ROPES & GRAY

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September 9, 2011

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Civil Clerks Office
Superior Court Department
Middlesex Superior Court
200 Trade Center
Woburn, MA 01801

Re: *Malvina Monteiro v. City of Cambridge*
         Middlesex Superior Court, C.A. No. 01-2737

Dear Sir or Madam:

Enclosed please find the Response of Defendant City of Cambridge to Plaintiff's Fee Petition.

As indicated in the Response, the City does not oppose the Petition and has this day paid the requested amount, after determining it to be reasonable.

I certify that a copy of this response has been served upon Plaintiff by emailing same to her attorney of record Ellen Zucker at ezucker@burnslev.com and mailing same to:

Burns & Levinson LLP
125 Summer St.
Boston, MA 02110-1624

Thank you for your assistance.

Sincerely,

Joan A. Lukey

Enclosure

cc: Ellen J. Zucker, Esq.
         Nancy E. Glowa, Esq.
         Dan Krockmalnic, Esq.
         Jacob Scott, Esq.

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

MALVINA MONTEIRO,

      Plaintiff,

v.

CITY OF CAMBRIDGE,

      Defendant.

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Civil Action No. 01-2737

DEFENDANT'S RESPONSE TO FEE PETITION OF PLAINTIFF'S COUNSEL

Defendant City of Cambridge ("the City") has this day tendered the full amount of the requested fees and costs in the Fee Petition to Burns & Levinson LLP. The City therefore suggests that the Petition should be **allowed**.

To clarify certain points for the record, the City responds as follows to the narrative portion of the Fee Petition filed by Plaintiff's Counsel:

Because the City believes that the total fees and costs requested are reasonable, it does not comment on time expended on specific tasks.

The City notes, however, that the appellate costs attributed in the fee petition to its own counsel are over-stated, although it attributes no ill motive to Plaintiff's counsel and assumes that she made her estimates in good faith. In response to a public records request, the City produced summary billing sheets, but not the privileged billing detail. Plaintiff's
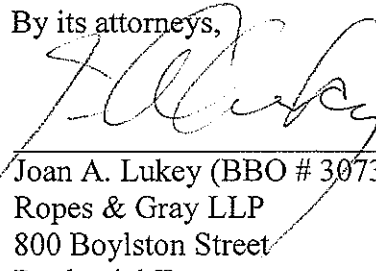
counsel was therefore preparing her estimate based upon her assumptions, which were tied

to events occurring at various points in time, but without the benefit of the detail. Through

the date of entry of the final judgment, the time expended was overwhelming related to

post-trial motions, and other matters pertaining to the Superior Court. Much of that work

was also used in support of the appeal, and was indeed critical to the appeal. However, it

is incorrect to suggest that such time was expended exclusively for the appeal. After the

entry of final judgment, the time expended was largely for the appeal, although a small

portion of the work also related to two remaining cases, i.e., *Wong v. City of Cambridge*

and *Stamper v. City of Cambridge* that have yet to be tried. While the City and its counsel

cannot precisely allocate the City's fees that are limited to the appeal, because of the

overlap and intermingling of services between (a) post-trial work and appellate work, and

(b) the Monteiro case and the remaining cases, the proper allocation is in line with that

sought by Plaintiff's counsel in her Fee Petition.

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The City also notes that no premium was charged by its counsel for junior lawyers. Lawyers were charged at their established rates until those rates exceeded $375/hour, and which time they were subject to the cap negotiated by the City Manager of $375/hour.

Respectfully submitted,

THE CITY OF CAMBRIDGE,

By its attorneys,
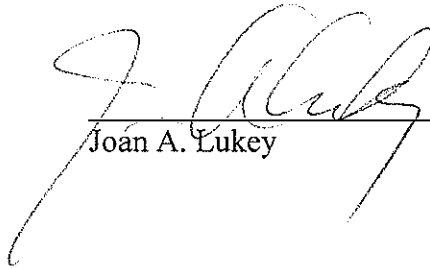
Dated: September 9, 2011

Joan A. Lukey (BBO # 307340)
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was this day served by U.S. Postal Service

Express Mail on counsel for the Plaintiff, Ellen J. Zucker, Burns & Levinson LLP,

125 Summer Street, Boston, Massachusetts 02210.

_____
Joan A. Lukey

Dated: September 9, 2011