


**OFFICE OF CORPORATION COUNSEL**


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*Client-Driven. Community-Focused.*

MARGARET C. DAUN  
Corporation Counsel

SCOTT F. BROWN  
KAREN L. TIDWALL  
Deputy Corporation Counsel

ALAN M. POLAN  
KATHRYN M. WEST  
DALE R. NIKOLAY  
LISA M. PROCACCIO  
NELSON W. PHILLIPS III  
MELINDA S. LAWRENCE  
JUDD H. TABACK  
WILLIAM G. DAVIDSON  
RACHEL L. EBERT  
EMILY A. CERBINS  
JAMES G. DAVIES  
LEAVY MATHEWS III  
Assistant Corporation Counsel

**TO:** Marcellia Nicholson, Chairwoman  
Milwaukee County Board of Supervisors

**FROM:** Karen L. Tidwall, Deputy Corporation Counsel

**DATED:** February 15, 2024

**SUBJECT:** Request for Approval of a Resolution Authorizing the Office of Corporation Counsel to Select and Engage Outside Legal Counsel to Represent Milwaukee County in Lawsuits against Responsible Entities for Alleged Manipulation of the Market for Insulin and Insulin-analog Diabetes Medications

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It is requested that this matter be referred to the Committee on Judiciary, Safety, and General Services and Committee on Finance. The Office of Corporation Counsel (the “OCC”) seeks approval of a resolution authorizing the OCC to select outside legal counsel, and to enter into a contingency fee agreement with selected outside legal counsel pursuant to which outside legal counsel shall commence litigation against certain pharmaceutical manufacturers, pharmacy benefit managers, and/or other entities engaged in market manipulation practices that inflated the prices for insulin and insulin-analog diabetes medications within Milwaukee County and that has resulted in an unlawful increase in the entities’ profits at the expense of Milwaukee County (hereinafter, “Insulin Pricing Scheme”).

Pursuant to section 1.11(c)(5)2.(b) of the ordinances, the Committee on Judiciary, Safety, and General Services, subject to full board approval, shall approve the initiation of all suits or claims by the county against other persons or entities where the amount claimed exceeds ten thousand dollars (\$10,000.00) or where the rights sought to be declared have a potential fiscal effect on the county in excess of ten thousand dollars (\$10,000.00).

Over the past twenty years, insulin prices in the United States have skyrocketed. There are currently pending lawsuits against Eli Lilly, Novo Nordisk, and Sanofi-Aventis (the “Manufacturers”) and pharmacy benefit managers CVS Caremark, Express Scripts, and Optum (the “PBMs”), alleging that these entities artificially inflated the prices of insulin and insulin-analog diabetes medications beyond their reasonable market value. These lawsuits further allege that price increases were not the product of a competitive market and did not result from expensive research and development aimed at improving the drugs. Instead, the prices for these medications

increased up to ten times their original value because the Manufacturers and the PBMs colluded to set false prices and profit at the expense of payors around the country. The Judicial Panel of Multidistrict Litigation recently consolidated all Insulin Pricing Scheme lawsuits in the District of New Jersey (MDL).

It is OCC's recommendation that Milwaukee County join other municipalities (and other entities) in pursuing legal action against the Manufacturers and PBMs.

The OCC respectfully requests approval of a resolution authorizing the OCC to select and engage qualified outside legal counsel to commence Insulin Pricing Scheme litigation on behalf of Milwaukee County and to pursue any and all damages to which Milwaukee County may be entitled.

Importantly, outside legal counsel's representation would be on a contingent fee basis, meaning that the outside law firms will not be compensated for legal services provided unless Milwaukee County receives a financial benefit from the lawsuit.

Cc: MaryJo Meyers, County Executive Chief of Staff  
Kelly Bablitch, County Board Chief of Staff  
Kelsey Evans, Committee Coordinator  
Janelle Jensen, Legislative Services Division Manager