

INTEROFFICE COMMUNICATION  
COUNTY OF MILWAUKEE

DATE: November 17, 2014

TO: Marina Dimitrijevic, Chairwoman, Milwaukee County Board of Supervisors

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

SUBJECT: Proposed settlement of Notice of Claim filed by Judith Haugan Ryan, as Administrator of the Estate of Paul Haugan

I request that this matter be referred to the Committee on Judiciary, Safety and General Services for approval of a settlement in the above matter. I also request that this matter be referred to the Committee on Finance, Personnel and Audit to approve a transfer from the Appropriation for Contingencies to fund the settlement. Authority is requested to settle potential and threatened litigation on behalf of the Estate of Paul Haugan for a payment by Milwaukee County to the Estate and its attorney of \$210,000.00 from the Appropriation for Contingencies in return for a mutual release of all claims between the parties. This payment includes any attorneys' fee claim.

The claim arises out of Paul Haugan's in-patient admission to BHD on July 24, 2012 until his death on July 28, 2012 and is asserted by his sister as the administrator for his estate. She alleges claims against Milwaukee County arising out of BHD's care for him with respect to his pre-existing sleep apnea condition.

The claimant alleges several legal theories for recovery, including negligence, violation of civil rights and violation of the Americans with Disabilities Act. A recovery under a negligence claim would be monetarily limited by statute, but any recovery under the other claims alleged would not have a monetary limitation and would include an award to the claimant of actual attorneys' fees incurred. In addition, it is likely that our office would recommend that the County hire outside counsel with specialized expertise and greater resources to defend any suit and thus the County would incur its own attorneys' fees. Any recovery by the claimant, as well as any defense counsel costs for the County, would come from tax levy funds, as the County's insurance policy with the Mutual excludes claims related to patient care at BHD.

After negotiations with claimant's counsel and consultation with DHHS and BHD administrators and staff, our office has reached the tentative settlement that is proposed for the payment of \$210,000. Sufficient funds for this settlement do not exist in the Litigation Reserve account. Therefore, it is requested that this settlement be funded by a transfer from the Appropriation for Contingencies. The settlement itself requires review by the Judiciary Committee and approval by a majority of the County Board, but approval of the requested fund transfer from the Appropriation for Contingencies requires review by the Finance Committee and approval by a two-thirds vote of the County Board.

Our office requests approval of this settlement.

cc: Kelly Bablitch  
Alexis Gassenhuber  
Janelle Jensen  
Erica Hayden  
Steve Cady  
Raisa Koltun  
Patricia Schroeder