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MAYOR

CITY OF DEARBORN

Home Town of Henry Ford

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July 16, 2010

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RE : Saad v. Dearborn, et al

Dear Messrs. Hadous and Faraj:

This letter is being sent pursuant to LR 7.1, United States District Court, Eastern District of Michigan. Pursuant to LR 7.1, I am seeking your concurrence in my motion to dismiss the above captioned litigation, as to the City of Dearborn and the Dearborn Police Department, only.

As I am sure you are aware, a municipality such as the City of Dearborn (the Dearborn Police Department, as a subdivision of the City, cannot be sued individually) incurs liability only when a plaintiff has pled facts that can support a conclusion that the city has a custom, policy or practice that caused the constitutional violations alleged. See: *Monell v. Department of Social Services*, 436 US 658; 98 S Ct 2018; 56 L Ed 2d 611 (1978). A plaintiff must prove more than making simple allegations in a complaint. Instead, the plaintiff must "identify the policy, connect the policy to the city itself and show that the particular injury was incurred because of the execution of that policy." See: *Coogan v. City of Wixom*, 830 F2d 170 (6th Cir 1987).

In the *Saad* Complaint, the City of Dearborn is mentioned in paragraphs 10 and 11 – identifying the City as a municipal corporation and the Police Department as "an entity." While a Dearborn police officer is mentioned in paragraph 53 – averring that Mrs. Saad was involved in motor vehicle accident in Dearborn and the responding Dearborn police officer declined to issue her a ticket -- and "City of Dearborn officers" are mentioned in Count Six of the

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Complaint, paragraphs 104 through 110, the City of Dearborn as a defendant is never mentioned again.

The Saad Complaint is completely void of any allegation against the City of Dearborn. As such, it is my position that the Complaint will not survive a Rule 12(b)(6) motion. (NOTE: this letter is not addressing the "John Doe" officers that may be identified during discovery.)

Therefore, I am respectfully requesting that Plaintiffs agree to dismiss the City of Dearborn from this lawsuit. I would not object to the dismissal being without prejudice. Inasmuch as the City of Dearborn's initial pleading (whether an answer to the complaint or a motion to dismiss) is due on July 28, 2010, I would ask that you respond to this letter before July 23, 2010.

I appreciate your attention to this matter and look forward to hearing from you.

Very truly yours,



LAURIE M. ELLERBRAKE
Deputy Corporation Counsel

LME/cm