

**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: May 31, 2012

TO: Marina Dimitrijevic, Chairwoman, County Board of Supervisors

FROM: Kimberly Walker, Corporation Counsel
Mark A. Grady, Deputy Corporation Counsel

SUBJECT: Milwaukee County v. Clarke
Case No. 12-CV-350

Please refer the attached resolution to the Committee on Judiciary, Safety and General Services.

Milwaukee County filed suit against Sheriff Clarke to enforce layoff notices issued to deputy sheriffs after Sheriff Clarke indicated he would not honor the layoff notices without further clarification. Sheriff Clarke retained Attorney Michael Whitcomb to represent him in the litigation. The litigation was held in abeyance for an arbitration hearing between Milwaukee County and the Milwaukee Deputy Sheriff Association to determine the correct number of deputies to be laid off. Following that hearing, the arbitrator issued his ruling and the layoffs occurred. The case against the Sheriff was then dismissed.

Section 895.46, Wis. Stats., provides, in general, that when a public officer is sued in his or her official capacity, the governmental unit must indemnify the officer for any judgment for damages or costs against the officer. It also provides:

Regardless of the results of the litigation the governmental unit, if it does not provide legal counsel to the defendant officer or employe, shall pay reasonable attorney fees and costs of defending the action, unless it is found by the court or jury that the defendant officer or employe did not act within the scope of employment.

Milwaukee County did not provide representation to Sheriff Clarke in this case. Thus, he is entitled to payment of reasonable attorney fees incurred by him in his defense.

The Office of Corporation Counsel has received from the Sheriff's office an itemized invoice from Attorney Whitcomb for his services in this case in the amount of \$37,055.84. This is a final statement for this case. Payment of this invoice to Attorney Whitcomb is recommended.

cc(w/att.): Amber Moreen
Janelle Jensen

LAW OFFICES OF
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INVOICE

For professional services rendered Sheriff David A. Clarke, Jr. re County of Milwaukee
v. David A. Clarke, Jr., Sheriff of Milwaukee County, Case No. 12-CV-350:

DATE	DESCRIPTION	TIME	ATTORNEY	AMOUNT
1/10/12	Review file, telephone conference with client, prepare argument, affidavit and memorandum; conference with client and court hearing; research re ultra vires motion	360	MAIW (\$325.00/hr)	\$1,950.00
1/10/12	Prepare for and attend court hearing	200	MJW (\$200.00/hr)	666.67
1/11/12	Review file, research, and prepare brief, affidavit and motion and disqualification order	525	MAIW	2,843.75
1/12/12	Review file, prepare brief and research; conference with court and conference with Sheriff office	270	MAIW	1,462.50
1/12/12	Review file, assist preparing brief and research	120	MJW	400.00
1/13/12	Review file, conference with client and court hearing; research and prepare correspondence to client	225	MAIW	1,218.75
1/13/12	Review file, attend court hearing	120	MJW	400.00
1/17/12	Review file, telephone conference with client and telephone conference with Sheriff office; Review file, telephone conference with client, telephone conference with Sheriff office, telephone conference with Atty. Vaccaro and prepare file memorandum	195	MAIW	1,056.25
1/18/12	Review file and prepare correspondence to client	75	MAIW	406.25
1/19/12	Review file and telephone conference with Sheriff office; review file, research and prepare brief; review file and prepare correspondence to client; review file and telephone conference with client	450	MAIW	2,437.50
1/20/12	Review file, research and prepare reply brief	420	MAIW	2,275.00
1/21/12	Review file, research and prepare reply brief	330	MAIW	1787.50
1/22/12	Review file and prepare reply brief	240	MAIW	1,300.00
1/23/12	Review file, prepare brief, answer and Attorney General authorities	345	MAIW	1,868.75
1/24/12	Review file and prepare reply brief; telephone conferences with Sheriff office; telephone conference with client	300	MAIW	1,625.00

1/24/12	Review file, assist preparing reply brief	90	MJW	300.00
1/25/12	Review file, prepare reply brief and exhibits; conference with court and conference with county witnesses; review file and prepare correspondence with attorneys	285	MAIW	1,543.75
1/26/12	Review file and conference with Sheriff office; review file and prepare for hearing	360	MAIW	1,950.00
1/26/12	Review file and assist preparation for hearing	90	MJW	300.00
1/27/12	Review file and prepare for hearing; telephone conference with budget analyst; review file and prepare correspondence to Sheriff office; review file conference with client and injunction hearing	450	MAIW	2,437.50
1/27/12	Review file and prepare for hearing; attend injunction hearing	315	MJW	1,050.00
1/30/12	Review file and prepare correspondence to attorneys	15	MAIW	81.25
2/1/12	Review file re arbitration decision and telephone conference with client office	60	MAIW	325.00
2/1/12	Research sheriff legal authority	180	MJW	600.00
2/1/12	Review file, telephone conferences with client office and prepare correspondence to Atty. Vaccaro	75	MAIW	406.25
2/2/12	Review file and telephone conferences with client office	45	MAIW	243.75
2/3/12	Review file, prepare for court hearing and telephone conference with client office	90	MAIW	487.50
2/8/12	Review file, research and prepare file memo	210	MAIW	1,137.50
2/13/12	Review file and prepare discovery	45	MAIW	243.75
2/14/12	Review file and prepare discovery	225	MAIW	1,218.75
2/15/12	Assist in preparation of discovery	200	MJW	666.67
2/15/12	Review file and prepare discovery	75	MAIW	406.25
2/18/12	Review file, research and prepare correspondence to client	180	MAIW	975.00
3/6/12	Review file, prepare for status hearing, status hearing ad conference with client	180	MAIW	975.00

BALANCE NOW DUE AND PAYABLE: \$37,055.84

Thank You.