

**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: November 20, 2013

TO: Marina Dimitrijevic, Chairwoman, County Board of Supervisors

FROM: Mark A. Grady, Deputy Corporation Counsel *MAG*

SUBJECT: *Elliott v. Milwaukee County*
Case No. 13-CV-004518

I request that this matter be referred to the Committee on Judiciary, Safety and General Services for approval of a settlement. The proposed settlement involves the payment of \$16,875 in attorneys' fees in return for the dismissal of a public records case and a release of all related claims.

Elliott made a public record request for a large number of documents. The county denied the requests for a variety of reasons, including that the requests were overbroad, that they required the county to make legal interpretations in order to determine which records to produce and that some requests were for attorney-client privileged documents. Elliott then filed suit. After briefing related to possible depositions and the return of inappropriately obtained privileged documents and on the requests themselves, the court ordered the return of the privileged documents, denied some of the record requests for the reasons given by the County, but granted some of the record requests, overruling the County's denials as to those requests. In simple terms, out of twelve requests for categories of documents, the court ordered the County to respond, in full or in part, to seven of the requests.

As the County began the process to search and locate the voluminous records ordered to be produced, Elliott was informed of the substantial costs that would be charged, as allowed by statute. After additional discussions, Elliott agreed to withdraw all of his requests but one, on the condition that the County pay his time as an attorney that was incurred in filing and pursuing the public records suit. Section §19.37, Wis. Stats., requires a court to award reasonable attorneys' fees to a record requestor who substantially prevails in obtaining denied record requests. After further discussions concerning the requested hourly rate of \$500 per hour, the parties reached this proposed settlement for the County to pay the sum of \$16,875, representing 45 hours of work at a rate of \$375 per hour. The County will provide the response to the one request and Elliott will dismiss the suit,

provide a release to the County and agree not to re-submit the requests that are being withdrawn.

The settlement amount would be paid by Wisconsin County Mutual Insurance Corporation and applied to the County's deductible.

cc: Kelly Bablitch
Amber Moreen
Jessica Janz-McKnight
Alexis Gassenhuber
Raisa Koltun