

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MILWAUKEE COUNTY,
EMPLOYEE'S RETIREMENT SYSTEM
OF THE COUNTY OF MILWAUKEE, and
PENSION BOARD, EMPLOYEE'S RETIREMENT
SYSTEM OF THE COUNTY OF MILWAUKEE,

Plaintiffs,

v.

Case No. 2:06-cv-00372-CNC
Hon. Charles N. Clevert, Jr.

MERCER HUMAN RESOURCE
CONSULTING, INC., f/k/a WILLIAM
M. MERCER COMPANY, INCORPORATED,

Defendants.

**MILWAUKEE COUNTY'S NOTICE OF WITHDRAWAL OF OBJECTION TO
QUARLES & BRADY LLP'S MOTION FOR DECLARATORY RULING
AND
REQUEST FOR RULE 16 SCHEDULING CONFERENCE**

Plaintiff Milwaukee County – in an effort to avoid further delay in trial – notifies the
Court of two important things:

- Plaintiff Milwaukee County – by unanimous official County Board action on December 14, 2006 – has terminated Quarles & Brady as its bond counsel;
- Plaintiffs are now dropping their opposition to Quarles & Brady as counsel for defendant Mercer.

In turn, plaintiffs seek an immediate Rule 16 scheduling conference in January 2007 to set a prompt trial date. A proposed order is attached to accomplish this.

**Reasons For Dropping Opposition To
Quarles & Brady Representation**

For the past several months, Milwaukee County has faced a very difficult situation:

- It is very painful and awkward for the County to terminate its bond counsel Quarles & Brady after over two decades – in light of time-sensitive ongoing bond issues related to the current airport expansion and a series of other capital improvement projects.
- The additional costs and transition time to the County in selecting new bond counsel comes at a bad time when pension obligations bonds may be necessary to fund pension fund deficits.
- However, it is impossible to continue retaining Quarles & Brady as the County’s counsel in light of ongoing conflicts issues, as well as derogatory statements Quarles& Brady has made both in the Answer filed and subsequent motions about the County and its position in this lawsuit on the pension deficit.
- And most important of all, Milwaukee County and the Pension Fund need prompt closure on who is responsible for the huge deficits created by the year 2000 employee benefits package approved by its actuary Mercer.

**Request For An Immediate Rule 16 Scheduling Conference
To Avoid Further Delay**

As long as these issues are not resolved promptly by a trial with evidence fairly presented, the lack of closure greatly complicates:

- Political strain
- Budgetary strain
- Economic planning for the County – through pension bonds, budget cuts and other measures.

Now that the opposition to Quarles & Brady has been terminated, there is no reason to delay trial further, for a number of reasons:

- Quarles & Brady, by its own affidavit admissions, has been representing Mercer since 2002 on the factual issues in this case – giving them four years to prepare for this lawsuit;
- Quarles & Brady years ago pulled together Mercer documents on these issues to submit to the Wisconsin Department of Justice.

Further, this actuarial malpractice case is straightforward and relatively simple:

- Only about six Mercer actuaries were directly involved in the actuarial work that created the injury to plaintiffs;
- The misconduct alleged is simple for an actuary or its counsel to analyze and respond to;
- Plaintiffs have set forth their case in detail in their Complaint – with over two dozen key exhibits attached;
- Indeed, Mercer did not even file a motion to dismiss, given the details of the factual allegations and evidence in the Complaint – and the straightforward factual nature of the professional malpractice claims against the actuary Mercer.

In an effort to assist the Court in avoiding delay and getting this case to trial promptly, plaintiffs are also taking the following steps:

- Immediately providing an initial disclosure statement to Quarles & Brady;
- Immediately making themselves available for a Rule 26 conference anytime convenient to Quarles & Brady this coming week of December 18th;
- Immediately producing a two-box set – in chronological order – of key exhibits plaintiffs may use at trial (far beyond what is required under the rules);
- Begin working cooperatively with Quarles & Brady to get this to trial as soon as possible.

To further advance trial readiness, plaintiffs are presently seeking only 10 fact depositions – with proposed dates and names being provided at this time to Quarles & Brady.

CONCLUSION

For these reasons, plaintiffs do not oppose Quarles & Brady proceeding as Mercer counsel, and seek an immediate Rule 16 scheduling conference to implement a means to provide prompt closure for both sides on this traumatic issue that has caused such widespread damage.

Dated this 14th day of December, 2006.

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