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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 Officer Ray C. Harris

Dear Council Members:

Returned herewith is a document filed by Attorney D. Michael Guerin for attorney's fees for representing Police Officer Ray C. Harris. The claim is in the amount of \$2,200.00. The claim for legal fees is for 8.80 hours of service billed at the rate of \$250.00 per hour, for a total amount of legal fees of \$2,200.00. 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 prosecution. Ultimately, Officer Harris was found not guilty of 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, 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

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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 rate of \$250.00.

Under all the circumstances, therefore, we would recommend that the City pay \$2,200.00 for attorneys' fees in this matter.

Very truly yours,



GRANT F. LANGLEY
City Attorney



JAN A. SMOKOWICZ
Assistant City Attorney

JAS
Enc.

1032-2011-2729:193189



GIMBEL • REILLY • GUERIN • BROWN LLP

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

August 26, 2011

Jan A. Smokowicz, Assistant City Attorney
Office of City Attorney
800 City Hall
200 East Wells Street
Milwaukee, Wisconsin 53202-3551

Re: Ray C. Harris

Dear Mr. Smokowicz:

Enclosed please find our statement for services rendered at the government rate of \$250.00 per hour for Ray C. Harris, a City of Milwaukee Police Officer. Officer Harris was accused of having utilized his police powers to intimidate and/or threaten people at the Wal-Mart store in Milwaukee.

Officer Harris was investigated by the criminal division of the Milwaukee Police Department and ultimately appeared before the district attorney's office. After an investigation, it was determined that while the district attorney felt he did not have any basis for criminal charges, he referred the matter to a special prosecutor. The special prosecutor was Mr. Roger Pyzyk hired by your office. Ultimately Officer Harris was found not guilty of any criminal or civil offense.

Thank you for your assistance with this matter.

Yours truly,

A handwritten signature in black ink, appearing to read "D. Michael Guerin", written over a horizontal line.

D. MICHAEL GUERIN

DMG/ker
Enclosure
Crim/Harris, Ray/Smokowicz 2011-08-26

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Family Law, Personal Injury, Criminal Law, Real Estate,
Business, Estate Planning, Civil & Commercial Litigation
In State and Federal Courts
Federal Tax ID 39-1094570

Page: 1
August 31, 2008
ACCOUNT NO.: 200814104M
STATEMENT NO.: 1

Milwaukee Police Association
Milwaukee, Wisconsin 53215

Criminal-Ray C. Harris

Our invoices for services are due and payable within 60 days
From the invoice 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
01/18/08	
DMG Telephone conference with Ray regarding setting up an appointment to come in and discuss criminal case.	0.70
04/02/08	
DMG Telephone conference with ADA Simpson. ADA Simpson wants to schedule a meeting on charging decision; review issue.	0.70
04/07/08	
DMG Telephone conference with Ray and K. Roemer; review file prepare for meeting; attend meeting with ADA Simpson.	2.30
07/03/08	
DMG Telephone conference with client regarding hearing.	0.40
07/14/08	
DMG Telephone conference with client on Municipal citation.	1.00

Milwaukee Police Association

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Criminal-Ray C. Harris

07/15/08	DMG	Prepare correspondence to client.	0.30	
07/21/08	DMG	Telephone conference with Emily in Municipal Court regarding changing hearing date; prepare correspondence to client regarding same.	0.30	
07/29/08	DMG	Telephone conference with client.	0.20	
08/07/08	DMG	Review notice from Municipal Court.	0.20	
02/03/09	DMG	Review file; meeting with client; attend hearing.	1.00	
05/04/09	DMG	Review correspondence from Village of West Milwaukee Municipal Court; reschedule the trial date.	0.40	
11/03/09	DMG	Telephone call left message for Attorney Pyzyk.	0.30	
11/05/09	DMG	Telephone conference with Attorney Pyzyk regarding resolve case; telephone conference with client regarding same; prepare letter to Attorney Pyzyk regarding resolution.	1.00	_____
			8.80	2,200

RECAPITULATION

<u>Timekeeper</u>	<u>Hours</u>	<u>Hourly Rate</u>	<u>Total</u>
D. M. Guerin	8.80	250.00	2,200.00
TOTAL CURRENT WORK			2,200.00
BALANCE DUE			<u>\$2,200.00</u>

PLEASE RETURN ONE COPY OF THIS STATEMENT WITH YOUR PAYMENT.
THANK YOU!