

INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE

File No. 18-9

DATE: December 21, 2018

TO: Theodore Lipscomb, Sr., Chair, Milwaukee County Board of Supervisors
Anthony Staskunas, Chair, Committee on Judiciary, Safety and General Services
James Schmitt, Chair, Committee on Finance and Audit

FROM: Anne Berleman Kearney, Deputy Corporation Counsel *AWL*

SUBJECT: Status Update on Pending Litigation¹

Civil Rights / Jail / HOC / BHD

Case Name	Case Number	Firm	Description	Case Status
<p>1 <i>Estate of Terrill Thomas v. Milwaukee County, et al.</i> (April 2016 inmate dehydration death)</p>	<p>E.D. Wis. 17-CV-355 (lead case) E.D. Wis. 17-CV-1128 (consolidated case)</p>	<p>Husch Blackwell; Leib Knott Gaynor, LLC; Crivello Carlson; Banks & Associates</p>	<p>Section 1983 - Failure to train, supervise, and monitor; negligence; failure to provide adequate medical and mental health care; deliberate indifference; and failure to reasonably accommodate mental illness</p>	<ul style="list-style-type: none"> 03/09/2017: Complaint filed in district court, 17-CV-355; 12/22/2017: County filed a third-party complaint for declaratory judgment against WCMIC re ins coverage; 02/12/2018: DA's office issued charges against 3 former jail staff and Armor Correctional Health Services, Inc. as a corporate entity in circuit court; 03/07/2018: Parties filed motions to stay proceedings pending criminal matters against the 3 former jail employees; 04/20/2018: County filed motion for summary judgment as it relates to WCMIC coverage; WCMIC opposed, arguing criminal and/or deliberate wrongdoing excludes coverage; Case on hold while court considers arguments on request for stay and mediation occurs.

¹ Please note: cases listed on previous reports that include updates have text that appears in bold. New cases, previously not listed on the report appear entirely without bolding and are starred (*).

Case Name	Case Number	Firm	Description	Case Status
2 <i>Christensen, et al. v. Sullivan, et al.</i>	96-CV-1835	Husch Blackwell, OCC	Jail population and health care	<ul style="list-style-type: none"> 03/29/2018: Report by National Institute of Corrections (NIC) issued – Sheriff’s Office addressed 15 of 17; recommendations and remaining 2 recommendations being addressed – 1) staffing analysis to be completed with NIC direction and by an outside consultant and 2) policy review and update; 09/24/2018: mediation with Armor, ACLU, Legal Aid Society before former Justice Crooks; 10/24/2018: Hearing wherein Dr. Shansky was ordered to draft a report concerning the October 16, 2018 inspection of the Jail. 12/03/2018: Dr. Shansky report submitted; 01/31/2019: Status conference scheduled.
3 <i>Estate of Brandon Johnson v. Milwaukee County, et al.</i> (Patient death at BHD)	E.D. Wis. 16-CV-1043	Husch Blackwell	Section 1983 - Failure to train, discipline and provide medical attention; conditions of confinement; state-created danger, and <i>Monell</i> claims.	<ul style="list-style-type: none"> 08/08/2016: Complaint filed; 06/21/2018: Settlement negotiated and releases signed; 07/03/2018: Stipulation for dismissal of County filed with the Court; 09/06/2018: Order signed dismissing County defendants w/ prejudice; Litigation as to Dr. Young and ProAssurance remains ongoing.
4 <i>Estate of Michael Madden v. Milwaukee County, et al.</i> (September 2016 inmate death)	E.D. Wis. 18-CV-758	Crivello Carlson	Section 1983 – Deliberate indifference; wrongful death; negligence; excessive force; and <i>Monell</i> claim.	<ul style="list-style-type: none"> 05/17/2018: Mother of deceased filed complaint; 07/17/2018: Motion to dismiss Sheriff for lack of personal involvement filed and pending ruling. If granted, a <i>Monell</i> claim against the County, excessive force claims against a corrections officer, and deliberate indifference claims against Armor staff will remain.
5 <i>Estate of Terry Williams v. Milwaukee County, et al.</i> (June 2017 death at lakefront)	E.D. Wis. 18-CV-1222	Crivello Carlson	Section 1983 – Unlawful arrest; denial of due process; deficient hiring/continued employment policy; failure to train and discipline	<ul style="list-style-type: none"> 08/09/2018: Complaint filed against County, Sheriff, and Deputy Sheriff; 11/27/2018: Answer and Motion for judgment on the pleadings filed.

Case Name	Case Number	Firm	Description	Case Status
<p>6</p> <p><i>Estate of Kristine Fiebrink v. Milwaukee County, et al.</i> (August 2016 inmate death)</p>	<p>E.D. Wis. 18-CV-832</p>	<p>Crivello Carlson; Banks and Associates</p>	<p>Section 1983 – Inadequate and unconstitutional health care; negligence; and wrongful death</p>	<ul style="list-style-type: none"> 05/31/2018: Complaint filed; 08/28/2018: Answer and Motion for Partial Judgment on the Pleadings filed re Sheriff and any <i>Monell</i> claims filed; 09/11/2018: Armor moved to stay and to dismiss <i>Monell</i> and loss of society and companionship claims; 09/13/2018: Court denied Armor's motion to stay remaining motions are pending a ruling; 09/24/2018: Dr. Horton moved for judgment on the pleadings, pending a ruling; 10/16/2018: Amended Complaint filed; 10/30/2018: Answer and Motion for Judgment on the Pleadings filed on behalf of County defendants; 02/22/2019: Dispositive motion deadline; 05/07/2019: Pre-trial conference scheduled; 05/13/2019: Jury trial scheduled.
<p>7</p> <p><i>Estate of James Perry v. Wenzel, et al.</i> (September 2010 death in booking room of Jail)</p>	<p>E.D. Wis. 12-CV-664 7th Cir. 16-2127</p>	<p>Husch Blackwell</p>	<p>Section 1983 – Deliberate indifference; negligence; cruel and unusual punishment; wrongful death; and <i>Monell</i> claims</p>	<ul style="list-style-type: none"> 06/28/2012: Complaint filed; 05/06/2016: Order granting County's motion for summary judgment and for sanctions; 05/13/2016: Appeal filed by plaintiffs with 7th Circuit Court of Appeals; 01/05/2017: Oral argument before 7th Circuit; 09/19/2017: 7th Circuit ruling reversing summary judgment as to qualified immunity for County nurses and for re-assessment of sanctions via remand to federal court for the Eastern District; 12/15/2017: Petition for <i>certiorari</i> review to United States Supreme Court; denied on 4/2/18, so case returned to district court for adjudication; 07/02/2018: Trial adjourned for mediation with Judge Callahan to narrow legal issues and witness list. Mediation resulted in limited success, agreeing only to authenticity of most exhibits to be offered at trial; 10/04/2018: Status conference held, setting pretrial deadlines; 03/12/2019: Pretrial conference. 03/25/2019: Jury trial scheduled.

Case Name	Case Number	Firm	Description	Case Status
8 <i>Estate of Antonio Cowser v. Milwaukee County, et al.</i> (2012 inmate dehydration death)	E.D. Wis. 17-CV- 866	Husch Blackwell	Section 1983 - Inadequate and unconstitutional health and psychological care	<ul style="list-style-type: none"> • 06/21/2017: Complaint filed; • 10/12/2017: County filed motion to dismiss arguing the matter is time-barred; • 09/12/2018: Order granting County's motion to dismiss regarding loss of society/companionship, but denying statute of limitations defense find material facts in dispute; • 09/26/2018: Answer filed; • 07/26/2019: Discovery closes; • 08/26/2019: Dispositive motion deadline.
9 <i>Estate of Lailah Swayzer v. Milwaukee County, et al.</i> (2016 death of baby born to inmate)	E.D. Wis. 16-CV- 1703	Leib Knott Gaynor	Section 1983 - Failure to properly train, supervise, and formulate investigative processes	<ul style="list-style-type: none"> • 12/23/2016: Complaint filed; • 03/15/2017: Answer filed on behalf of County defendants; • 12/31/2018: Discovery closes; • 03/15/2019: Dispositive motion deadline.

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<p>10 <i>Shonda Martin v. Milwaukee County, et al.</i> (Sexual assault of inmate by CO in jail)</p>	<p>E.D. Wis. 14-CV-200; 7th Cir. 17-3216; 7th Cir. 18-1060</p>	<p>Husch Blackwell</p>	<p>Section 1983 – Due process; misconduct, and failure to intervene</p>	<ul style="list-style-type: none"> • 02/21/2014: Complaint filed; • 06/05-06/07/17: Jury trial and verdict that CO acted within scope of employment with compensables awarded at \$1.7 million and punitives at \$5 million; jury did not award damages for jail's shackling policy; • 07/31/2017: Motions filed by County for reconsideration of verdict and to challenge WCMIC's dismissal from suit; • 09/28/2017: Order denying motions by County for reconsideration and cross-appeals on insurance coverage issue with commentary that WCMIC dismissal as to defendant Thicklen only; • 10/25/2017: County filed appeal to the 7th Circuit Court of Appeals on scope of employment issue; • 12/15/2017: County filed motion to stay execution of judgment with district court; • 01/23/2018: District court denied motion to stay execution of judgment; • 05/24/2018: Oral argument before 7th Circuit; • 07/25/2018: Order entered in district court as to the stipulation² to stay the execution of judgment until the 7th Circuit issues a decision; • 09/14/2018: 7th Circuit decision reversing and vacating the judgment against the County for indemnification. Remanded back to district court to enter judgment for the County; • 10/24/2018: Martin moved court to extend the 10/31 deadline to petition for rehearing • 11/14/2018: Martin received additional time to file petition for rehearing, which was filed. • 12/12/2018: Petition for rehearing denied; • 03/12/2019: Deadline to petition United States Supreme Court for certiorari review.

² This stipulation resulted in the payment of \$50,000.00 from the County to the Plaintiff.

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11 <i>Lloyd Johnson v. Milwaukee County, et al.</i> (Patient care at BHD)	E.D. Wis. 14-cv-1408; 7th Cir. 18-1321; 18-CV-1322	Husch Blackwell	Section 1983 – Inadequate mental health care and treatment; negligence; cruel and unusual punishment; and <i>Monell</i> claims	<ul style="list-style-type: none"> 11/05/2014: Complaint filed; 01/18/2018: Court dismissed case, granting County’s summary judgment motion; 02/14/2018: Plaintiff filed appeal with the 7th Circuit; 02/14/2018: Plaintiff also filed lawsuit in state court on negligence claims where there is a \$50,000 statutory cap for damages; 04/09/2018: Mandatory 7th Circuit mediation occurred, but was ultimately unsuccessful; 11/28/2018: Plaintiff’s appellate brief filed; 01/04/2019: County’s appellate response brief due; \$50,000 statutory cap on state negligence claim.
12 <i>Rebecca Terry v. Milwaukee County, et al.</i> (delivery of baby while shackled)	E.D. Wis. 17-CV-1112	Leib Knott Gaylor	Section 1983 – Deliberate indifference; supervisory liability, failure to intervene; 14 th amendment due process violations; and state law <i>respondent superior</i> claims against Armor in particular	<ul style="list-style-type: none"> 08/23/2017: Complaint filed; 08/31/2018: Armor and County moved for summary judgment, pending decision; 11/13/2018: December 3 jury trial postponed; 02/07/2019: Status conference scheduled.
13 <i>Melissa Hall v. Milwaukee County, et al.</i> (delivery of baby while shackled)	E.D. Wis. 17-CV-379	Husch Blackwell	Section 1983 – Class action <i>Monell</i> claim	<ul style="list-style-type: none"> 04/11/2017: Amended Complaint filed; 03/01/2019: County’s experts due; 05/15/2019: dispositive motion deadline; Consolidated with <i>Sandra Robles v. County</i> for discovery.
14 <i>Sandra Robles v. County of Milwaukee, et al.</i> (delivery of baby while shackled)	E.D. Wis. 18-CV-1328	Husch Blackwell	Section 1983 - Due Process and <i>Monell</i> claims	<ul style="list-style-type: none"> 08/28/2018: Complaint filed; 10/17/2018: Answer filed; Consolidated with <i>Melissa Hall v. Milwaukee County, et al.</i> for discovery

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15 <i>Kevin Robinson v. Green, et al.</i>	Pre-screened civil rights lawsuit	OCC	Section 1983 – sexual misconduct	<ul style="list-style-type: none"> 05/18/2018: Former Milwaukee County Jail inmate filed complaint against female corrections officer alleging sexual misconduct The court has not yet screened this complaint, so no response is due at this time.
16 <i>Jordan Williams v. Milwaukee County, et al.</i>	E.D. Wis. 18-CV-1045	Leib, Knott, Gaynor	Section 1983 – deliberate indifference; <i>Monell</i> claims	<ul style="list-style-type: none"> 07/09/2018: Complaint filed; 08/15/2018: Answer filed; 10/25/2018: Amended complaint filed; 12/11/2018: Motion to dismiss fully briefed; 03/01/2019: Dispositive motion deadline; 07/02/2019: Final pre-trial conference set; 07/08/2019: Jury trial scheduled.
17 <i>Jeremy Longe v. Milwaukee County, et al.</i>	E.D. Wis. 18-CV-1128	Leib, Knott, Gaynor	Section 1983 – deliberate indifference; <i>Monell</i> claims	<ul style="list-style-type: none"> 07/20/2018: Complaint filed; 11/06/2018: Answer filed; 12/26/2018: Status conference scheduled.
18 <i>Robert Tatum v. Clarke, et al.</i>	E.D. Wis. 11-CV-1131	Crivello Carlson	Section 1983 – Excessive force; due process; deliberate indifference; emotional distress; and RLUIPA federal claims; and negligence; invasion of privacy; and assault & battery state claims	<ul style="list-style-type: none"> 12/13/2011: Complaint filed; 07/23/2018: Third summary judgment motion filed, awaiting ruling.
19 <i>Adam Locke v. Schmidt, et al.</i>	E.D. Wis. 18-CV-443	OCC	Section 1983 – conditions of confinement; <i>Monell</i> claims	<ul style="list-style-type: none"> 03/20/2018: Complaint filed; 12/15/2018: Discovery deadline; 02/01/2019: Dispositive motion deadline.
20 <i>Karl Wright v. Brito, et al.</i>	E.D. Wis. 17-CV-64	OCC	Section 1983 – excessive force; and sexual assault	<ul style="list-style-type: none"> 01/17/2017: Complaint filed; 05/21/2018: County filed summary judgment – awaiting court ruling.

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21	<i>Nathan Wingo v. Williams, et al.</i>	E.D. Wis. 18-CV-1148	OCC	Section 1983 – excessive force	<ul style="list-style-type: none"> 07/25/2018: Complaint filed; 11/08/2018: Answer filed.
22	<i>Marcus Wade v. Payne, et al.</i>	E.D. Wis. 18-CV-110	OCC	Section 1983 – deliberate indifference	<ul style="list-style-type: none"> 01/22/2018: Complaint filed; 10/30/2018: Answer filed; 03/04/2019: Discovery closes; 04/04/2019: Dispositive motion deadline.
23	<i>Mark Girtler v. Wolf</i>	E.D. Wis. 15-CV-841	OCC	Section 1983 – excessive force	<ul style="list-style-type: none"> 07/13/2015: Complaint filed; 03/04/2019: Jury trial date scheduled.
24	<i>Emnis Brown v. Garth-Dickens, et al.</i>	E.D. Wis. 16-CV-241	OCC	Section 1983 – six different, unrelated claims	<ul style="list-style-type: none"> 02/29/2016: Complaint filed; 05/07/2018: County filed motion to dismiss based on misjoinder – awaiting court decision.
25	<i>Earl Nelson v. Arthur Okoro</i>	E.D. Wis. 18-CV-183	OCC	Section 1983 – conditions of confinement	<ul style="list-style-type: none"> 02/05/2018: Complaint filed; 10/12/2018: County filed motion for summary judgment; 11/12/2018: Plaintiff's response was due, but he failed to timely respond; 11/26/2018: Court granted County's motion for summary judgment; 12/26/2018: Nelson's deadline to appeal to the Seventh Circuit.
26	<i>Jamar Hicks v. Wilborn</i>	E.D. Wis. 18-CV-388	OCC	Section 1983 – conditions of confinement	<ul style="list-style-type: none"> 03/13/2018: Complaint filed; 10/05/2018: Answer filed; 02/01/2019: Discovery closes; 03/04/2019: Dispositive motion deadline.
27	<i>Marcelus Goodwin v. Montano, et al.</i>	E.D. Wis. 17-CV-997	OCC	Section 1983 – excessive force	<ul style="list-style-type: none"> 07/19/2017: Complaint filed; 06/04/2018: County filed motion for summary judgment; 11/22/2018: Plaintiff's twice adjourned response deadline. Plaintiff timely filed, currently awaiting court decision.
28	<i>Dante Ashley v. Jones, et al.</i>	E.D. Wis. 17-CV-1785	OCC	Section 1983 – failure to intervene	<ul style="list-style-type: none"> 12/21/2017: Complaint filed; 05/24/2018: Answer filed; 10/23/2018: Case stayed pending Plaintiff's mental health evaluation.

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29	<i>Antonio Smith v. Turner, et al.</i>	E.D. Wis. 17-CV-668	OCC	Section 1983 – excessive force; failure to intervene	<ul style="list-style-type: none"> 05/11/2017: Complaint filed; 08/07/2018: Answer filed; 01/11/2019: Dispositive motion deadline.
30	<i>Jason Farr v. Staat, et al.</i>	E.D. Wis. 17-CV-1341	Crivello Carlson	Section 1983 – excessive force	<ul style="list-style-type: none"> 09/29/2017: Complaint filed; 12/30/2018: Dispositive motion deadline.
31	<i>Brent Ford Taylor v. Armor, et al.</i>	E.D. Wis. 17-CV-1519	OCC	Section 1983 – deliberate indifference	<ul style="list-style-type: none"> 11/03/2017: Complaint filed; 10/25/2018: Motion to Dismiss filed; 11/15/2018: Plaintiff's response brief due.
32	<i>Alfredo Garcia v. Aikens, et al.</i>	E.D. Wis. 17-CV-1075	Crivello Carlson	Section 1983 – deliberate indifference	<ul style="list-style-type: none"> 08/04/2017: Complaint filed; 04/20/2018: County filed summary judgment - awaiting court ruling.
33	<i>Octavius Jordan v. Hafemann, et a.</i>	E.D. Wis. 14-CV-987 7th Cir. 16-1820	Crivello Carlson	Section 1983 – conditions of confinement	<ul style="list-style-type: none"> 08/12/2014: Complaint filed; 03/15/2016: Summary judgment granted as to County and Armor; 04/06/2016: Notice of appeal filed; 02/27/2017: Remanded by 7th Circuit as to County defendants only, and added for the first time a <i>Monell</i> claim; 7/9/2018: Summary judgment as to <i>Monell</i> claim filed – pending court decision; 9/10/2018: Summary judgment reply filed; fully briefed Plaintiff's court-appointed counsel is Reinhart Boerner Van Deuren s.c.
34	<i>Michael Winston v. Clarke, et al.</i>	E.D. Wis. 15-CV-1398 7th Cir. 17-3009	Crivello Carlson	Section 1983 – deliberate indifference and conditions of confinement	<ul style="list-style-type: none"> 11/23/2015: Complaint filed; 08/07/2018: 7th circuit oral argument; 08/17/2018: 7th Circuit vacated the judgment and remanded case for a <i>Pavey</i> hearing and further proceedings; 01/04/2019: <i>Pavey</i> hearing scheduled; Plaintiff's court-appointed counsel is Foley & Lardner.
35	<i>Jonathan Wilke v. Behrendt</i>	E.D. Wis. 17-CV-1639	OCC	Section 1983 – RLUPA/1st Amendment religion claims	<ul style="list-style-type: none"> 11/27/2017: Complaint filed; 05/18/2018: Answer filed; 05/18/2018: Plaintiff filed motion for preliminary injunction; 09/27/2018: Case stayed pending possible resolution; 01/11/2019: Status report to court due.

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36 <i>Rod Steffen v. Village of East Troy, et al.</i>	E.D. Wis. 17-CV-22	OCC	Section 1983 – wrongful arrest	<ul style="list-style-type: none"> 01/05/2017: Complaint filed; 11/16/2018: Case settled, pending dismissal with court.
37 <i>Johnathan Witke v. Montano</i>	E.D. Wis. 17-CV-1640	OCC	Section 1983 – due process	<ul style="list-style-type: none"> 11/27/2017: Complaint filed; 09/14/2018: Court denied plaintiff's motion to certify his case as a class action; 09/14/2018: Case stayed pending resolution of his related, criminal matter.
38 <i>Michael Cooper v. Haw, et al.</i>	E.D. Wis. 17-CV-1461	OCC	Section 1983 – due process	<ul style="list-style-type: none"> 10/25/2017: Complaint filed; 06/14/2018: County filed summary judgment – awaiting court decision.
39 <i>James McCoy v. Hannah, et al.</i>	E.D. Wis. 17-CV-1450	OCC	Section 1983 – due process	<ul style="list-style-type: none"> 10/23/2017: Complaint filed; 09/17/2018: Answer filed; 05/06/2019: Dispositive motion deadline.
40 <i>Rondale Temner v. Jackson, et al.</i>	E.D. Wis. 18-CV-232	OCC	Section 1983 – conditions of confinement	<ul style="list-style-type: none"> 02/14/2018: Complaint filed; 10/01/2018: Dispositive motion filed, awaiting court ruling.
41 <i>Robert Clark v. Milwaukee County</i>	E.D. Wis. 18-CV-503	Leib Knott Gaynor LLC	Section 1983 – due process	<ul style="list-style-type: none"> 03/30/2018: BHD civil rights complaint filed; 08/07/2018: Motion to dismiss without prejudice granted; 08/21/2018: Amended complaint filed; 09/17/2018: County filed motion to dismiss, awaiting decision.
42 <i>Markus Evans v. Schmidt, et al.</i>	E.D. Wis. 17-CV-1133	OCC	Section 1983 – conditions of confinement	<ul style="list-style-type: none"> 05/01/2018: Second amended complaint filed; 12/10/2018: Answer filed; 05/10/2019: Dispositive motion deadline.
43 <i>Bobby Ryan v. Schmidt, et al.</i>	E.D. Wis. 17-CV-1156	OCC	Section 1983 – deliberate indifference	<ul style="list-style-type: none"> 08/23/2017: Complaint filed; 09/12/2018: County moved to dismiss for failure to prosecute, pending court ruling.
44 <i>Ricky Harris v. Schmidt, et al.</i>	E.D. Wis. 18-CV-813	OCC	Section 1983 – illegal strip search	<ul style="list-style-type: none"> 05/25/2018: Complaint filed; 11/13/2018: Answer filed; 03/14/2019: Dispositive motion deadline.

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45	<i>Antonio Peterson v. Montano, et al.</i>	E.D. Wis. 18-CV-1057	OCC	Section 1983 – conditions of confinement	<ul style="list-style-type: none"> 07/11/2018: Complaint filed; 11/30/2018: Answer due; 12/13/2019: Plaintiff prematurely moved for summary judgment 01/14/2019: County's response brief due; 05/10/2019: Dispositive motion deadline.
46	<i>Ruby Rodriguez v. Milwaukee County, et al.</i>	E.D. Wis. 16-CV-130 7th Cir. 18-1486	Crivello Carlson	Section 1983 – Due process and improper seizure	<ul style="list-style-type: none"> 02/05/2016: Case removed to federal court; 02/05/2018: Decision granting County motion for summary judgment; 03/01/2018: Plaintiff appealed dismissal; 10/12/2018: Plaintiff filed appellate brief; 11/13/2018: County filed appellate response brief. 1/18/2019: Oral argument scheduled
47	<i>Michael Cooper v. L. Jones</i>	E.D. Wis.	OCC	Section 1983 – Retaliation and 1st Amendment	<ul style="list-style-type: none"> 06/11/2018: Amended complaint filed; 01/07/2019: Answer due.
48	<i>Brendon McCord v. Richard Schmidt</i>	E.D. Wis. 18-CV-1311	OCC	Section 1983-due process, conditions of confinement	<ul style="list-style-type: none"> 08/24/2018: Complaint filed; 10/24/2018: Case screened only to permit discovery to identify John Doe defendants.
49	<i>Jared Peete</i>	E.D. Wis. 18-CV-1679	OCC	Habeas Corpus Petition	<ul style="list-style-type: none"> 10/22/2018: Habeas petition filed, pending screening.

Contract Litigation

Case Name	Case Number	Firm	Description	Case Status
<p>50 <i>Dynamis Properties, LLC, et al. v. Milwaukee County</i></p>	<p>16-CV-1379</p>	<p>Crivello Carlson</p>	<p>Breach of Contract - Parking lot near Bigg's Roadhouse</p>	<ul style="list-style-type: none"> 02/18/2016: Complaint filed against County related to a parking lot lease in effect from 2006 to 2015; The lease included an "air space" provision that permitted the County and Wisconsin DOT the right of entry for maintenance and construction of the freeway, which was located next to and above the parking lot; In 2012, construction equipment appeared in the parking lot and remained there until the DOT purchased the restaurant from Dynamis in 2015; Dynamis seeks the \$25,568 in damages, as well as \$465,537.41 in alleged lost past business; 2/25/2019 jury trial scheduled.
<p>51 <i>*Innovative Masonry Restoration LLC v. Milwaukee County</i></p>	<p>E.D. Wis. 18-CV-1877 (diversity)</p>	<p>OCC</p>	<p>Breach of Contract – Courthouse Basement Tunnel Wall Repairs project; Innovative seeks at least \$202,843.47 in alleged damages, plus pre-judgment interest.</p>	<ul style="list-style-type: none"> 11/29/2018: Complaint filed; 12/26/2018: Answer due.

Personal Injury

Case Name	Case Number	Firm	Description	Case Status
52 <i>*Estate of Christopher Weber, et al. v. County of Milwaukee, et al.</i>	18-CV-9237	Outside Counsel	12/19/2016 vehicular death on Hoan Bridge; allegations of breach of duty related to snow accumulation/removal under County contract with State to maintain roadway, clear snow from shoulder.	<ul style="list-style-type: none"> 04/13/2017: Notice of claim; 11/27/2018: Complaint filed; 01/11/2018: Answer due.
53 <i>*Austin Addis, et al. v. Wisconsin Constructors II, LLC, et al.</i>	18-CV-9749	OCC	Negligence claim alleging black ice on I-94 Zoo Interchange on November 29, 2015	<ul style="list-style-type: none"> 11/27/2018: Complaint filed; 01/11/2019: Answer due.
54 <i>Harold Mehler v. Milwaukee County, et al.</i>	17-CV-1500	OCC	Highway injury involving deputy	<ul style="list-style-type: none"> 02/21/2017: Complaint filed; 09/04/2018: Summary judgment denied, whether negligence occurred to be determined by a jury; 11/12/2018: Mediation successful; 12/20/2018: Settlement agreement signed, pending dismissal from court; \$250,000 statutory cap.
55 <i>*Michael L. Moss v. G4S Secure Solutions (USA), Inc., et al.</i>	18-CV-9747	OCC	Prisoner transport van crashed into a median on November 22, 2017, resulting in alleged injuries of the plaintiff.	<ul style="list-style-type: none"> 11/27/2018: Complaint filed; 01/21/2019: Answer due.
56 <i>Naythan Schwab v. Milwaukee County</i>	16-CV-4218 16-AP-1717	Leib, Knott and Gaynor	Slip and fall in the jail	<ul style="list-style-type: none"> 03/18/2016: Complaint filed; 09/27/2018: Dispositive motion deadline; 10/16/2018: Summary judgment granted; 10/29/2018: Dismissal order signed; 12/13/2018: Deadline to appeal.

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57 <i>Jerome Gates v. Milwaukee County, et al.</i>	18-CV-441	OCC	Highway auto accident with snow plow	<ul style="list-style-type: none"> • \$50,000 statutory cap. • 01/16/2018: Complaint filed; • 11/06/2018: County defendants dismissed per stipulation.
58 <i>Bernell Selders v. Clinicare Corp., et al.</i>	18-CV-7129	OCC	Slip and fall at property leased to Milwaukee	<ul style="list-style-type: none"> • 08/30/2018: Complaint filed; • 10/29/2018: Answer filed; • \$50,000 statutory cap.
59 <i>Tammatha Porter-Velasco v. Milwaukee County, et al.</i>	18-CV-6189	OCC	Highway auto accident with snow plow	<ul style="list-style-type: none"> • 07/25/2018: Complaint filed; • 10/29/2018: Answer filed; • 12/03/2018: Scheduling conference held; • 12/12/2018: Case settled, pending dismissal in court.

Employment/Human Resources Matters³

Case Name	Case Number	Firm	Description	Case Status
60 <i>*Jonette Arms v. Milwaukee County</i>	E.D. Wis. 18-CV-1835	Mallery & Zimmermann	ADA and Title VII disability discrimination claims, as well as allegations of violations of the Rehabilitation Act concerning a failure to accommodate resulting in alleged constructive discharge	<ul style="list-style-type: none"> 11/20/2018: Complaint filed, pending service.
61 <i>Dameion Perkins v. Milwaukee County, et al.</i> (Refusal to hire due to status as "Dontre Hamilton's brother")	E.D. Wis. 18-CV-179	Crivello Carlson	First Amendment – Free Speech	<ul style="list-style-type: none"> 02/01/2018: Complaint filed; 04/04/2018: Order granting County's motion for judgment on the pleadings as it relates to Equal Protection clause under 14th Amendment; 09/14/2018: County moved for summary judgment, pending decision; 11/29/2018: Summary judgment granted in favor of County. Case dismissed with prejudice; 12/29/2018: Deadline to appeal.
62 <i>Latoria Armstrong v. Milwaukee County</i>	E.D. Wis. 18-CV-7	OCC	FLSA – expression of breast milk	<ul style="list-style-type: none"> 01/02/2018: Complaint filed; 10/04/2018: Mediation successfully completed; 12/07/2018: Settlement agreement signed, pending dismissal in court.

³ In addition to employment matters filed in federal court, numerous complaints filed with the Equal Employment Opportunity Commission and the State of Wisconsin Department of Workforce Development – Equal Rights Division are pending. Currently, the OCC and outside counsel are, respectively, handling 24 and 10 of these cases. In addition, the OCC handles many matters before the Civil Service Commission and the Personnel Review Board, the number of which fluctuates significantly from month-to-month.

Case Name	Case Number	Firm	Description	Case Status
63 <i>Douglas Felde v. Milwaukee County</i>	E.D. Wis. 18-CV-84	Mallery & Zimmerman	Title VII sex discrimination; retaliation	<ul style="list-style-type: none"> 01/16/2018: Complaint filed; 07/05/2018: County filed motion to dismiss – awaiting court ruling; 08/29/2018: Plaintiff filed expedited motion for leave to file a second amended complaint; County opposed on 9/5/18, awaiting court ruling. Motions denied. 11/20/2018: Answer filed.
64 <i>Kristi Kendrick v. Milwaukee County</i>	E.D. Wis. 17-CV-1391	Lindner and Marsack	ADA – Failure to Accommodate	<ul style="list-style-type: none"> 10/12/2017: complaint filed; 08/31/2018: discovery closes; 08/28/2018: Plaintiff's counsel filed emergency motion to withdraw as counsel—court granted on 9/14; 09/20/2018: County moved for summary judgment; 01/11/2019: Plaintiff's response brief due.
65 <i>Susan Born v. Milwaukee County</i>	E.D. Wis. 17-CV-1783	OCC	ADA – Termination; FLSA	<ul style="list-style-type: none"> 08/02/2018: Second amended complaint filed; 08/22/2018: Answer and motion or partial dismissal filed; 09/19/2018: Motion for partial dismissal granted; 12/14/2018: County moved to extend dispositive motion deadline due to plaintiff's last minute rejection of settlement offer; 02/11/2019: Jury trial scheduled.
66 <i>State of Wisconsin v. Milwaukee County</i>	17-CX-7; 17-CX-8	OCC	Complex forfeitures - violations of Wis. Stat. § 103.13 requests for personnel files	<ul style="list-style-type: none"> 08/15/2017: Complaints filed; Settlement agreement drafted, but pending further discussions with Attorney General.

<u>Case Name</u>	<u>Case Number</u>	<u>Firm</u>	<u>Description</u>	<u>Case Status</u>
67 <i>Tony Hernandez v. Sims, et al.</i>	15-CV-7845 17-AP-1602	OCC	Title VII race discrimination	<ul style="list-style-type: none"> ● 09/22/2015: Complaint filed; ● 07/03/2017: County won dispositive motion; ● 08/14/2017: Plaintiff timely filed notice of appeal; ● 06/20/2018: Appellate court affirmed circuit court ruling; ● 08/08/2018: Plaintiff petitioned Wisconsin Supreme Court for review, petition denied; ● 10/18/2018: Plaintiff petitioned United States Supreme Court, awaiting decision.

Pension Litigation⁴

Case Name	Case Number	Firm	Description	Case Status
68 <i>Milwaukee District Council 48 v. Milwaukee County</i>	11-CV-16826; 16-AP-1525	OCC and Lindner & Marsack	Rule of 75. Dispute over whether County ordinances passed in wake of Act 10 granted subset of AFSCME employees Rule of 75 benefit for which they were previously ineligible.	<ul style="list-style-type: none"> County lost trial court; County lost Court of Appeals, matter is now being considered by the Wis. Supreme Court; 09/24/2018: Supreme Court heard oral arguments, decision pending.
69 <i>Susan L. Baldwin, et al. v. Milwaukee County, et al.</i>	15-CV-9354 Wis. S. Ct. No. 16-AP-2380	OCC, Polsinelli, and Lindner & Marsack Reinhart (Trial Court and Court of Appeals levels)	Purchase of service credit enhanced benefit by six figures	<ul style="list-style-type: none"> Former employee Susan Baldwin purchased service credit from summer job in 1969 that enhanced her benefits by six figures when she retired in 2003; RPS subsequently determined purchase was permitted in error Baldwin appealed determination to recoup overpayments; lost at Pension Board and before circuit court. Prevailed at Court of Appeals; 09/14/2018: County and ERS filed appellate briefs; 10/08/2018: Baldwin's response filed; 12/06/18: County and ERS appellate reply briefs due; 01/18/2019: Oral argument scheduled; 12/13/2018: Settlement with plaintiff approved. 12/17/2018: Stipulation to dismiss appeal and Motion to vacate court of appeals' decision filed with Wisconsin Supreme Court.
70 <i>James Kubicek LCSW v. Milwaukee County</i>	16-CV-1031	Lindner & Marsack	Discharge of employee who became	<ul style="list-style-type: none"> Kubicek sought to continue as a pool employee to gain a Rule of 75 benefit after taking a full-time position elsewhere.

⁴ In addition to pension matters filed in state and federal court, numerous appeals have been filed with the Pension Board. The OCC and outside counsel, namely Reinhart, collaborate to prepare appeal materials for the Pension Board's review.

Case Name	Case Number	Firm	Description	Case Status
71 <i>Tietjen v. Milwaukee County and Employees' Retirement System of the County of Milwaukee</i>	12-CV-11616; 13-CV-3154; 17-AP-2325	Lindner & Marsack; Reinhart Boerner Van Deuren s.c.	probationary pool employee to obtain Rule of 75 benefit while full time employee elsewhere. Eligibility to receive a normal retirement benefit and a backDROP benefit after termination	<ul style="list-style-type: none"> Jury trial on wrongful discharge and promissory estoppel held July/August 2018; 08/02/2018: Verdict favorable to Kubicek; 08/20/2018: Post-verdict motions filed; 10/04/2018: Hearing on post-verdict motions; 12/13/2018: Settlement with plaintiff approved by County.
72 <i>Dennis Dietscher v. Pension Board of the Employees' Retirement System</i>	17-CV-4717; Court of Appeals No. 18-AP-518	OCC; Polisnelli	Revocation of pension benefits following misconduct in office conviction	<ul style="list-style-type: none"> Dietscher prevailed in circuit court and the matter is now awaiting a decision in the Court of Appeals.
73 <i>Jennifer Aleman v. Employees' Retirement System of the County of Milwaukee</i>	18-CV-6291	OCC	Mandamus action to stop ongoing recoupment of overpayments to Jennifer Aleman. No offset of worker's compensation benefits from survivor pension benefits resulting in overpayment of approximately \$140,000.	<ul style="list-style-type: none"> 09/18/2018: Mandamus action dismissed on the record pending written decision; 10/30/2018: Hearing as to breach of fiduciary duty claim County's motion to dismiss denied; 11/19/2018: Answer filed.
74 <i>Jennifer Aleman v. Employees' Retirement</i>	18-CV-9215	OCC	Petition for certiorari review of the ERS'	<ul style="list-style-type: none"> 11/07/2018: Complaint and Petition filed; 11/26/2018: Complaint and Petition served;

Case Name	Case Number	Firm	Description	Case Status
System of the County of Milwaukee, et al.			decision concerning recoupment of overpaid pension benefits	<ul style="list-style-type: none"> 12/17/2018: Answer filed.
Willie Watkins v. Pension Board	18-CV-1839; Court of Appeals No. 18-AP-2063	OCC	Ineligibility for City-County reciprocity provisions and retirement under the County's "Rule of 75" due to County employment commencing after cut-off date	<ul style="list-style-type: none"> 09/19/2018: <i>Certiorari</i> petition denied and Pension Board decision upheld; 10/19/2018: Plaintiff filed notice of appeal with the Wis. Court of Appeals; awaiting record.
Kevin Walker, et al. v. Milwaukee County, et al.	15-CV-6288	Lindner & Marsack; Reinhart Boerner Van Deuren s.c.	Improperly paid survivorship benefits	<ul style="list-style-type: none"> 10/18/2018: County filed motion for summary judgment; 01/24/2019: Hearing on County's summary judgment motion scheduled.
Carol Couturier v. Pension Board of the Employees' Retirement System of Milwaukee County	17-CV-11353 18-AP-1351	OCC	Improperly paid beneficiary benefits requiring recoupment.	<ul style="list-style-type: none"> Circuit court affirmed Pension Board; 07/16/2018: Plaintiff appealed to Court of Appeals; 09/17/2018: Plaintiff filed appellate brief; 10/19/2018: ERS filed response brief, awaiting court ruling.
Michael Hoffmann v. Milwaukee County	E.D. Wis. 17-CV-524; 17-CV-11634	OCC	Incomplete purchase of prior service credit	<ul style="list-style-type: none"> 05/10/2017: County moved to dismiss federal action, decision pending; 01/31/2019: Discovery closes in state action; 03/19/2019: Pre-trial conference in state action.

Miscellaneous Litigation

Case Name	Case Number	Firm	Description	Case Status
79 <i>Milwaukee County v. Amerisourcebergen Drug Corp, et al. (Opioid Litigation)</i>	E.D. Wis. 18-CV-403 (Transferred case) 17-MD-2804 (Lead MDL Case)	Mallery & Zimmerman, et al.	Public Nuisance; RICO; Deceptive Trade Practices; Negligence, Negligent Misrepresentation; Negligence per se; Fraud; Fraudulent Misrepresentation; Unjust enrichment	<ul style="list-style-type: none"> 03/14/2018: Complaint filed; 04/11/2018: Transferred to N.D. Ohio for inclusion in Multi-District Litigation Case No. 2804; 09/26/18: Pretrial conference in Chicago; 12/17/2018: Discovery responses from the County completed; 03/16/2019: Deadline to amend complaint.
80 <i>In the Matter of the Burial Site Disturbance Permit Application of Froedert Hospital</i>	State of Wisconsin – Division of Hearings and Appeals Case No. SHS-13-0001	OCC	Miscellaneous Litigation	<ul style="list-style-type: none"> Petition granted by the State.
81 <i>Duwayne Jurkewicz v. LIRC, et al.</i>	18-CV-6172	OCC	Circuit Court certiorari review of LIRC decision	<ul style="list-style-type: none"> 07/24/2018: Petition filed; 10/19/2018: Petitioner's brief was due, but nothing filed to date; 01/04/2019: Dismissal calendar scheduled.
82 <i>William Brown v. Milwaukee County</i>	18-CV-7416	OCC	Declaratory judgment/injunction re open records request	<ul style="list-style-type: none"> 09/06/2018: Complaint filed; 10/02/2018: Answer filed; 11/13/2018: Petitioner filed brief in support of cause of action under Wis. Stat. section 19.356; 12/13/2018: County filed opposition brief, awaiting court ruling.
83 <i>Manjinder Kaur v. Milwaukee County Personnel Review Board</i>	18-CV-5105	OCC	Circuit Court certiorari review of PRB decision	<ul style="list-style-type: none"> 06/15/2018: Petition filed; 10/09/2018: County moved to intervene; 11/12/2018: Petitioner filed brief; 12/13/2018: County/PRB response brief filed; awaiting court ruling.

	<u>Case Name</u>	<u>Case Number</u>	<u>Firm</u>	<u>Description</u>	<u>Case Status</u>
84	<i>Vinii LLC, et al. v. Terra Engineering, et al.</i>	18-CV-1446	OCC	Breach of Contract, County is named as interested party	<ul style="list-style-type: none"> • 06/04/2018: Complaint filed; • 07/17/2018: Answer filed; • 04/12/2019: Discovery closes; • 04/29/2019: Bench trial scheduled.

Claims That Have Yet to Be Filed in Court

Case Name	Case Number	Firm	Description	Case Status
85 <i>Estate of Jose L. Torres, Jr.</i>	Notice of Claim	OCC	10/27/2017 inmate death	<ul style="list-style-type: none"> 02/23/2018: Notice of claim filed concerning claims against Milwaukee County and Armor Correctional Health Services Inc. for inadequate medical care and staffing.
86 <i>Estate of Clarence Wilson, Jr.</i>	Notice of Claim	OCC	08/29/2017 inmate death	<ul style="list-style-type: none"> 12/22/2017: Notice of claim filed concerning claims against Milwaukee County and Armor Correctional Health Services Inc. for deliberate indifference to serious medical needs
87 <i>Jennifer Jawson and her deceased child</i>	Notice of Claim	OCC	12/10/2016 stillborn birth by inmate	<ul style="list-style-type: none"> 04/11/2017: Notice of claim filed concerning allegations of deliberate indifference to medical need claims regarding Jail's and Armor's alleged failures to deliver inmate to methadone clinic, alleged failure to provide medical care for cramping alleged administration of Tylenol 3, and ultimate stillborn birth of child on 12/10/16.
88 <i>Brian Kreuzinger, et al.</i>	Notice of Claim	OCC	Class action regarding Estabrook dam	<ul style="list-style-type: none"> 07/09/2018: This is the follow-up companion case to the <i>Riverkeeper</i> case noted above. Damages will likely be for diminution in property value due to the demolition of the dam
89 <i>Paula McEwen</i>	Notice of Claim	OCC	06/11/2017 passenger of vehicle involved in lakefront shooting	<ul style="list-style-type: none"> 10/05/2017: Notice of claim filed by passenger of the vehicle driven by Terry Williams. Mr. Williams fled a traffic stop on 6/11/17 on N. Lincoln Memorial Dr. Mr. Williams was ultimately shot and killed by a deputy sheriff. Ms. McEwen was also shot and injured by said deputy.