

**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: November 20, 2013

TO: Marina Dimitrijevic, Chairwoman, County Board of Supervisors

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

SUBJECT: *Goodlette & McKenzie v. Milwaukee County*
Case No. 12-CV-000079
Rewolinski v. Milwaukee County
Case No. 12-CV-000645

I request that this matter be referred to the Committee on Judiciary, Safety and General Services for approval of a settlement. The proposed settlement involves the payment of \$24,000 to the attorney for the claimants in the above litigation in return for a release of all claims and the satisfaction of a judgment.

These cases have a complicated history, so a timeline is set forth below. In late 2011, the Office of the Sheriff had 16 budgeted captain positions, but only 14 positions were filled. The 2012 budget authorized only 14 captain positions.

12/21/11	Sheriff appoints Melanie Lehman to one of the open captain positions.
12/23/11	Sheriff appoints Anthony Moffett to the other open captain position.
12/30/11	Sheriff notifies Captains Goodlette and McKenzie that they were being laid off to comply with the 2012 budget.
1/5/12	Goodlette/McKenzie file suit (represented by Attorney William Rettko) and obtain an emergency temporary restraining order from Judge Cooper reinstating them to their captain positions until the Civil Service Commission (Commission) could hear their complaints of civil service rule violations related to their layoffs.
1/6/12	Goodlette and McKenzie returned to work at captain rank working in HOC with correction officer duties.
1/6/12	Captains Rewolinski and Jaskulski receive layoff notices.
1/9/12	Goodlette and McKenzie file their complaints with the Commission.
1/11/12	Jaskulski (represented by Attorney Frank Gimbel) obtains temporary restraining order from Judge Dwyer (sitting for Judge Siefert) reinstating him to his captain position.
1/13/12	Rewolinski files his complaint with the Commission.

- 1/17/12 Rewolinski files suit (represented by Attorney Rettko) and obtains an emergency temporary restraining order from Judge Lamelas (sitting for Judge Martens) reinstating him to his captain position until the Civil Service Commission (Commission) could hear his complaint of civil service rule violations related to his layoff.
- 1/18/12 Rewolinski returned to work at captain rank working in HOC with correction officer duties.
- 2/9/12 Commission hears complaints and finds that all three captains' layoffs were contrary to Commission rules.
- 2/21/12 Goodlette/McKenzie case transferred to Judge Siefert.
- 2/21/12 Jaskulski dismisses his suit (retires).
- 3/8/12 Goodlette/McKenzie file motion for attorneys' fees and request for writ of mandamus to be restored to "captain level" duties.
- 3/21/12 Sheriff files motion to intervene and have Attorney Whitcomb represent him in Goodlette/McKenzie case.
- 3/26/12 Sheriff files suit against Commission.
- 3/27/12 Judge Siefert grants Sheriff's motions and grants Goodlette/McKenzie attorneys' fees, but does not rule on request for writ of mandamus to be restored to "captain level" duties.
- 4/5/12 Rewolinski files motion for attorneys' fees and request for writ of mandamus to be restored to "captain level" duties.
- 4/19/12 Sheriff files motion to intervene and have Attorney Whitcomb represent him in Rewolinski case.
- 5/24/12 Order for Judgment entered in Goodlette/McKenzie case against County for attorneys' fees of \$10,833.23 (attached).
- 6/14/12 Judge Martens denies attorneys' fees request in Rewolinski case, but does not rule on Rewolinski request for writ of mandamus to be restored to "captain level" duties.
- 7/20/12 Goodlette/McKenzie and Rewolinski cases consolidated before Judge Martens.
- 7/28/12 Cases assigned to Judge Noonan due to judicial rotation. Judge Noonan also has Sheriff's case against Commission.
- 2/15/13 Judge Noonan affirms Commission decision.
- 4/16/13 Sheriff informally agrees to re-assign captains to "captain level" duties.
- 5/6/13 Sheriff appeals Judge Noonan decision regarding Commission.
- 11/18/13 Sheriff requests dismissal of his appeal related to the Commission decision as part of the settlement of the Sheriff's attorneys' fees issue.

At the present time, the captains' requests that they should have been reinstated to "captain level" duties have not been decided and remain pending in the captains' cases in circuit court.

In addition to the matters set forth in the litigation above, the captains assert that the Sheriff's actions violated their civil rights, including their right to free speech. They allege the Sheriff's actions were retaliatory for their exercise of their civil rights. They threaten the possibility of an additional federal court action. The captains also have a right to appeal Judge Martens' denial of their request for attorneys' fees. The County and the Sheriff deny any alleged civil rights violations. The County has a potential appeal related to Judge Siefert's award of attorneys' fees. The parties dispute whether an award of attorneys' fees in these cases is legally permitted. Unless reversed on appeal, the \$10,833.23 judgment granted by Judge Siefert is accruing interest at the rate of 4.25% until paid. The parties also dispute whether the requested writ of mandamus is appropriate.

In lieu of continuing the litigation, and in lieu of potential additional litigation, the parties have reached this tentative settlement. Attorney Rettko has incurred approximately \$55,000 in attorneys' fees (at \$250 per hour) representing the three captains in the various lawsuits. This amount includes the fees in the judgment. The proposed settlement will pay Attorney Rettko a negotiated sum of \$24,000 in return for a complete dismissal and resolution of the captains' lawsuits, a satisfaction of the judgment for \$10,833.23 (approximately \$11,500 with interest to date) and a release of all potential employment claims by the three captains. This settlement would resolve all issues related to these captains' layoffs and reinstatements.

The settlement amount would be paid by Wisconsin County Mutual Insurance Corporation and applied to the County's deductible.

Encl.

cc: Kelly Bablitch
Amber Moreen
Jessica Janz-McKnight
Alexis Gassenhuber
Raisa Koltun