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FOR IMMEDIATE RELEASE

**LITTLE ROCK POLICEMAN FILE SUIT AGAINST CITY FOR HIMSELF AND  
OTHER OFFICERS SEEKING REIMBURSEMENT OF UNPAID OVERTIME**

LITTLE ROCK – A member of the Little Rock Police Department, individually and as a representative of his fellow Little Rock police officers, has filed a lawsuit against the City of Little Rock to end the city’s practice of refusing to pay officers for the time officers spend putting on and taking off their protective work gear, time spent traveling to and from their assigned patrol stations while wearing their gear and uniforms required by the City, and often going without meal breaks. In his suit, Thomas J. Musticchi, a veteran police officer with over twenty years with the City claims that he and other officers are pushed well over the limits of hours they can work without the City paying the overtime compensation State law, Federal law and the U.S. Supreme Court requires.

The suit seeks reimbursement of unpaid overtime for the past three years for Officer Musticchi as well as all of his fellow officers. The suit likewise requests the City adopt new policies consistent with current laws developed as a result of numerous similar suits throughout the country requiring the City to pay its officers for tasks that are

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considered “integral and indispensable” to their jobs as law enforcement officers.

The lawsuit, filed today in the United States District Court for the Eastern District of Arkansas in Little Rock by Little Rock attorney Clark Mason and Birmingham, Alabama attorney James J. Thompson, Jr., is based on the Federal Fair Labor Standards Act, a Federal law the U.S. Supreme Court has recently held to cover the time employees such as law enforcement officers spend “donning and doffing,” or putting on and taking off, specialized protective work gear that is required by their jobs. Mason noted similar cases have been filed all over the country, with many of those cases already resolved in favor of police officers. One example decision is attached for the edification of the press, *Lemmon v. City of Leandro*, (U.S.D.C. Ca., Case 06-07107.)

On September 13, 2007 Mayor Mark Stodola told the Arkansas Democrat Gazette “Making Little Rock a safer city is my highest priority as mayor”. See *Arkansas Democrat Gazette, September 13, 2007*. Clark Mason, on behalf of the representative Plaintiff, said “I earnestly believe and certainly hope the Mayor will fulfill his promise to make our City safer, and in doing so will not only give our officers much needed additional help, but will recognize the City’s obligations to pay it’s officers what the law says they are owed. That is all we ask in this case, and not a penny more. Those joining simply request to be paid consistently with what the law requires and, based on the cases that have already been filed and settled across the country, it is now apparent the City of Little Rock has failed to pay overtime to officers in compliance with Federal law.”

Mason explained that in Little Rock police officers are not only required to don and doff required gear on their own time, they also are not compensated for the time between which they are “geared up” and they reach their assigned patrol destination,

despite a City policy of being “on duty”. However, the United States Supreme Court has held that employers, including municipalities such as the City of Little Rock, may not arbitrarily choose when to begin and end compensation for employees, particularly when the time spent donning and doffing required gear may be reasonably measured and is a requirement of an employee’s job, such as here in Little Rock.

Mason stated “Many of our police officers – men and women who place their lives on the line every day to keep the citizens of Little Rock safe and secure – are simply not being compensated appropriately under the law for their time. They are due fair compensation and I hope the Mayor and our City Government recognize this. Every officer I have visited with is completely committed to serving our city and its citizens with honor, integrity and courage. Their simple request is that they be paid what they are owed under the law.”

In November, 2007 the CQ Press, a division of Congressional Quarterly, released “City Crime Rankings: Crime in Metropolitan America,” which analyzed and ranked the safest and most dangerous cities according to FBI statistics. The study ranks Little Rock as the 13<sup>th</sup> most dangerous city in America. Officer Musticchi and all other officers that are represented in this action are only requesting they be paid consistent with the law. As law enforcement officers committed to making one of the most dangerous cities in America secure for its citizens, they deserve to at least be paid according to the law, Mason noted.

Mason further explained whether they have “officially” clocked in or not, in the event officers traveling to and from their duty stations encounter unlawful activities they

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are required to respond, and do respond to incidents or unlawful activities encountered. Mason noted they would likely be severely disciplined if they failed to do so.

“Over the past two years we have seen significant case law developed throughout the United States supporting our position. Handcuffs, firearms, magazine clips, batons, pepper spray, radios, ballistic vests and the like are, in fact, integral and indispensable to the job of a police officer. Courts across the country have found and testimony has already established it can take thirty minutes or more to properly don and doff, or put on and take off, the required gear of many patrolmen. The Courts have held that employers such as the City of Little Rock cannot continue to ignore such time spent for the employer’s benefit if the period of time can be reasonably measured, as it can here, and irrespective of whether the officer gears up at home or at work.” In addition, in the mid ‘90s the City of Little Rock was sued and similar issues were raised by its canine officers for the City refusing to pay their canine officers for the extra time and work required by the officers to care for the police dogs. Mason pointed out the Federal Court ruled in favor of the officers. See *Treece v. City of Little Rock*, (U.S.D.C./E.D. Arkansas, Western Division 1996.)

Finally, Mason emphasized that to protect officers from facing retaliation for participating in the suit, “the law provides a sizable hammer that can be used against employers who single out any employees who make an effort to be paid fairly and as required under the law. We don’t expect any retaliation whatsoever for our officers. They are only asking that they be paid what the law requires, nothing more.” However, under the Federal Fair Labor Standards Act, a separate and distinct cause of action is

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created for any officer that receives even the slightest amount of retaliation as a result of joining the suit. Mason is confident that will not occur. “We don’t expect any retaliation whatsoever. They are only asking that they be paid what the law requires, nothing more.”

The suit seeks damages covering the uncompensated time that the police officers have worked while donning and doffing gear, time spent traveling to and from their work stations after donning their gear, uncompensated time for calls during meal breaks, as well as other damages and costs deemed appropriate by the court.