

TO: Marathon County Public Library Board of Trustees

FROM: Joseph M. Russell, Shareholder, Litigation & Risk Management Practice Group
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RE: Report Regarding Recent Library Book Challenges and Related Library-Funding Discussions

DATE: January 23, 2023

On December 20, 2022, the law firm of von Briesen & Roper, s.c. (“von Briesen”) was engaged by the Board of Trustees for the Marathon County Public Library (“MCPL”) to complete a report (the “Report”) regarding a recent wave of challenges to books contained within MCPL’s collection and related MCPL-funding discussions held by Marathon County Supervisors. The purpose of this Report is to assess the liability risks—arising under the First Amendment—now faced by MCPL and Marathon County if challenged books are removed—on the basis of their content and viewpoint—or if the Marathon County Board reduces MCPL funding because the challenged books are not removed.

EXECUTIVE SUMMARY

Removing books—based solely upon content and viewpoint—violates the First Amendment. Similarly, deciding to reduce MCPL funding—based upon MCPL’s refusal to remove books challenged on the basis of content and viewpoint—violates the First Amendment. The First Amendment protects the right of both adults and children to receive information.
