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May 23, 2017

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

Re: Newman v. Vagnini, et al.  
Case No.: 15-C-1363

Dear Council Members:

Enclosed is a proposed resolution and fiscal note authorizing payment of a settlement amount regarding the above-referenced matter. We request that the enclosed documents be referred to the appropriate committee for review.

Mr. Newman brought suit regarding events which occurred on April 30, 2010. He claimed that on that night, he was subjected to an unlawful search by former Officer Vagnini, and two other officers observed the unlawful search, but failed to intervene to stop it. The case went to trial in November, 2016. A jury found in favor of the plaintiff, and awarded compensatory and punitive damages totaling \$1,950,000.00. At that time, plaintiff's counsel indicated that he had incurred approximately \$200,000.00 in attorney fees and costs. Subsequent to the jury verdict, we found information which suggested that one of the jurors had engaged in misconduct. Subsequently, post-verdict motions were filed with the Court. In addition to challenging the propriety of the verdict, due to purported juror misconduct, we also challenged both the liability determination and the reasonableness of the damages award. The Court issued an order, upholding the liability verdict, but remitting the amount of damages to \$52,500. Mr. Newman rejected the remitted amount, and instead elected to retry the case, on the issue of damages. The court set another jury trial, solely on the issue of damages, to commence in June, 2017. However, if we retry the case solely on the issue of damages, the jury would be instructed at the outset that the three defendant officers had, in fact, violated Mr. Newman's constitutional rights. The sole focus of the retrial would be damages.

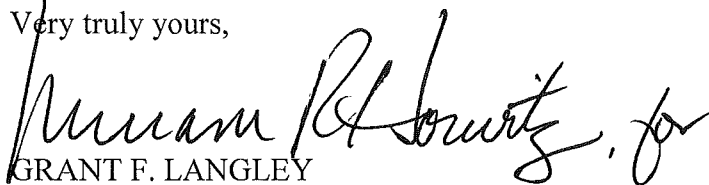


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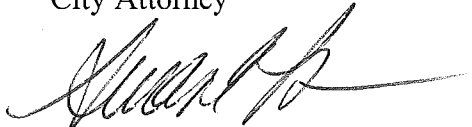
Given the risks associated with such a retrial, the parties engaged in mediation. Mr. Newman has agreed to settle the entire case for a total of \$410,000, which includes attorney fees and costs. Mr. Newman has also agreed to stipulate that the jury verdict may be vacated, and the entire case would be dismissed.

Because of the unpredictability of a new trial on the issue of damages, and the City's risk for exposure to not only compensatory damages, but also to punitive damages and additional attorney fees and costs, we recommend that this matter be settled for that amount. Consistent with our recommendation, we have enclosed an appropriate resolution for your consideration.

Very truly yours,



GRANT F. LANGLEY  
City Attorney



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SEL:cdr

Enclosures

1032-2015-2891/239394