

**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: August 26, 2015

TO: Theodore Lipscomb Sr., Chairman, Milwaukee County Board of Supervisors

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

SUBJECT: Request for approval of a resolution approving a settlement in *Ruben Angeles et al. v. Milwaukee County et al.*, Case No. 14-CV-1074 (E.D. Wis. federal court)

We request that this matter be referred to the Committee on Judiciary, Safety and General Services for approval of a resolution approving a settlement agreement. Authority is requested for the Wisconsin County Mutual Insurance Corporation to pay, on behalf of Milwaukee County, the sum of \$35,000 for claimants' attorneys' fees.

This matter was the subject of a prior file (15-258) that was given final approval by the Judiciary Committee on April 9, 2015.

As noted in the report in that file, Angeles filed suit alleging that he was denied the ability to retire with pension benefits in April of 2014. Angeles had previously completed a purchase of pension service credit that had associated errors. He needed the purchased service credit in order to retire using the Rule of 75; without the purchased service, he was not eligible to retire at that time and begin receiving pension benefits. He had made plans to move out of state and felt he could not change those plans. Consequently, Angeles resigned his employment without retiring. The suit also sought class action certification on behalf of other employees who had purchased service credit with associated errors.

As a result of the County's Board's adoption, effective February 17, 2015, of pension ordinance amendments that had been recommended by the Pension Board, the errors associated with Angeles' purchase of service were corrected, subject to IRS approval. Following the County's action, the Pension Board reviewed Angeles' application for retirement that had been filed last April. The Pension Board determined that it is confident that the IRS will accept the corrections to

resolve the errors related to Angeles' purchase and therefore directed the ERS Manager to process Angeles' retirement application retroactive to the date of his application.

In the prior file, the Committee approved payment of Angeles' unused sick allowance plus interest in the amount of \$3667.90 and payment to Angeles to reimburse him for the cost of health insurance premiums paid to his wife's employer up to the date that the Pension Board approved Angeles' retirement, in the amount of \$2640.

It was expected that payment of these amounts would resolve all issues in the Angeles litigation except for a claim for attorneys' fees. However, in addition to attorneys' fees, Angeles subsequently claimed emotional distress damages and the entry of a court judgment that Angeles is legally entitled to the pension benefit that he has been given. Mediation was suggested to attempt to resolve all remaining matters. The mediation was conducted by U.S. Magistrate Judge Duffin on assignment from Judge Adelman. Angeles' counsel requested a total of \$279,000 for all claims prior to the mediation. The mediation was successful in reaching a tentative agreement, subject to approval by the County Board, County Executive, Pension Board and the County Mutual, to pay a total of \$140,000 in attorneys' fees to the Law Offices of Robert Elliott, with the County Mutual paying \$35,000 on behalf of the County and the balance being paid by the Pension Board and its insurer. No payment is being made for damages and no other court order or action will be requested. In return for the payment, the suit will be dismissed.

Apart from additional considerations, continuation of the suit would require substantial additional costs for defense counsel. Additional motions and briefing would occur, in addition to litigation over the alleged emotional distress damages. An appeal would be possible, if not likely. Defense counsel fees to date for the County and the Pension Board combined exceed the amount of this settlement to claimant's attorneys.

Approval of the settlement is recommended and requested. The \$35,000 payment related to Milwaukee County will be paid by the Wisconsin County Mutual and applied to the County's deductible.

cc: Kelly Bablitch
Raisa Koltun
Shanin Brown
Erica Hayden