

INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE

DATE: September 28, 2018

TO: Theodore Lipscomb, Sr., Chair, Milwaukee County Board of Supervisors
Anthony Staskunas, Chair, Committee on Judiciary, Safety and General Services
James Schmitt, Chair, Committee on Finance and Audit

FROM: Paul D. Kuglitsch, Deputy Corporation Counsel PK

SUBJECT: Status Update on Pending Litigation¹

Civil Rights / Jail / HOC / BHD

	<u>Case Name</u>	<u>Case Number</u>	<u>Firm</u>	<u>Description</u>	<u>Case Status</u>
1	<i>Estate of Terrill Thomas v. Milwaukee County, et al.</i> (April 2016 inmate dehydration death)	E.D. Wis. 17-CV- 355 (lead case) E.D. Wis. 17-CV- 1128 (consolidated case)	Husch Blackwell; Leib Knott Gaynor, LLC; Crivello Carlson; Banks & Associates	Section 1983 - Failure to train, supervise, and monitor, negligence, failure to provide adequate medical and mental health care, deliberate indifference, and failure to reasonably accommodate mental illness	<ul style="list-style-type: none"> • 03/09/2017: Complaint filed in district court, 17-CV-355; • 12/22/2017: County filed a third-party complaint for declaratory judgement against WCMIC re ins coverage; • 02/12/2018: DA's office issued charges against 3 former jail staff and Armor Correctional Health Services, Inc. as a corporate entity in circuit court. • 03/07/2018: Parties filed motions to stay proceedings pending criminal matters against the 3 former jail employees • 04/20/2018: County filed motion for summary judgment as it relates to WCMIC coverage; WCMIC opposed, arguing criminal and/or deliberate wrongdoing excludes coverage. • Case on hold while court considers arguments on req for stay

¹ Please note: cases listed on previous reports that include updates have text that appears in bold. New cases, previously not listed on the report appear entirely unbolded and are starred (*).

	<u>Case Name</u>	<u>Case Number</u>	<u>Firm</u>	<u>Description</u>	<u>Case Status</u>
2	<i>Christensen, et al. v. Sullivan, et al.</i>	96-CV-1835	Husch Blackwell	Jail population and health care	<ul style="list-style-type: none"> 03/29/2018: Report by National Institute of Corrections (NIC) issued – Sheriff’s Office addressed 15 of 17 recommendations and remaining 2 recommendations being addressed – 1) staffing analysis to be completed with NIC direction and by an outside consultant and 2) policy review and update 9/24/18: mediation with Armor, ACLU, Legal Aid Society before Crooks 10/24/2018: Hearing scheduled wherein Dr. Shanksy will testify.
3	<i>Estate of Brandon Johnson v. Milwaukee County, et al.</i> (Patient death at BHD)	E.D. Wis. 16-CV-1043	Husch Blackwell	Section 1983 - Failure to train, discipline and provide medical attention, conditions of confinement, state-created danger, and <i>Monell</i> claims.	<ul style="list-style-type: none"> 08/08/2016: Complaint filed 06/21/2018: Settlement negotiated and releases signed 07/03/2018: Stipulation for dismissal of County filed with the Court 09/06/2018: Order signed dismissing County defendants w/ prejudice Litigation as to Dr. Young and ProAssurance remains ongoing
4	<i>Estate of Michael Madden v. Milwaukee County, et al.</i> (September 2016 inmate death)	E.D. Wis. 18-CV-758	Crivello Carlson	Section 1983 – Deliberate indifference, wrongful death, negligence, excessive force and <i>Monell</i> claim.	<ul style="list-style-type: none"> 05/17/2018: Mother of deceased filed complaint; 07/17/2018: Motion to dismiss Sheriff for lack of personal involvement filed and pending ruling. If granted, a <i>Monell</i> claim against the County, excessive force claims against a corrections officer, and deliberate indifference claims against Armor staff will remain.
5	<i>Estate of Terry Williams v. Milwaukee County, et al.</i> (June 2017 death at lakefront)	E.D. Wis. 18-CV-1222	Crivello Carlson	Section 1983 – Unlawful arrest, denial of due process, deficient hiring/continued employment policy, failure to train and discipline	<ul style="list-style-type: none"> 08/09/2018: Complaint filed against County, Sheriff, and Deputy Sheriff. No parties have been served yet, so answer not yet due.

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6	<i>Estate of Kristine Fiebrink v. Milwaukee County, et al.</i> (August 2016 inmate death)	E.D. Wis. 18-CV-832	Crivello Carlson	Section 1983 – Inadequate and unconstitutional health care, negligence, and wrongful death	<ul style="list-style-type: none"> 05/31/2018: Complaint filed 08/28/2018: Answer and Motion for Partial Judgment on the Pleadings filed re Sheriff and any Monell claims filed-matter 09/11/2018: Armor moved to stay and to dismiss Monell and loss of society and companionship claims 09/13/2018: Court denied Armor’s motion to stay remaining motions are pending a ruling 09/24/2018: Dr. Horton moved for judgment on the pleadings, pending a ruling 02/22/2019: Dispositive motion deadline 05/07/2019: Pre-trial conference scheduled 05/13/2019: Jury trial scheduled
7	<i>Estate of James Perry v. Wenzel, et al.</i> (September 2010 death in booking room of Jail)	E.D. Wis. 12-CV-664 7th Cir. 16-2127	Husch Blackwell	Section 1983 – Deliberate indifference; negligence; cruel and unusual punishment; wrongful death; and <i>Monell</i> claims	<ul style="list-style-type: none"> 06/28/2012: Complaint filed; 05/06/2016: Order granting county’s motion for summary judgment and for sanctions; 05/13/2016: Appeal filed by plaintiffs with 7th Circuit Court of Appeals; 01/05/2017: Oral argument before 7th Circuit; 09/19/2017: 7th Circuit ruling reversing summary judgment as to qualified immunity for County nurses and for re-assessment of sanctions via remand to federal court for the Eastern District; 12/15/2017: Petition for <i>certiorari</i> review to United States Supreme Court; denied on 4/2/18, so case returned to district court for adjudication; 07/02/2018: Trial adjourned for mediation with Judge Callahan to narrow legal issues and witness list. Mediation resulted in limited success, agreeing only to authenticity of most exhibits to be offered at trial. 08/08/2018: Case referred to Judge Stadtmueller for pretrial and trial, dates of which have not yet been set.

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8	<i>Estate of Antonio Cowser v. Milwaukee County, et al.</i> (2012 inmate dehydration death)	E.D. Wis. 17-CV-866	Husch Blackwell	Section 1983 - Inadequate and unconstitutional health and psychological care	<ul style="list-style-type: none"> • 06/21/2017: Complaint filed • 10/12/2017: County filed motion to dismiss arguing the matter is time-barred • 09/12/2018: Order granting County's motion to dismiss regarding loss of society/companionship, but denying statute of limitations defense find material facts in dispute • 09/26/2018: Answer filed • 10/26/2018: Scheduling conference set
9	<i>Estate of Laliah Swayzer v. Milwaukee County, et al.</i> (2016 death of baby born to inmate)	E.D. Wis. 16-CV-1703	Leib Knott Gaynor	Section 1983 - Failure to properly train, supervise, and formulate investigative processes	<ul style="list-style-type: none"> • 12/23/2016: Complaint filed • 12/31/2018: Discovery closes • 03/15/2019: Dispositive motion deadline

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10	<i>Shonda Martin v. Milwaukee County, et al.</i> (Sexual assault of inmate by CO in jail)	E.D. Wis. 14-CV-200; 7th Cir. 17-3216; 7th Cir. 18-1060	Husch Blackwell	Section 1983 – Due process, misconduct, and failure to intervene	<ul style="list-style-type: none"> • 02/21/2014: Complaint filed • 06/05-06/07/17: Jury trial and verdict that CO acted within scope of employment with compensables awarded at \$1.7 million and punitives at \$5 million; jury did not award damages for jail’s shackling policy • 07/31/2017: Motions filed by County for reconsideration of verdict and to challenge WCMIC’s dismissal from suit • 09/28/2017: Order denying motions by County for reconsideration and cross-appeals on insurance coverage issue with commentary that WCMIC dismissal as to defendant Thicklen only; • 10/25/2017: County filed appeal to the 7th Circuit Court of Appeals on scope of employment issue • 12/15/2017: County filed motion to stay execution of judgment with district court • 01/23/2018: District court denied motion to stay execution of judgment • 05/24/2018: Oral argument before 7th Circuit • 07/25/2018: Order entered in district court as to the stipulation² to stay the execution of judgment until the 7th Circuit issues a decision • 09/14/2018: 7th Circuit decision reversing and vacating the judgment against the County for indemnification. Remanded back to district court to enter judgment for the County • 10/31/2018: Martin’s deadline to petition for rehearing

² This stipulation resulted in the payment of \$50,000.00 from the County to the Plaintiff.

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11	<i>Lloyd Johnson v. Milwaukee County, et al.</i> (Patient care at BHD)	E.D. Wis. 14-cv-1408; 7th Cir. 18-1321; 18-CV-1322	Husch Blackwell	Section 1983 – Inadequate mental health care and treatment, negligence, cruel and unusual punishment, and <i>Monell</i> claims	<ul style="list-style-type: none"> 11/05/2014: Complaint filed 01/18/2018: Court dismissed case, granting County’s summary judgment motion 02/14/2018: Plaintiff filed appeal with the 7th Circuit 02/14/2018: Plaintiff also filed lawsuit in state court on negligence claims where there is a \$50,000 statutory cap for damages 04/09/2018: Mandatory 7th Circuit mediation occurred, and is ongoing; any mediated resolution would encompass both the federal and state court claims 01/07/2019: Status conference set in state case \$50,000 statutory cap on state negligence claim
12	<i>Rebecca Terry v. Milwaukee County, et al.</i> (delivery of baby while shackled)	E.D. Wis. 17-CV-1112	Leib Knott Gaynor	Section 1983 – Deliberate indifference, supervisory liability, failure to intervene, 14 th amendment due process violations, and state law <i>respondeat superior</i> claims against Armor in particular	<ul style="list-style-type: none"> 08/23/2017: Plaintiff filed suit 08/31/2018: Armor and County moved for summary judgment, pending decision 12/03/2018: Jury trial scheduled in the event the dispositive motions are denied
13	<i>Melissa Hall v. Milwaukee County, et al.</i> (delivery of baby while shackled)	E.D. Wis. 17-CV-379	Husch Blackwell	Section 1983 – Class action <i>Monell</i> claim;	<ul style="list-style-type: none"> 04/11/2017: Amended Complaint filed 12/10/2019: County’s experts due 02/11/2019: dispositive motion deadline Likely to be consolidated with <i>Sandra Robles v. County</i>
14	<i>*Sandra Robles v. County of Milwaukee, et al.</i> (delivery of baby while shackled)	E.D. Wis. 18-CV-1328	Husch Blackwell	Section 1983 - Due Process and <i>Monell</i> claim	<ul style="list-style-type: none"> 08/28/2018: Complaint filed Likely to be consolidated with <i>Melissa Hall v. Milwaukee County, et al.</i>

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15	<i>Kevin Robinson v. Green, et al.</i>	Pre-screened civil rights lawsuit	OCC	Section 1983 – sexual misconduct	<ul style="list-style-type: none"> 05/18/2018: Former Milwaukee County Jail inmate filed complaint against female corrections officer alleging sexual misconduct The court has not yet screened this complaint, so no response is due at this time.
16	<i>Jordan Williams v. Milwaukee County, et al.</i>	E.D. Wis. 18-CV-1045	Leib, Knott, Gaynor	Section 1983 – deliberate indifference; <i>Monell</i> claims	<ul style="list-style-type: none"> 07/09/2018: complaint filed 08/15/2018: answer filed 03/01/2019: Dispositive motion deadline 07/02/2019: Final pre-trial conference set 07/08/2019: Jury trial scheduled
17	<i>Robert Tatum v. Clarke, et al.</i>	E.D. Wis. 11-CV-1131	Crivello Carlson	Section 1983 – Excessive force, due process, deliberate indifference, emotional distress, and RLUIPA federal claims, and negligence, invasion of privacy and assault & battery state claims	<ul style="list-style-type: none"> 12/13/2011: complaint filed 07/23/2018: third summary judgment motion filed
18	<i>Adam Locke v. Schmidt, et al.</i>	E.D. Wis. 18-CV-443	OCC	Section 1983 – conditions of confinement; <i>Monell</i> claims	<ul style="list-style-type: none"> 03/20/2018: Complaint filed 12/15/2018: Discovery deadline 02/01/2019: Dispositive motion deadline
19	<i>Karl Wright v. Brito, et al.</i>	E.D. Wis. 17-CV-64	OCC	Section 1983 – excessive force and sexual assault	<ul style="list-style-type: none"> 01/17/2017: Complaint filed 05/21/2018: County filed summary judgment – pending court ruling
20	<i>*Nathan Wingo v. Williams, et al.</i>	E.D. Wis. 18-CV-1148	OCC	Section 1983 – excessive force	<ul style="list-style-type: none"> 07/25/2018: Complaint filed 11/14/2018: Answer due
21	<i>*Marcus Wade v. Payne, et al.</i>	E.D. Wis. 18-CV-110	OCC	Section 1983 – deliberate indifference	<ul style="list-style-type: none"> 01/22/2018: Complaint filed 10/31/2018: Answer due
22	<i>Mark Girtler v. Wolf</i>	E.D. Wis. 15-CV-841	OCC	Section 1983 – excessive force	<ul style="list-style-type: none"> 07/13/2015: Complaint filed 03/04/2019: Jury trial

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23	<i>Lee Bennett v. Sobek, et al.</i>	E.D. Wis. 16-CV-1403	OCC	Section 1983 – excessive force	<ul style="list-style-type: none"> 10/19/2016: Complaint filed 10/02/2017: County filed summary judgment 09/26/2018: Court granted summary judgment despite numerous factual disputes, concluding “that because all of the other evidence in the case indicates that the beating did not occur, including several contemporaneous medical records and Plaintiff’s own failure to complain at the time, no reasonable jury could believe his present theory.”
24	<i>Ennis Brown v. Garth-Dickens, et al.</i>	E.D. Wis. 16-CV-241	OCC	Section 1983 – six different, unrelated claims	<ul style="list-style-type: none"> 02/29/2016: Complaint filed 05/07/2018: County filed motion to dismiss based on misjoinder – pending court decision
25	<i>Earl Nelson v. Arthur Okoro</i>	E.D. Wis. 18-CV-183	OCC	Section 1983 – conditions of confinement	<ul style="list-style-type: none"> 02/05/2018: Complaint filed 10/12/2018: Dispositive motion deadline
26	<i>*Jamar Hicks v. Wilborn</i>	E.D. Wis. 18-CV-388	OCC	Section 1983 – conditions of confinement	<ul style="list-style-type: none"> 03/13/2018: Complaint filed 10/08/2018: Answer due
27	<i>Marcelus Goodwin v. Montano, et al.</i>	E.D. Wis. 17-CV-997	OCC	Section 1983 – excessive force	<ul style="list-style-type: none"> 07/19/2017: Complaint filed 06/04/2018: County filed motion for summary judgment - pending court ruling
28	<i>Dante Ashley v. Jones, et al.</i>	E.D. Wis. 17-CV-1785	OCC	Section 1983 – failure to intervene	<ul style="list-style-type: none"> 12/21/2017: Complaint filed 11/20/2018: Dispositive motion deadline
29	<i>Antonio Smith v. Turner, et al.</i>	E.D. Wis. 17-CV-668	OCC	Section 1983 – excessive force; failure to intervene	<ul style="list-style-type: none"> 05/11/2017: Complaint filed 01/11/2019: Dispositive motion deadline
30	<i>Jason Farr v. Staat, et al.</i>	E.D. Wis. 17-CV-1341	Crivello Carlson	Section 1983 – excessive force	<ul style="list-style-type: none"> 09/29/2017: Complaint filed 12/30/2018: Dispositive motion deadline
31	<i>Brent Ford Taylor v. Armor, et al.</i>	E.D. Wis. 17-CV-1519	OCC	Section 1983 – deliberate indifference	<ul style="list-style-type: none"> 11/03/2017: Complaint filed 11/28/2018: Dispositive motion deadline

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32	<i>Alfredo Garcia v. Aikens, et al.</i>	E.D. Wis. 17-CV-1075	Crivello Carlson	Section 1983 – deliberate indifference	<ul style="list-style-type: none"> 08/04/2017: Complaint filed 04/20/2018: County filed summary judgment - pending court ruling
33	<i>Octavius Jordan v. Hafemann, et a.</i>	E.D. Wis. 14-CV-987 7th Cir. 16-1820	Crivello Carlson	Section 1983 – conditions of confinement	<ul style="list-style-type: none"> 08/12/2014: Complaint filed 03/15/2016: Summary judgment granted as to County and Armor 04/06/2016: Notice of appeal filed 02/27/2017: Remanded by 7th Circuit as to County defendants only, which added for the first time a <i>Monell</i> claim 7/9/2018: Summary judgment as to <i>Monell</i> claim filed – pending court decision Plaintiff’s court-appointed counsel is Reinhart Boerner Van Deuren s.c.
34	<i>Michael Winston v. Clarke, et al.</i>	E.D. Wis. 15-CV-1398 7th Cir. 17-3009	Crivello Carlson	Section 1983 – deliberate indifference and conditions of confinement	<ul style="list-style-type: none"> 11/23/2015: Complaint filed 08/07/2018: 7th circuit oral argument 08/17/2018: 7th Circuit vacated the judgment and remanded case for a Pavey hearing and further proceedings Plaintiff’s court-appointed counsel is Foley and Lardner.
35	<i>Jonathan Wilke v. Behrendt</i>	E.D. Wis. 17-CV-1639	OCC	Section 1983 – RLUIPA/1st Amendment religion claims	<ul style="list-style-type: none"> 11/27/2017: Complaint filed; 10/26/2018: Dispositive motion deadline
36	<i>Rod Steffen v. Village of East Troy, et al.</i>	E.D. Wis. 17-CV-22	OCC	Section 1983 – wrongful arrest	<ul style="list-style-type: none"> 01/05/2017: Complaint filed; 01/15/2019: Dispositive motion deadline.
37	<i>Johnathan Wilke v. Montano</i>	E.D. Wis. 17-CV-1640	OCC	Section 1983 – due process	<ul style="list-style-type: none"> 11/27/2017: Complaint filed 09/14/2018: Court denied plaintiff’s motion to certify his case to a class action 09/14/2018: Case stayed pending resolution of his related, criminal matter

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38	<i>Michael Cooper v. Haw, et al.</i>	E.D. Wis. 17-CV-1461	OCC	Section 1983 – due process	<ul style="list-style-type: none"> 10/25/2017: Complaint filed 06/14/2018: County filed summary judgment – pending court decision
39	<i>James McCoy v. Hannah, et al.</i>	E.D. Wis. 17-CV-1450	OCC	Section 1983 – due process	<ul style="list-style-type: none"> 10/23/2017: Complaint filed 09/17/2018: Answer filed, pending scheduling order
40	<i>Rondale Tenner v. Jackson, et al.</i>	E.D. Wis. 18-CV-232	OCC	Section 1983 – conditions of confinement	<ul style="list-style-type: none"> 02/14/2018: Complaint filed 10/01/2018: Dispositive motion deadline
41	<i>Robert Clark v. Milwaukee County</i>	E.D. Wis. 18-CV-503	Leib Knott Gaynor LLC	Section 1983 – due process	<ul style="list-style-type: none"> 03/30/2018: BHD civil rights complaint filed 08/07/2018: Motion to dismiss without prejudice granted 08/21/2018: Amended complaint filed 09/17/2018: County filed motion to dismiss, pending decision
42	<i>Markus Evans v. Schmidt, et al.</i>	E.D. Wis. 17-CV-1133	OCC	Section 1983 – conditions of confinement	<ul style="list-style-type: none"> Case open for discovery only so Plaintiff can identify John Does 05/01/2018: Second amended complaint filed - pending screening by the Court
43	<i>Bobby Ryan v. Schmidt, et al.</i>	E.D. Wis. 17-CV-1156	OCC	Section 1983 – deliberate indifference	<ul style="list-style-type: none"> 08/23/2017: Complaint filed 09/12/2018: County moved to dismiss for failure to prosecute.
44	<i>Ricky Harris v. Schmidt, et al.</i>	E.D. Wis. 18-CV-813	OCC	Section 1983 – illegal strip search	<ul style="list-style-type: none"> 05/25/2018: Complaint filed 09/14/2018: Case screened, substituting names for previous John Doe defendants 11/13/2018: Answer due
45	<i>Dominique Heaggan-Brown v. Milwaukee County, et al.</i> (former MPD officer involved in Sterling Brown shooting, later convicted of sexual assault)	Pre-screened civil rights lawsuit	OCC	Section 1983 – deliberate indifference, due process and conditions of confinement	<ul style="list-style-type: none"> 07/06/2018: Complaint filed <i>pro se</i> 08/29/2018: Complaint withdrawn by plaintiff

Contract Litigation

	<u>Case Name</u>	<u>Case Number</u>	<u>Firm</u>	<u>Description</u>	<u>Case Status</u>
46	<i>Dynamis Properties, LLC, et al. v. Milwaukee County</i>	16-CV-1379	Crivello Carlson	Breach of Contract - Parking lot near Bigg's Roadhouse	<ul style="list-style-type: none"> • 02/18/2016: Complaint filed against County related to a parking lot lease in effect from 2006 to 2015. • The lease included an “air space” provision that permitted the County and Wisconsin DOT the right of entry for maintenance and construction of the freeway, which was located next to and above the parking lot. • In 2012, construction equipment appeared in the parking lot and remained there until the DOT purchased the restaurant from Dynamis in 2015. • Dynamis seeks the \$25,568 in damages, as well as \$465,537.41 in alleged lost past business. • 2/25/2019 jury trial scheduled.
47	<i>Milwaukee County v. UWM Real Estate Foundation, Inc., et al.</i>	18-CV-339	OCC	Breach of Contract – Prevailing wage	<ul style="list-style-type: none"> • 01/11/2018: County filed complaint against UWM Real Estate Foundation, Inc., UWM Innovation Park, LLC, Tosa Hotels, LLC and Core Construction Indiana LLC for failure to pay proper prevailing wage for Residence Inn development project at the UWM Innovation Campus • 07/31/2018: Settlement reached • 8/17/2018: Dismissed pursuant to stipulation

Personal Injury

	<u>Case Name</u>	<u>Case Number</u>	<u>Firm</u>	<u>Description</u>	<u>Case Status</u>
48	<i>Harold Mehlberg v. Milwaukee County, et al.</i>	17-CV-1500	OCC	Highway injury involving deputy	<ul style="list-style-type: none"> • 02/21/2017: Complaint filed • 09/04/2018: Summary judgment denied, whether negligence occurred to be determined by a jury • 01/14/2019: Final pre-trial • \$250,000 statutory cap
49	<i>Laura Skoff v. Milwaukee County, et al.</i>	17-CV-949 (Waukesha County)	OCC	Zoo injury	<ul style="list-style-type: none"> • 06/06/2017: Complaint filed • 09/13/2018: Summary Judgment granted in favor of the County
50	<i>Naythan Schwab v. Milwaukee County</i>	16-CV-4218 16-AP-1717	Leib, Knott and Gaynor	Slip and fall in the jail	<ul style="list-style-type: none"> • 03/18/2016: Complaint filed • 09/27/2018: Dispositive motion deadline • 10/22/2018: Mediation scheduled • \$50,000 statutory cap
51	<i>Jerome Gates v. Milwaukee County, et al.</i>	18-CV-441	OCC	Highway auto accident with snow plow	<ul style="list-style-type: none"> • 01/16/2018: Complaint filed • 12/14/2018: Dispositive motion deadline • \$25,000 in special damages; \$250,000 statutory cap
52	<i>*Bernell Selders v. Clinicare Corp., et al.</i>	18-CV-7129	OCC		<ul style="list-style-type: none"> • 08/30/2018: Complaint filed • 10/15/2018: Answer due • \$50,000 statutory cap

Employment/Human Resources Matters³

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53	<i>Dameion Perkins v. Milwaukee County, et al.</i> (Refusal to hire due to status as “Dontre Hamilton’s brother”)	E.D. Wis. 18-CV-179	Crivello Carlson	First Amendment – Free Speech	<ul style="list-style-type: none"> • 02/01/2018: Complaint filed • 04/04/2018: Order granting County’s motion for judgment on the pleadings as it relates to Equal Protection clause under 14th Amendment • 09/14/2018: County moved for summary judgment, pending decision • 01/22/2019: Trial scheduled
54	<i>Latoria Armstrong v. Milwaukee County</i>	E.D. Wis. 18-CV-7	OCC	FLSA – expression of breast milk	<ul style="list-style-type: none"> • 01/02/2018: Complaint filed • 10/04/2018: Mediation scheduled
55	<i>Douglas Felde v. Milwaukee County</i>	E.D. Wis. 18-CV-84	Mallery & Zimmerman	Title VII sex discrimination; retaliation	<ul style="list-style-type: none"> • 01/16/2018: Complaint filed • 07/05/2018: County filed motion to dismiss – pending court ruling • 08/29/2018: Plaintiff filed expedited motion for leave to file a second amended complaint; County opposed on 9/5/18, pending ruling
56	<i>Kristi Kendrix v. Milwaukee County</i>	E.D. Wis. 17-CV-1391	Lindner and Marsack	ADA – Failure to Accommodate	<ul style="list-style-type: none"> • 10/12/2017: complaint filed • 08/31/2018: discovery closes • 08/28/2018: Plaintiff’s counsel filed emergency motion to withdraw as counsel—court granted on 9/14 • 09/20/2018: County moved for summary judgment • 10/9/2018: Status conference scheduled re: withdrawal of counsel

³ In addition to employment matters filed in federal court, numerous complaints filed with the Equal Employment Opportunity Commission and the State of Wisconsin Department of Workforce Development – Equal Rights Division are pending. Currently, the OCC and outside counsel are, respectively, handling 21 and 12 of these cases. In addition, the OCC handles many matters before the Civil Service Commission and the Personnel Review Board, the number of which fluctuates significantly from month-to-month.

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57	<i>Susan Born v. Milwaukee County</i>	E.D. Wis. 17-CV-1783	OCC	ADA – Termination; FLSA	<ul style="list-style-type: none"> • 08/02/2018: Second amended complaint filed • 08/22/2018: Answer and motion or partial dismissal filed • 09/19/2018: Motion for partial dismissal granted • 12/07/2018: Dispositive motion deadline • 02/11/2019: Jury trial scheduled
58	<i>State of Wisconsin v. Milwaukee County</i>	17-CX-7; 17-CX-8	OCC	Complex forfeitures - violations of Wis. Stat. § 103.13 requests for personnel files	<ul style="list-style-type: none"> • 08/15/2017: Complaints filed • Settlement reached, but pending further discussions with Attorney General before remittance

Pension Litigation⁴

	<u>Case Name</u>	<u>Case Number</u>	<u>Firm</u>	<u>Description</u>	<u>Case Status</u>
59	<i>Milwaukee District Council 48 v. Milwaukee County</i>	11-CV-16826; 16-AP-1525	OCC and Lindner & Marsack	Rule of 75	<ul style="list-style-type: none"> • Dispute over whether county ordinances passed in wake of Act 10 granted subset of AFSCME employees Rule of 75 benefit for which they had previously been ineligible. • County lost in trial court and at Court of Appeals, matter is now being considered by the WI Supreme Court. • 09/24/2018: Supreme Court heard oral arguments, decision pending.
60	<i>Susan L. Baldwin, et al. v. Milwaukee County, et al.</i>	15-CV-9354 Court of Appeals No. 16-AP-2380	OCC, Anne Kearney, Polsinelli, and Lindner & Marsack Reinhart (Trial Court and Court of Appeals levels)	Purchase of service credit enhanced benefit by six figures	<ul style="list-style-type: none"> • Former employee Susan Baldwin purchased service credit from summer job in 1969 that enhanced her benefits by six figures when she retired in 2003. • RPS subsequently determined purchase was permitted in error. Baldwin appealed determination to recoup overpayments; lost at Pension Board and before circuit court. Prevailed at Court of Appeals. • 09/14/2018: County and ERS filed appellate briefs • 10/08/2018: Baldwin’s response brief due • 10/18/18: County and ERS reply briefs due • Settlement possibility broached by plaintiff
61	<i>James Kubicek LCSW v. Milwaukee County</i>	16-CV-1031	Lindner & Marsack	Discharge of employee who became probationary pool employee to obtain Rule of 75 benefit while full time employee elsewhere.	<ul style="list-style-type: none"> • Kubicek sought to continue as a pool employee to gain a Rule of 75 benefit after taking a full-time position elsewhere. Jury trial on wrongful discharge and promissory estoppel held July/August 2018; • 08/02/2018: Verdict favorable to Kubicek • 08/20/2018: Post-verdict motions filed • 10/04/2018: Hearing on post-verdict motions • Settlement appears likely

⁴ In addition to pension matters filed in state and federal court, numerous appeals have been filed with the Pension Board. The OCC and outside counsel, namely Reinhart, collaborate to prepare appeal materials for the Pension Board’s review.

	<u>Case Name</u>	<u>Case Number</u>	<u>Firm</u>	<u>Description</u>	<u>Case Status</u>
62	<i>Tietjen v. Milwaukee County and ERS</i>	12-CV-11616; 13-CV-3154 17-AP-2325	Lindner & Marsack; Reinhart Boerner Van Deuren s.c.	Eligibility to receive a normal retirement benefit and a backDROP benefit after termination.	<ul style="list-style-type: none"> Two cases, recently consolidated but remain stayed pending outcome of underlying employment litigation before the Court of Appeals. Cases hinge on whether Tietjen (now deceased) was terminated and thus ineligible for a normal retirement and backDROP because he did not retire from active service.
63	<i>Dennis Dietscher v. Pension Board of the Employees' Retirement System</i>	17-CV-4717 Court of Appeals No. 18-AP-518	OCC; Polsinelli	Revocation of pension benefits following misconduct in office conviction	<ul style="list-style-type: none"> Dispute over whether Pension Board properly denied Dietscher his pension because of crimes he committed while a County employee. Dietscher prevailed in circuit court and the matter is now awaiting a decision in the Court of Appeals.
64	<i>Jennifer Aleman v. Employees' Retirement System of the County of Milwaukee</i>	18-CV-6291	OCC	Offset of worker's compensation benefits from survivor pension benefits	<ul style="list-style-type: none"> Mandamus action to stop ongoing recoupment of overpayments to Jennifer Aleman, the widow of Deputy Sergio Aleman. The pension survivor benefits received by Mrs. Aleman should have been offset by worker's compensation benefits that she was simultaneously receiving; however, no offset was taken until 2017, resulting in an overpayment of approximately \$140,000. 09/18/2018: Mandamus action dismissed on the record, pending written decision 10/30/2018: Hearing as to breach of fiduciary duty claim
65	<i>Willie Watkins v. Pension Board</i>	18-CV-1839	OCC	Ineligibility for City-County reciprocity provisions and retirement under the County's "Rule of 75" due to County employment commencing after cut-off date	<ul style="list-style-type: none"> <i>Certiorari</i> review of the Pension Board's decision to deny Mr. Watkins' appeal regarding the "Rule of 75." Watkins maintains that his prior City of Milwaukee employment date qualifies him for the Rule of 75, even though he did not start working for the County until after the applicable cut-off date. 09/19/2018: Certiorari petition denied and Pension Board decision upheld

	<u>Case Name</u>	<u>Case Number</u>	<u>Firm</u>	<u>Description</u>	<u>Case Status</u>
66	<i>Kevin Walker, et al. v. Milwaukee County, et al.</i>	15-CV-6288	Lindner & Marsack; Reinhart Boerner Van Deuren s.c.	Improperly paid survivorship benefits	<ul style="list-style-type: none"> Dispute over survivor benefits incorrectly paid to grandchildren of deceased County employee. Only claims that survived relate to open records requests; remaining claims dismissed. Defendants have filed dispositive motions in open records matter.
67	<i>Carol Couturier v. Pension Board of the Employees' Retirement System of Milwaukee County</i>	17-CV-11353 18-AP-1351	OCC	Improperly paid beneficiary benefits requiring recoupment.	<ul style="list-style-type: none"> Overpayment (approx. \$18K) to beneficiary of deceased County employee was discovered. Beneficiary disputes ERS's ability to recoup overpayment based on six-year contract SOL. Pension Board denied appeal; was affirmed in circuit court. 07/16/2018: Plaintiff appealed to Court of Appeals 09/17/2018: Plaintiff filed appellate brief 10/17/2018: ERS response brief due
68	<i>Michael Hoffmann v. Milwaukee County</i>	E.D. Wis. 17-CV-524; Milwaukee County Circuit Court Case No. 17-CV-11634	OCC	Incomplete purchase of prior service credit	<ul style="list-style-type: none"> Dispute over incomplete purchase of approx. 3 pension service credits. Proceedings in both state and federal court. 05/10/2017: County moved to dismiss federal action, decision pending 01/31/2019: Discovery closes in state action 03/19/2019: Pre-trial conference in state action

Miscellaneous Litigation

	<u>Case Name</u>	<u>Case Number</u>	<u>Firm</u>	<u>Description</u>	<u>Case Status</u>
69	<i>*Milwaukee County v. Amerisourcebergen Drug Corp, et al.</i> (Opioid Litigation)	E.D. Wis. 18-CV-403 (Transferred case) 17-MD-2804 (Lead MDL Case)	Mallery & Zimmerman, et al.	Public Nuisance, RICO, Deceptive Trade Practices, Negligence, Negligent Misrepresentation, Negligence per se, Fraud, Fraudulent Misrepresentation, Unjust enrichment	<ul style="list-style-type: none"> • 03/14/2018: Complaint filed • 04/11/2018: Transferred to N.D. Ohio for inclusion in Multi-District Litigation Case No. 2804 • 09/26/18: Plaintiff conference in Chicago • 12/17/2018: Discovery responses from the County are due
70	<i>Milwaukee Riverkeeper, et al. v. Milwaukee County, et al.</i>	11-CV-8784 (lead case) 16-CV-2268 (consolidated case)	OCC; Crivello Carlson as to class action	Miscellaneous Litigation: Estabrook dam public nuisance and declaratory judgment, injunction	<ul style="list-style-type: none"> • 06/01/2011: Complaint filed • 05/24/2012: Court found dam a nuisance and ordered repair or removal—County ultimately opted for removal • 11/22/2016: Hearings held on public purpose doctrine and status of rezoning by City of Milwaukee and authority for CEX to sell parcel to MMSD • 09/05/2018: Dismissed so parties may pursue class action
71	<i>In the Matter of the Burial Site Disturbance Permit Application of Froedtert Hospital</i>	State of Wisconsin – Division of Hearings and Appeals Case No. SHS-13-0001	OCC	Miscellaneous Litigation	<ul style="list-style-type: none"> • Petition granted by the State

Claims That Have Yet to Be Filed in Court

	<u>Case Name</u>	<u>Case Number</u>	<u>Firm</u>	<u>Description</u>	<u>Case Status</u>
72	<i>Estate of Christopher Weber</i>	Notice of Claim	OCC	12/19/2016 vehicular death on Hoan Bridge	<ul style="list-style-type: none"> 04/13/2017: Notice of claim filed concerning allegations of breach of duty related to snow accumulation/removal under County contract with State to maintain roadway, clear snow from shoulder, etc.
73	<i>Estate of Jose L. Torres, Jr.</i>	Notice of Claim	OCC	10/27/2017 inmate death	<ul style="list-style-type: none"> 02/23/2018: Notice of claim filed concerning claims against Milwaukee County and Armor Correctional Health Services, Inc. for inadequate medical care and staffing.
74	<i>Estate of Clarence Wilson, Jr.</i>	Notice of Claim	OCC	08/29/2017 inmate death	<ul style="list-style-type: none"> 12/22/2017: Notice of claim filed concerning claims against Milwaukee County and Armor Correctional Health Services, Inc. for deliberate indifference to serious medical needs
75	<i>Jennifer Jawson and her deceased child</i>	Notice of Claim	OCC	12/10/2016 stillborn birth by inmate	<ul style="list-style-type: none"> 04/11/2017: Notice of claim filed concerning allegations of deliberate indifference to medical need claims regarding Jail's and Armor's alleged failures to deliver inmate to methodone clinic, alleged failure to provide medical care for cramping, alleged administration of Tylenol 3, and ultimate still born birth of child on 12/10/16.
76	<i>*Brian Kreuzinger, et al.</i>	Notice of Claim	OCC	Class action regarding Estabrook dam	<ul style="list-style-type: none"> 07/09/2018: This is the follow-up companion case to the <i>Riverkeeper</i> case noted above. Damages will likely be for diminution in property value due to the demolition of the dam.
77	<i>Paula McEwen</i>	Notice of Claim	OCC	06/11/2017 passenger of vehicle involved in lakefront shooting	<ul style="list-style-type: none"> 10/05/2017: Notice of claim filed by passenger of the vehicle driven by Terry Williams. Mr. Williams fled a traffic stop on 6/11/17 on N. Lincoln Memorial Dr. Mr. Williams was ultimately shot and killed by a deputy sheriff. Ms. McEwen was also shot and injured by said deputy.