

**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: April 24, 2017

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

FROM: Julie P. Wilson, Assistant Corporation Counsel

SUBJECT: *Gary L. Kimble v. Michael Allen, et al.*,
E.D. Wis. Case No. 15-CV-501

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 Gary L. Kimble for the total sum of \$18,000.00, which will be paid by Wisconsin County Mutual Insurance Corporation. Please note that Mr. Kimble's attorney's fees and costs are included in this \$18,000.00 total amount.

This is a federal civil rights case brought pursuant to 42 U.S.C. § 1983 concerning Mr. Kimble's January 16, 2016 assault and injury at the hands of a fellow inmate at the Milwaukee County Jail. Mr. Kimble alleges that Milwaukee County misdiagnosed or mishandled his assailant's mental illness at the Jail and misclassified him to a general population housing unit. Although the assailant's behavior raised some concerns at screening, he was ultimately cleared to be housed in general population. Mr. Kimble claims that third shift Correctional Officer Michael Allen failed to identify or share with other officers signs of danger in the hours leading to the assault. He claims that first shift Correctional Officer Dominique Smith was slow to respond to the assault, which began at the moment cell doors were unlocked in the morning. Mr. Kimble was transported to the hospital for treatment. The investigating Detective observed Mr. Kimble to be unrecognizable due to facial injuries. Mr. Kimble's assailant was convicted of felony battery by prisoner. Mr. Kimble sustained significant injuries to his head and eyes and now suffers from Post-Traumatic Stress Disorder.

The defendant Correctional Officers deny that they were aware of and failed to protect Mr. Kimble from a significant risk of harm. However, there are some discrepancies about what information was shared between shifts. Further, Mr. Kimble has enlisted other inmate eyewitnesses to corroborate his version of events. In the absence of video showing, or clear computer records documenting, a timeline

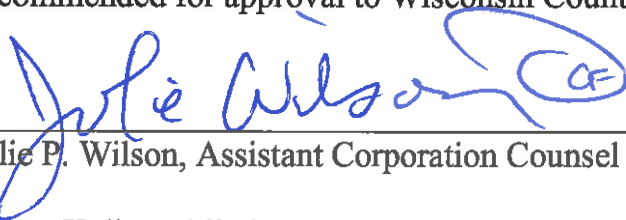
of events, it will be difficult to conclusively contradict the inmates' version of events in order to prevail on summary judgment. Further, given the number of potential eye witnesses, substantial costly pretrial depositions are needed. The main issues at trial would, therefore, likely be the credibility of the witnesses and the extent of Mr. Kimble's damages.

Mr. Kimble engaged the defendants in significant written discovery and related motion practice. On the verge of further scheduling with the Court, the parties were able to reach the recommended settlement through direct negotiations.

The original complaint demand for relief was in the amount of \$2,000,000. Mr. Kimble later made a settlement demand of \$150,000. This proposed settlement resulted from negotiations initially commenced with Mr. Kimble and completed with Mr. Kimble's recently retained attorneys. The settlement provides that the Wisconsin County Mutual Insurance Corporation will pay Mr. Kimble and his attorneys \$18,000.00. In return, Mr. Kimble 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 County Mutual.

The claim year is 2016. The premium payments for 2016 are \$717,950.00 and the total incurred (paid plus reserves) towards the \$3,000,000 aggregate deductible for that year is currently at \$1,213,355.85.

Corporation Counsel recommends approval of this settlement, and it is also being recommended for approval to Wisconsin County Mutual Insurance Corporation.



Julie P. Wilson, Assistant Corporation Counsel

cc: Kelly Bablitch
Allyson Smith
Erica Hayden
Raisa Koltun