminal or civil offense.

This claim again represents an opportunity for the Common Council to consider such a request under the amended Wis. Stats. §895.35(2). The pertinent language in that statute is the following: "the city...shall reimburse a protective services officer for *reasonable attorney fees* incurred by the officer in connection with a criminal proceeding arising from the officer's conduct in the performance of official duties..." except for certain circumstances that do not apply here. (Emphasis supplied). The amended statute thus removes discretion from the City over whether to pay such claims arising from certain criminal proceedings, but does not specify what are to be deemed "reasonable" attorneys fees.

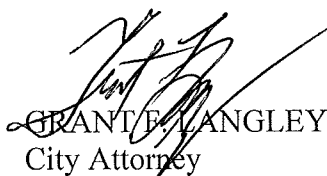
As to the proper definition of "reasonable" attorney fees, such a requirement has been interpreted by the Wisconsin Supreme Court in the past in a comparable context. *Village of Shorewood v. Steinberg*, 174 Wis. 2d 191, 204-5, 496 N.W.2d 57 (1993). In doing so,

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it referred to one of its rules, SCR 20:1.5, relating to fees that attorneys may charge. The factors prescribed by that rule include: 1) time and labor required; 2) novelty and difficulty of the questions involved; 3) skill required to perform services; 4) apparent likelihood that lawyer will be precluded from other work; 5) the fee customarily charged; 6) amount involved and results obtained; 7) limitations imposed by client or circumstances; 8) nature and length of the relationship; 9) experience and ability of the lawyer; and, 10) whether the fee is fixed or contingent. Given what we know of this situation, time and labor required, the skill required to perform the services, the fee customarily charged, and the experience and ability of the lawyer support the hourly rates of \$250.00, \$200.00 and \$50.00.

Under all the circumstances, therefore, we would recommend that the City pay \$12,379.94 for attorneys' fees in this matter.

Very truly yours,



GRANT E. LANGLEY
City Attorney



JAN A. SMOKOWICZ
Assistant City Attorney

JAS
Enc.

1032-2011-2729:198418



GIMBEL • REILLY • GUERIN • BROWN LLP

Writer's Direct E-mail
dmguerin@grgblaw.com

March 6, 2013

Mr. Ronald D. Leonhardt
Attn: Marian Hartner
Milwaukee City Clerk
800 City Hall
200 East Wells Street
Milwaukee, Wisconsin 53202

Re: Sergeant Robert Thiel
Criminal Investigation

Dear Ms. Hartner:

Robert Thiel a Milwaukee Police Sergeant retained our firm to represent him in connection with an incident of July 6, 2011 involving Derek Williams.

Consistent with its ethical obligation and the policy, the City Attorney's office was unable to represent Sergeant Thiel in this matter.

I am enclosing the printout of time at the hourly rate of \$250.00 an hour for services rendered regarding Sergeant Thiel.

If you have any questions, please feel free to contact me.

Yours truly,


D. MICHAEL GUERIN

DMG/ker
Enclosure

cc: Jan Smokowicz, Esq.
MPSO/Thiel, Robert/Hartner 2013-03-06

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CITY OF MILWAUKEE
2013 MAR -8 AM 11:26
CITY CLERK'S OFFICE



MPSO-Thiel, Robert
2771 South 46th Street
Milwaukee WI 53219

Page: 1
February 28, 2013
ACCOUNT NO. 201303901M
STATEMENT NO: 1

Criminal

Our statement for services are due and payable within 60 days from the statement date. Failure to pay charges within that time will result in an interest charge of 1-1/2% on the unpaid balance per month thereafter.

			HOURS
01/23/2013	DMG	Telephone conference with client regarding John Doe investigation.	0.60
01/25/2013	DMG	Conference with client regarding arrest; conference with Attorneys Dall'Osto and McGaver regarding immunity issue.	1.50
	RMD	Research Jude caselaw on immunity; conference with Attorneys Guerin and McGaver regarding dual immunity issue; prepare memorandum.	0.30
01/28/2013	DMG	Conference with Assistant District Attorney; research immunity issue; conference with Attorneys McGaver and Dall'Osto regarding research for inquest, review police reports	3.40
	RMD	Conference with Attorney Guerin; review correspondence from Attorney Guerin regarding Donohoo view need for immunity from both federal and Wisconsin prosecutor.	0.40
01/29/2013	RMD	Research multi-jurisdictional immunity issue; review file; conference with Attorneys McGaver, Brown, M. Stephenson and L. Otte.	1.00
02/04/2013	DMG	Research regarding police records immunity; prepare for inquest.	1.50
02/07/2013	SCM	Conference with Attorneys Guerin and Dall'Osto.	0.20
	MTS	Research regarding state immunity and whether that immunity granted for compelled testimony can be used in federal proceedings or if pleading the fifth for purposes of federal immunity can prevent compelled testimony in state John Doe proceedings; prepare memorandum to Attorney McGaver.	4.00

Criminal

			HOURS
02/08/2013	RMD	Conference with Attorney Guerin regarding response to special prosecutor Franke regarding assertion of rights, <i>Crumble</i> and <i>Murphy</i> ; prepare memoranda; research <i>Jordan</i> , <i>Crumble</i> , <i>Murphy</i> and <i>Kastigar</i> case; review file; research memorandum and case.	1.80
	SCM	Review memorandum from Attorney Guerin regarding Franke email/police reports.	1.10
	MTS	Emailed Attorney Dall'Osto regarding State/Federal immunity issue.	0.40
02/11/2013	RMD	Conference with Attorney Guerin regarding inquest timing per special prosecutor.	0.10
02/12/2013	RMD	Conference with Attorneys Hart, Guerin and McGaver regarding immunity discussion with Special Prosecutor Franke; observe inquest proceedings.	0.50
	SCM	Telephone conference with Attorney Guerin; attend inquest.	2.20
02/13/2013	SCM	Telephone conference with client; conference with Attorney Guerin and Special Prosecutor Franke; attend Inquest during client and other police testimony.	6.40
02/14/2013	RMD	Conference with Attorneys Guerin and McGaver regarding developments in homicide inquest and some subpoenaed police officers testifying without immunity or no prosecution letter.	0.30
	SCM	Telephone conference with client; conference with Attorney Guerin; attend Inquest during police officer testimony.	6.80
	DMG	Conference with Attorney McGaver regarding development of testimony; review reports relative to police investigation.	2.00
02/15/2013	RMD	Conference with Attorney McGaver.	0.20
	SCM	Attend Inquest (morning)	4.30
	DMG	Attend inquest; review police reports relative to police investigation.	4.00
02/16/2013	SCM	Review correspondence from Special Prosecutor Franke; telephone conference with Attorney Guerin.	0.20
02/17/2013	DMG	Telephone conference with Attorney Franke; telephone conference with Attorney McGaver.	1.20
	SCM	Review correspondence from Special Prosecutor Franke; telephone conference with Attorney Guerin.	0.20
02/18/2013	SCM	Conference with Attorneys Guerin and Dall'Osto.	0.60
	RMD	Conference with Attorney Guerin regarding discussions with special prosecutor and Assistant United States Attorney Watzka on grant of use immunity; research Froede, Pathology Handbook regarding asphyxiation and sickle cell anemia.	0.80
	DMG	Attend inquest; review reports.	4.00

Criminal

			HOURS	
02/19/2013	DMG	Conference with client regarding testimony; attend hearing with client.	5.00	
	SCM	Conference with Attorneys Guerin and Dall'Osto.	0.70	
	RMD	Conferences with Attorneys Guerin and McGaver before immunity grant and testimony; conference with Attorney Guerin after testimony on scope of use immunity.	0.60	
02/21/2013	DMG	Prepare closing letter.	0.70	
	RMD	Conference with Attorneys Guerin and McGaver regarding charges recommendation.	0.50	
		FOR CURRENT SERVICES RENDERED	57.50	12,360.00

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
D. M. Guerin	23.90	\$250.00	\$5,975.00
R. M. Dall'Osto	6.50	250.00	1,625.00
S. C. McGaver	22.70	200.00	4,540.00
M. T. Stephenson	4.40	50.00	220.00

Westlaw - On-line Legal research	19.94
TOTAL EXPENSES THRU 02/28/2013	19.94
TOTAL CURRENT WORK	12,379.94
BALANCE DUE	<u>\$12,379.94</u>

PLEASE RETURN ONE COPY OF THIS STATEMENT WITH YOUR PAYMENT.

THANK YOU!