

Neenah pays \$30,000 to settle federal lawsuit against police officers involved in repossession of car

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NEENAH - The city will pay \$30,000 to settle a federal lawsuit against three Neenah police officers for their role in a disputed repossession of a car.

The Common Council unanimously approved the payment to plaintiff Charles Gable of Neenah earlier this week. The city previously spent \$45,000 defending the officers, raising the total cost to taxpayers to \$75,000.

City Attorney Jim Godlewski said the settlement didn't admit any liability by officers Nathan Franzke, Erik Douglas and Zachary Mulroy.

"We evaluated the case and the costs on it," Godlewski told The Post-Crescent. "It just made sense for us to settle on this matter at this time. Going to jury trial may have cost as much as another \$50,000."



Neenah City Attorney Jim Godlewski (Photo: Courtesy of Neenah)

Gable and fellow plaintiff Precious Castner alleged that the officers violated their rights by assisting a repossession company in taking a car from their property against their will without a court order.

The city asserted the officers did nothing wrong — that they were merely there to maintain peace and didn't take sides in the dispute — but Godlewski said the situation and others like it could require further review.

"There has been a spate of municipalities that have experienced judgment on these kinds of cases recently, so there's some unsettledness about the law that we're going to have to look at and maybe do some additional training," Godlewski said.

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The incident dates to Dec. 22, 2016, when two repossession agents arrived at Gable and Castner's residence on South Lake Street to tow away a 2004 Kia Optima that Gable had bought for \$10,000. Gable had financed the purchase through Universal Acceptance Corp. and was behind on payments but hadn't been sued for repossession, according to the lawsuit.

Gable and Castner objected to the taking the car and asked to see paperwork authorizing repossession, but the agents refused. Castner called Neenah police for help.

The responding officers, without requiring the agents to show paperwork to Gable and Castner, ordered Gable and Castner to allow the repossession to occur, the lawsuit alleged.

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"A properly trained police officer called to the scene on December 22, 2016, would have advised the tow company to come back another day, or get a court order," the plaintiffs said in court documents. "That is what Castner and Gable were hoping to achieve when they called the police to appear at the repossession.

"Instead of having the defendants here actually enforce Wisconsin's law, Gable and Castner were told to get out of the vehicle and hand over the keys, or face arrest."

The city sought to dismiss the case, contending the officers acted in good faith and were entitled to qualified immunity, which shields government officials from liability so long as their conduct didn't violate clearly established statutory or constitutional rights.

U.S. District Court Judge William Griesbach dismissed Castner's claims of damages because she wasn't a co-signer of the car loan and had no ownership in the car. Griesbach denied the dismissal of Gable's claims, determining that the issues of the case couldn't be resolved without a trial.

Ten days after Griesbach's decision, the city proposed the \$30,000 settlement, and Gable accepted.

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