


INTEROFFICE COMMUNICATION  
COUNTY OF MILWAUKEE

DATE: August 18, 2016

TO: Milwaukee County Board Chairman Theodore Lipscomb  
Chair, Committee on Judiciary, Safety and General Services  
Chair, Committee on Finance, Personnel and Audit

FROM: Colleen Foley, Interim Corporation Counsel 

SUBJECT: Status update on pending litigation

The following is a list of some of the significant pending cases that may be of interest to the Committees. New information and additions to the list since the last committee meetings are noted in **bold**. However, our office is prepared to discuss any pending litigation or claim involving Milwaukee County, at your discretion.

1. *DC48 v. Milwaukee County (Rule of 75)*  
**Case No. 11-CV-16826 (Judge Rothstein issued May 27, 2016 decision against county on renewed motions for summary judgment holding that plaintiffs were not covered by terms of a CBA as used in Ordinance 11-15 for purposes of evaluating Rule of 75 eligibility; final order issued by circuit court on June 17, 2016; Order to stay execution of judgment issued on June 27, 2016; Notice of Appeal filed with Wisconsin Court of Appeals on July 29, 2016)**
2. *Trapp et al. v Milwaukee County et al.*  
Case No. 15-CV-0019 (Milw. County Circuit Court; stayed pending IRS approval of pension ordinance amendments)
3. *Wosinski et al. v. Advance Cast Stone et al. (O'Donnell Park)*  
**Case No. 11-CV-1003 (Jury Verdict; appeals filed by ACS and Liberty; County et al. response brief filed on 2/25/16; Attorney Michael Brennan of Gass Weber Mullins filed notice of appearance (along with Corporation Counsel) to Wisconsin Court of Appeals on August 1, 2016)**
4. *Christensen et al. v. Sullivan et al.* (jail population and health care)  
Case No. 96-CV-1835 (May 2016 status report on Jail/HOC following May 16, 2016 jail tour and May 18, 2016 HOC tour)
5. *Milwaukee Riverkeeper v. Milwaukee County, et al. & Nenn, et al. v. Milwaukee County Board of Supervisors* (Estabrook dam public nuisance case & declaratory judgment/injunction case) **Cases No. 11-CV-8784 & 16-CV-2268 (court found dam a nuisance and ordered repair or removal; 6/30/16 status conference; 8/12/16 hearing held at which court ruled**

no evidentiary hearing required to test viability of abatement issue; no special district required; 11/22/16, 3:00 p.m. hearing on public purpose doctrine; court otherwise stayed matter for further County Board determination and completion of 2017 budgetary process and related 12/22/16, 11:00 a.m. status conference)

6. *Nenn and Milwaukee Riverkeeper v. WDNR, et al.* (Judicial review of WDNR plan approval for county plans to repair dam) Case No. 16-CV-4669 (RK seeks judicial review of WDNR's Plan Approval; WDNR defending; county intervening; briefing schedule set (RK by 9/15/16; WDNR & county by 10/17/16; RK reply by 11/7/16); unless otherwise directed by court, case will be decided on record)
7. *Milwaukee Riverkeeper v. WDNR* (Estabrook Dam permit) Case No. 16-CV-1396 (filed 5/23/16 in Dane County, seeking judicial review of WDNR's environmental impact statement/permitting process; does not halt work toward repair remedy; stipulation by parties to change venue from Dane to Milwaukee County; Milwaukee County and City of Milwaukee are intervening parties)
8. *Nenn and Milwaukee Riverkeeper v. Milwaukee County Board of Supervisors* (open meetings) Case No. 15-CV-5131 (3/24/16 jury demand; August 31, 2016 pretrial conference; 9/29/16, 1:30 p.m. motion hearing on motion to compel)
9. *Midwest Development Corporation v. Milwaukee County* (Crystal Ridge) Case No. 12-CV-11071 (court dismissed both side's claims; Midwest filed appeal; County cross-appeal filed)
10. Froedtert Hospital petition to disturb burial sites – petition granted by State.
11. *Orlowski v. Milwaukee County* (2007 death of inmate in HOC) Case No. 13-C-994 (E.D. Wis. federal court; court granted County's motion for summary judgment on April 21, 2016. Plaintiffs appealed to 7<sup>th</sup> Circuit. Rule 33 mediation conference to be rescheduled from June 17, 2016 to new date.)
12. *Jane Doe v. Milwaukee County* (sexual assault by CO in jail) Case No. 14-CV-200 (E.D. Wis. federal court; County motion for partial summary judgment filed; jury trial September 12, 2016; March 25, 2016 decision allowing plaintiff to amend complaint to add class action allegation)
13. *Aikin v. Milwaukee County* (sex and retaliation discrimination) ERD Case Nos. 2006-01096; 2011-04458 (hearing October 27-30, 2015; post-hearing briefs filed in April)
14. *Johnson v. Milwaukee County et al.* (patient care at BHD)

- 14-CV-1408 (E.D. Wis. federal court) (discovery phase)
15. *Johnson v. Milwaukee County et al.* (2012 patient death at BHD) 16-CV-01043 (E.D. Wis. federal court) (complaint filed August 8, 2016)
  16. *MDSA & Sheriff Clarke v. Milwaukee County* (hiring deputies)  
Case No. 15-CV-786 (circuit court dismissed case; June 1, 2016 court of appeals decision affirming circuit court order granting Milwaukee County's motion to dismiss; petition for cert review filed with Wisconsin Supreme Court on June 23, 2016; county reply filed July 11, 2016)
  17. *Estate of James Perry v. Wenzel et al.* (death in booking room of jail)  
Case No. 12-C-664 (E.D. Wis. federal court; May 6, 2016 order granting county's motion for summary judgment and for sanctions; appeal filed by plaintiffs with 7<sup>th</sup> Circuit Court of Appeals; county brief due by 9/8/16)
  18. *Lipscomb and Milwaukee County Board of Supervisors v. Abele* (County Board and Executive authority) Case No. 2016-CV-2888 (Action filed April 15, 2016; Answer and Counterclaims filed on June 13, 2016; Scheduling Conference held August 11, 2016; amended counterclaim filed by CEX on 8/15/16; summary/declaratory judgment motions by 12/9/16; summary/declaratory judgment replies by 1/10/17; hearing on all motions for summary/declaratory judgment on 2/7/17 at 1:30 p.m.)
  19. *Voces de la Frontera, Inc. v. Clarke, L.C.* (public records claim) Case No. 2015CV2800 (June 15, 2016 Order from the Wisconsin Supreme Court granting petition for review; briefs filed by county on August 11, 2016; oral argument before Wisconsin Supreme Court scheduled for 11/3/16)
  20. *State v. Dennis Dietscher* (official misconduct) Case No. 2014CF3620 (Defendant pled guilty to accepting bribes and making false statements on 7/1/16; sentencing to occur on 9/29/16)