



**Request for City Council Committee Action  
From the City Attorney's Office**

**Date:** March 16, 2005  
**To:** Ways & Means/Budget Committee  
**Referral to:**

**Subject:** Retention of outside counsel in Ronald L. Johnson v. City of Minneapolis and Officer Cory Fitch and Officer Kristopher Kramer  
United States District Court File No.: 03-3376 RHK/AJB

**Recommendation:** That the City Council authorize the proper city officials to enter into a Master Legal Services Agreement with Rice, Michels & Walther in an amount not to exceed \$300,000.00.

**Previous Directives:**

Prepared by: C. Lynne Fundingsland, Assistant City Attorney Phone: 673-3339

Approved by: \_\_\_\_\_  
Jay M. Heffern  
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

**Financial Impact** (Check those that apply)

- No financial impact - or - Action is within current department budget.  
(If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain): 6900 150 1500 4000
- Request provided to the Budget Office when provided to the Committee Coordinator

**Community Impact:**

Neighborhood Notification  
City Goals:  
Comprehensive Plan  
Zoning Code  
Other

**Background/Supporting Information**

In the above case, Johnson has sued the City and Officers Fitch and Kramer for various constitutional violations, including denial of due process and equal protection. This case arose on January 24, 2003, when Officers Fitch and Kramer were dispatched to Walgreen's on the Nicollet Mal. The call regarded

people congregating and drinking at the Walgreen's store. Officers Fitch and Kramer responded and picked up Plaintiff and a companion and drove them to Little Earth of United Tribes at 2501 Cedar Avenue South. There they dropped off Plaintiff and his companion at a parking lot by an address identified by Johnson's companion.

An internal investigation into this matter sustained a finding against both officers under M.P.D. R.R. 5-103 "Code of Conduct ... Use of Discretion". A panel convened for this investigation found that "... it was very poor judgment to leave unquestionably intoxicated vulnerable people, outside, without confirming shelter, in extreme weather conditions."

The Police Department's findings in the matter were made after our Office received the Plaintiff's Complaint. In light of the Plaintiff's due process and equal protection claims, and the findings of I.A.D., we believe that this Office has a conflict of interest in continuing to represent the officers as well as the City. Because the attorneys assigned to the case have had no substantive conversations with Officers Fitch and Kramer regarding the case, we feel we can retain representation of the City.

Pursuant to the Labor Agreement between the City of Minneapolis and the Police Officers' Federation of Minneapolis, the Federation and the City Attorney's Office developed a list of two attorneys for selection as counsel for Officers Fitch and Kramer. Both Officer Fitch and Officer Kramer have selected Ann Walther of the law firm of Rice, Michels & Walther. I am requesting that the City Council authorize the proper city officials to enter into a Master Legal Services Agreement with Rice, Michels & Walter in an amount not to exceed \$300,000.000.