

INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE

DATE: February 10, 2016

TO: Theodore Lipscomb, Sr., Chairman, County Board of Supervisors

FROM: James M. Carroll, Assistant Corporation Counsel

SUBJECT: *Justin Plesnik, et al. v. Wisconsin County Mutual Insurance Corporation, et al.*
Milwaukee County Case No. 2014CV007072

I request that this matter be referred to the Committee on Judiciary, Safety and General Services for approval of a settlement. I request authority to settle the claims of plaintiff Justin Plesnik ("Mr. Plesnik") for the total sum of \$50,000.00, which will be paid by Wisconsin County Mutual Insurance Corporation. Please note that Mr. Plesnik's attorney's fees and costs are included in this \$50,000.00 total amount.

This is a personal injury claim resulting from an incident that occurred on August 6, 2012 on westbound Interstate 94 in Milwaukee, Wisconsin. Mr. Plesnik was operating his motorcycle approaching an accident scene near the 35th Street exit ramp. A deputy sheriff who was responding to the accident decided to maneuver his squad car from the left distress lane to the right distress lane so that he could continue his investigation. As the deputy moved across traffic, he did not see Mr. Plesnik's oncoming motorcycle. The deputy's squad car did not come into contact with Mr. Plesnik's motorcycle. However, to avoid what he perceived to be an imminent collision, Mr. Plesnik "dumped" his motorcycle. In the process of doing so Mr. Plesnik's body struck the concrete highway surface.

As a result of this incident, Mr. Plesnik claims an ongoing and permanent right shoulder injury, as well as right hand/wrist and left foot injuries that resolved after several months of treatment. He claims \$14,340.72 in past medical specials attributable to this accident. Mr. Plesnik's orthopedic physician also opines that Mr. Plesnik may require a future surgery to treat his permanent right shoulder injury, and that this surgery will cost an additional \$50,000.00, thus increasing Milwaukee County's potential exposure on medical bills alone to nearly \$65,000.00. Mr. Plesnik claims that ongoing symptoms of pain and instability in


his shoulder negatively affect his daily activities, including his professional endeavors as a fitness trainer.

Milwaukee County alleges that Mr. Plesnik failed to exercise proper caution despite observing emergency vehicles at an accident scene. The deputy had his squad car's emergency lights activated and was "squawking" his radio as he moved across traffic, and other approaching vehicles slowed as they approached the accident scene. Milwaukee County also maintains that Mr. Plesnik's injuries were only temporary and that he does not require surgery as a result of the accident.

The main issues at trial would be the apportionment of comparative negligence between Mr. Plesnik and the deputy and the nature and extent of Mr. Plesnik's right shoulder injury.

This proposed settlement resulted from discussions between the parties' attorneys in the days leading up to trial, which was scheduled to commence February 9, 2016. The settlement provides that the Wisconsin County Mutual Insurance Corporation will pay Mr. Plesnik and his attorneys \$50,000.00. In return, Mr. Plesnik will dismiss his suit and provide the County with a full and complete release from any liability. The payment will be applied to the County's deductible with the County Mutual.

Corporation Counsel and the Wisconsin County Mutual recommend this settlement for approval.

 2/10/16

James M. Carroll, Assistant Corporation Counsel

cc: Kelly Bablitch
Shanin Brown
Erica Hayden
Raisa Koltun