

**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: August 19, 2013

TO: Marina Dimitrijevic, Chairwoman, County Board of Supervisors

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

SUBJECT: *Calderon v. Milwaukee County et al.*
E.D. Wis. Case No. 12-CV-1043

I request that this matter be referred to the Committee on Judiciary, Safety and General Services for approval of a settlement. I request authority for Wisconsin County Mutual to make a payment on behalf of Milwaukee County to settle this case in the amount of \$110,000. The defense of this case was handled by outside counsel with Whyte, Hirschboeck & Dudek through the Wisconsin County Mutual. Settlement is recommended by both their office and ours.

This case involves an assault by former Deputy Sheriff Scott Krause on Ray Calderon while Calderon was handcuffed in the rear of a squad car in the sallyport of the CJF. The assault is on videotape. Former Deputy Krause was criminally convicted of misdemeanor battery and felony misconduct in office and served prison time. He was discharged from employment by Milwaukee County. Other officers did not participate in the assault, but appeared to have been in a position to have witnessed it. The PRB declined to grant the Sheriff's request for the discharge of two other deputies for not reporting the incident, but they did receive lesser discipline.

Calderon claims injuries to his face and his back for which he has received treatment over the past several years. He also claims significant emotional injuries and has received psychological treatment. His medical expenses totaled approximately \$18,000.

In addition, because this is a civil rights case, Calderon is entitled to recover his attorneys' fees if he recovers any damages in this case. Although we do not have an itemization, we believe that an attorney fee award in this case has the potential to be very substantial if this case went to trial and a verdict were rendered in Calderon's favor. We have reason to believe that the attorneys' fees are currently as much as \$50,000.

In June of this year, Calderon was convicted in Ozaukee County of felonies in connection with the sale of illegal drugs, including prescription drugs, and is now serving a sentence. That fact is likely to influence a jury with respect to an award of damages, but because it occurred several years after this incident, it may not affect a jury's view of liability against the County.

Outside counsel negotiated with Calderon's counsel and recently reached an agreement to settle the case for the total sum of \$110,000. This sum includes Calderon's claim for attorneys' fees. We believe this is a reasonable settlement of this case under the circumstances. The payment will be made by the Wisconsin County Mutual Insurance Corporation and applied to the County's deductible.

cc: Amber Moreen
Kelly Bablitch
Raisa Koltun
Alexis Gassenhuber
Steve Cady