


**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: November 18, 2013

TO: Marina Dimitrijevic, Chairwoman, County Board of Supervisors

FROM: Molly J. Zillig, Principal Assistant Corporation Counsel 

SUBJECT: *Milwaukee Deputy Sheriff's Association v.
Sheriff David A. Clarke, Jr., et al.*
Milwaukee County Case No. 2012CV004620

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 this case for the total sum of \$3,225.85, which will be paid by Wisconsin County Mutual Insurance Corporation.

This case involves a public records request made by the Milwaukee Deputy Sheriff's Association ("MDSA"). On March 15, 2012, the MDSA filed a public records request with the Milwaukee County Sheriff's Office ("MCSO") requesting an employee's personnel file. On March 23, 2012, the MCSO denied this request in its entirety, which prompted the filing of this lawsuit.

Following service of the summons and complaint, Corporation Counsel reviewed the Wisconsin Public Records Law, Wis. Stats. Sections 19.31-19.39, and ultimately determined that the MDSA was entitled to parts of the employee's personnel file. As such, all documents except performance reviews were turned over to the MDSA. Requestors who receive public records as a result of a writ of mandamus are entitled to request payment of their attorney fees.

The litigation continued because the MDSA claimed it was entitled to the performance reviews. Written discovery and one deposition proceeded. The MDSA ultimately agreed that the performance evaluations of the employee would not be produced and the parties reached a settlement of the claimed attorneys' fees. The settlement provides that the Wisconsin County Mutual Insurance Corporation will pay \$3,225.85 to the MDSA's attorneys, MacGillis Wiemer, LLC. In exchange for the above payment, the MDSA will dismiss this lawsuit and provide the defendants 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 Insurance Corporation recommend this settlement for approval.

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