



Milwaukee County
OFFICE OF CORPORATION COUNSEL
INTER-OFFICE COMMUNICATION

KIMBERLY R. WALKER
Corporation Counsel

MARK A. GRADY
Deputy Corporation Counsel

TIMOTHY R. KARASKIEWICZ
JEANEEN J. DEHRING
ROY L. WILLIAMS
COLLEEN A. FOLEY
LEE R. JONES
MOLLY J. ZILLIG
ALAN M. POLAN
JENNIFER K. RHODES
JACOB A. MANIAN
Principal Assistant
Corporation Counsel

DATE: May 30, 2012
TO: Marina Dimitrijevic, County Board Chairwoman
FROM: Molly Zillig, Principal Assistant
Milwaukee County Corporation Counsel
SUBJECT: Scott E.M. Spates. v. Jo-Jean Clemens, et al.
United States Eastern District Case No.: 10C1098

I request that this matter be referred to the Committee on Judiciary, Safety and General Services to be placed on the agenda for its next meeting to approve the payment of \$15,000.00 to Pledl & Cohn, SC, to settle in full the lawsuit of Scott E.M. Spates.

Scott Spates, a former inmate at the Milwaukee County Correctional Facility- South, filed a *pro se* Complaint, alleging that his civil rights were violated while he was housed at the above facility. He alleges that on October 19, 2009, Defendant, Nurse Jo-Jean Clemens, while passing out night time medication in the U6 Dorm at the MCCF- South where Spates was being housed, disclosed personal, private and protected information regarding his health status in front of inmates and other correctional staff. He further alleges that none of his grievances relating to this matter were addressed by the Milwaukee County Sheriff's Office medical staff, as required. He further alleges that Milwaukee County Sheriff's Office correctional staff subsequently disclosed his confidential health status to other correctional officers without necessity and in violation of law. He further alleges that as a result of the unlawful disclosure, another inmate who heard this information physically attacked him because of that status and he incurred injuries. Finally, he alleges that he attempted suicide in the South Facility as a result of the above.

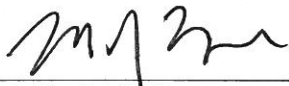
Spates alleges three causes of action: (1) 42 U.S.C. § 1983 – Fourteenth Amendment Right to Privacy. Spates alleges that the disclosure of his confidential health status violated his Fourteenth Amendment due process right to privacy and that this disclosure caused him to be assaulted, causing him emotional pain and suffering; (2) 42 U.S.C. § 1983- Eighth Amendment Cruel and Unusual Punishment. Spates alleges that the disclosure of his confidential health status, where it was known that it would make him a likely target of violence by other inmates, violated his rights under the Eighth Amendment to be free from cruel and unusual punishment; and (3) Claims under Wis. Stats. § 215.15(5), 146.82(1) and 895.50(2). Spates alleges that the disclosure of his confidential health status violated his rights to privacy and non disclosure of medical

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information under Wis. Stats. § 252.15(5) which prohibits the disclosure of a certain medical issue to anyone except under certain circumstances not present here and to have his medical records remain confidential.

SETTLEMENT

After negotiations, a tentative agreement was reached to pay \$15,000.00 for all of Spates' claims, including his claims for actual attorneys' fees. This amount will be paid by Wisconsin County Mutual Insurance Company and applied to the County's deductible. Corporation Counsel along with Wisconsin County Mutual Insurance Company's Litigation Manager and the Milwaukee County Sheriff's Office, support this settlement based upon the facts established through sixteen (16) witness interviews completed of medical staff, correctional officers and deputy sheriffs at the County Correctional Facility – South who were involved with this incident, as well as one interview with the inmate who fought with and injured Spates.



Molly J. Zillig
Principal Assistant Corporation Counsel

MJZ/kpe

Cc: Janelle Jensen
Amber Moreen
Richard Ceschin