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City of Racine, Wisconsin
COMMON COUNCIL

AGENDA BRIEFING MEMORADUM (ABM)

COMMITTEE: Finance and Personnel Committee **LEGISLATION ITEM #:** 0632-18

AGENDA DATE: June 25, 2018

DEPARTMENT: City Attorney's Office

Prepared By: City Attorney Scott R. Letteney

Reviewed By: N/A

SUBJECT: Communication from the City Attorney requesting authorization to represent employees in the case of *Cobbs v. Chiapete, et al.*, U.S. District Court Eastern District of Wisconsin Case No. 2018-CV-338.

EXECUTIVE SUMMARY: The City Attorney seeks Common Council authorization to represent an employee in the case of *Cobbs v. Chiapete, et al.*, U.S. District Court Eastern District of Wisconsin Case No. 2018-CV-338.

BACKGROUND & ANALYSIS: Chief of Police Arthel Howell is named as a defendant in this action that seeks a court order for the return of, and testing of, certain evidence from a criminal action occurring in 2003.

Pursuant to Wis. Stat. § 895.46, a municipality is required to defend or pay for the defense of any official or employee sued for acts taken in the conduct of official business and to indemnify such employee or official if any judgment is ordered. Pursuant to Wis. Stat. § 62.115, the common council of any city may by ordinance or resolution authorize the city attorney to defend actions brought against official or employee sued for acts taken in the conduct of official business.

It is more efficient and easier to control costs if the City Attorney's Office simply defends, or manages the defense of, lawsuits against City employees than to have an employee pay for her/his own defense and seek reimbursement.

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31 **BUDGETARY IMPACT:** Outside counsel has been retained and will be paid through the use of the City
32 Attorney's Office professional services account Org-Obj 11004 52100. Total fees are to be determined.

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34 **OPTIONS/ALTERNATIVES:** Require the employee to pay for his own defense and seek reimbursement
35 from the City.

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37 **RECOMMENDED ACTION:** To authorize the City Attorney to represent the employee in the case of
38 *Cobbs v. Chiapete, et al.*, U.S. District Court Eastern District of Wisconsin Case No. 2018-CV-338.

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40 **ATTACHMENT(S):** None