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Winning strategies for employers since 1908

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May 13, 2024

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VIA U. S. MAIL AND E-MAIL:

tzeinert@whitewater-wi.gov

Taylor Zeinert,
Interim Economic Development Director
Whitewater Community Development Authority
312 W. Whitewater St.
P.O. Box 178
Whitewater, WI 53190

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Additional offices in
Madison and Manitowoc

ATTORNEYS AT LAW

Employment Litigation

Collective Bargaining &
Contract Administration

Practice before the National
Labor Relations Board

Worker's Compensation
Defense

Employment Counseling &
Litigation Avoidance

Employee Benefits law

Business Immigration law

FMLA, FLSA, WARN &
OSHA Compliance

Workplace Training

Re: Response to RFP

Dear Mr. Zeinert:

Attached to this e-mail and enclosed in this envelope are one electronic copy by e-mail of the Lindner & Marsack, SC response to the Request for Proposals (RFP) Legal Services by the Whitewater Community Development Authority' (CDA) and ten (10) hard copies of same submitted per paragraph 4 of the Terms and Conditions.

We note that if, for some reason, we are not successful in this process, paragraph 7(b) of the Scope of Legal Services to be Provided reserves CDA's "right to employ any legal counsel when there is a conflict of interest or if an attorney with expertise in a given area is needed," such that CDA can contact the undersigned at any time for specific employment-related consultation. My direct line and e-mail are below should you choose to do so or the opportunity arises.

Thank you in advance for your consideration. If we can answer any questions, please do not hesitate to reach out to discuss.

Very truly yours,

LINDNER & MARSACK, S.C.

Daniel J. Finerty
DJF/

Attachment/Enclosure

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TO: Taylor Zeinert, Interim Economic Development Director
 Whitewater Community Development Authority

FROM: Daniel J. Finerty

RE: CDA Legal Service Rates

DATE: May 13, 2024

Below is an outline of our current rates for the services outlined in the Lindner & Marsack, S.C. Submission to the City Development Authority of The City of Whitewater::

Name	Legal Education	Firm Position	Experience	Hourly Rate
Daniel Finerty	<i>Marquette, 1998</i>	Shareholder	Employment Law Compliance/Employment Litigation; Labor Relations/Collective Bargaining	\$275.00
Oyvind Wistrom	<i>Marquette, 1995</i>	Shareholder; President, Board of Directors	Employment Law; Litigation	\$285.00
Sean Lees	<i>Marquette, 2015</i>	Associate	Labor and Employment	\$245.00
Alexandra Chepov	<i>Marquette, 2022</i>	Associate	Labor and Employment	\$235.00

Professional fees are billed in increments of tenths of an hour (0.1). Our Firm does not charge for in-house copying, facsimile transmissions, long distance telephone calls, regular U.S. postage, and similar charges, which we consider part of our Firm's overhead costs. Travel time is billed at regular hourly rates plus mileage.

Finally, we are happy to negotiate these rates if doing so leads the CDA to enter into a longer-term engagement with the Firm.



**LINDNER & MARSACK, S.C. SUBMISSION TO
THE COMMUNITY DEVELOPMENT AUTHORITY OF
THE CITY OF WHITEWATER**

Areas of Law Covered by Submission:

*Employment Counseling; Employment Litigation
(as described more fully herein)*

May 13, 2024



Submitted to:

Taylor Zeinert
Interim Economic Development Director
Whitewater Community Development
Authority
312 W. Whitewater St.
P.O. Box 178
Whitewater, WI 53190

Submitted by:

Daniel Finerty, Shareholder
Lindner & Marsack, S.C.
411 East Wisconsin Avenue, Suite 1800
Milwaukee, WI 53202-4498
Direct: (414) 226-4807
Fax: (414) 273-0522
E-Mail: dfinerty@lindner-marsack.com



1. STATEMENT OF PURPOSE.

Lindner & Marsack, S.C. (“Firm”) is pleased to provide this submission to the Whitewater Community Development Authority (“CDA”). Although the scope of services set forth in the Request for Proposal for Legal Services due May 14, 2024 is broader in scope, the Firm’s response is limited to labor and employment-related legal services as outlined below. The Firm is here as a resource for the CDA and its representatives when the need arises to consult outside counsel in these areas:

Employment Law Compliance

Supervisor Training to Mitigate Risks of Costly Workplace Disputes

Discipline/Termination Counseling

Americans with Disabilities Act Accommodation

Family and Medical Leave Act Compliance

Return to Work Issues following Worker’s Compensation & Other Protected Leave

Employment Litigation and Dispute Resolution

Daniel Finerty, *Marquette University Law School*, 1998, Shareholder and Member of the Firm’s Board of Directors, will be CDA’s main point of contact and will always either handle or supervise work being performed. CDA will have Finerty’s e-mail, direct office line, and mobile phone should the need for discussions arise after hours. Finerty’s current and active clients include the Wisconsin Economic Development Corporation, the County of Outagamie, the County of Kenosha, and the City of Milwaukee. In the past, Finerty has handled matters of substance for Jefferson County, Grant County, the Green Bay Area Public School District, and the City of Marinette.

Should additional high-level assistance be required, or if Finerty is not able to assist in a timely manner, Oyvind Wistrom, *Marquette University Law School*, 1995, will be available for consultation and advice. Wistrom has handled public sector matters for the Firm’s main clients, the Wisconsin Counties Mutual Insurance Company and the Community Insurance Company, for more than 20 years and, in that time, maintains a perfect record of wins in matters taken to the U.S. Court of Appeals for the Seventh Circuit.

Should assistance be necessary and provide an opportunity to reduce costs while still providing excellent work product, Sean Lees, *Marquette University Law School*, 2015, or Alexandra (Sasha) Chepov, *Marquette University Law School*, 2022, may be asked to assist.

A few examples of the matters Finerty has handled for clients above include:

1. Addressing performance issues. A client's employee, during a discussion of performance-related failures, related that she had an appointment to see a doctor for a learning disability in one case and depression in another. Finerty worked with legal and in-house human resource personnel to assist them in carrying out justified discipline while attempting to provide accommodation and engage in the interactive process at the same time.
2. Addressing failure to provide reasonable accommodation allegations. In one matter, a former temporary employees filed an Equal Rights Division (ERD) complaint against the County and the provider of temporary personnel, a matter which eventually went to federal court. After the employee's termination-based claim was dismissed because the employee failed to exhaust administrative remedies, Finerty defended the client from the employee's claim that the client failed to reasonably engage in the interactive process due to the delay it took the client to interact with other levels of government to verify software coordination, a process which took about 4 weeks and was reasonable. In another matter, a former corrections officer filed an ERD claim against a client claiming that the employee's termination because the employee could no longer fulfill the job-related duties of the position due to inability to climb the stairs in the client's jail facility was discriminatory based upon a disability and reflective of the client's failure to engage in the interactive process. Finerty engaged in the mediation process with county officials and successfully resolved the claim in the early stages of litigation, thus saving defense costs. Finally, Finerty worked with legal and human resource personnel to navigate the termination of employee who was unable to return to work from leave for cancer treatment because, after several requests for a return-to-work date, the employee's doctors would not provide a return-to-work date or even predict when a return to work might be possible in the next several months. After termination, the employee filed an ERD complaint, which was dropped after the Division found no probable cause to believe disability discrimination or failure to accommodate a disability had occurred. No federal court litigation was initiated.
3. Family and Medical Leave Act compliance. Finerty assisted a client switching from a rolling year system to a calendar year system for administration of their FMLA leave benefits. The transition went smoothly, even with two employees then currently on leave, and no claims were filed related to the successful transition.
4. Harassment. After an employee who had previously claimed harassment leading to a supervisor's termination again claimed harassment in terms of advancement and an alleged hostile work environment, Finerty assisted human resource personnel, in cooperation with

legal, in investigating the allegations. After the allegations were not substantiated and the result was shared with the employee and counsel to the employee, the employee was offered and accepted an offer to return to work.

5. Discrimination. After a job offer was made to an applicant, criminal charges against the applicant were revealed through a third-party source. After the charges were verified as pending, the application revealed that the charges had been pending when the employee applied and failed to disclose the pending charges, which the application requested. After determining the failure to disclose amounted to falsification, the applicant was advised the job offer was rescinded.

The matters Finerty has handled for public sector and private sector clients range from federal court litigation matters relating to the Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Family and Medical Leave Act, the Fair Labor Standards Act and other laws to ERD matters relating to alleged age discrimination, race discrimination, disability discrimination and other matters including worker's compensation unreasonable refuse to rehire claims under WIS. STAT. § 102.35(3). More specifically, Finerty and Wistrom regularly defend employment litigation claims in the Western District of Wisconsin federal district court (Walworth and Jefferson Counties are within the Western District), the Eastern District of Wisconsin, the U.S. Court of Appeals for the Seventh Circuit, the Wisconsin Supreme Court, the Wisconsin Courts of Appeal, tribal courts, circuit courts and other federal and state courts across the United States. The two also represent clients before various administrative tribunals throughout Wisconsin in labor, employment and worker's compensation defense matters, including litigating on clients' behalf before the Department of Workforce Development agencies, the U.S. Equal Employment Opportunity Commission, the U.S. Department of Labor, and in state, federal, and tribal courts across Wisconsin and the nation.

On a day-to-day basis, Finerty and Wistrom counsel both clients with regard to state, federal and local compliance issues such as the development of employment policies and handbooks, employee discipline and discharge, development and evaluation of wage and hour practices/Fair Labor Standards Act compliance, negotiation of employment agreements and severance agreements, design and implementation of effective drug testing programs, affirmative action plans, management of employee leaves of absence/FMLA and ADA compliance (often in conjunction with worker's compensation leave), investigation of and/or guidance on proper investigation of employee complaints, provide disciplinary and pre-termination counseling, litigation avoidance strategies and employee and supervisory training on sexual harassment and leadership-related topics.

Aside from litigation, both Finerty and Wistrom take the time to discuss litigation matters with their public sector and other clients to keep them informed at each stage, to ensure that they can decide what options are preferable for their relative constituencies, to create a general outline and “game plan” targeted at what success looks like for them, and to execute that plan towards successful resolution. That “game plan” is always subject to change as conditions change for any reason determined by the client.

That said, prior to an actual dispute being filed in a formal setting, Finerty and Wistrom, as a rule (not an exception), regularly engage in negotiation of employment disputes with current and former employees whether an employee appears *pro se* or by counsel. These negotiations generally entail the development of an effective, persuasive story that speaks directly to the dispute and any circumstances that may be dispositive of the employee’s alleged dispute as well as an attempt to find common ground in order to obtain a beneficial resolution. The goal of these early negotiations – resolution of a dispute and securing an early release of claims – is generally more cost-effective under the circumstances than allowing a dispute to proceed through the system where it may drain essential financial resources that can be attributed to other key areas of concern. In addition, Finerty and Wistrom know and understand that strong negotiations from a place of strength that lead to an effective release of claims allows the Firm’s quasi-public and public sector clients to get back to their core mission.

Other examples of recent employment litigation matters Finerty and Wistrom have handled for quasi-public sector and public sector entities include the following:

Quasi-Public: *McGee v. Oshkosh Defense, LLC et al.*, W.D. Wis. Case No. 18-cv-705-wmc (Oct. 28, 2019 (opinion and order dismissing Plaintiff’s complaint that the Wisconsin Economic Development Corporation (WEDC) violated the Americans with Disabilities Act (“ADA”) when it failed to hire him, in failing to hire him and violated his federal and state law rights by conspiring to steal his innovations and inventions, sexually assaulting him, threatening him, retaliating against him, and defaming him because he failed to file a Notice of Claim against WEDC as a “political corporation” as required by WIS. STAT. § 893.80(1d) and because his allegations also fail to state a claim for an ADA violation due to his failure to file an EEOC charge against WEDC in the first instance); *Hauser-Wallace v. Wisconsin Economic Development Corp.*, ERD Case No. CR201800146 (ERD, Sept. 28, 2019) (complainant withdrew claims that WEDC refused to reasonably accommodate a disability, discriminated against her in compensation because of disability, discriminated against the Complainant in terms or conditions of employment because of disability, and terminated her employment because of disability filed after the Complainant was unable to return to work, unable to provide a return-to-work date, or obtain any medical release or estimation of when such release may be issued).

Public: *Opalescent v. Manpower US Inc. and the County of Outagamie.*, Case No. 22-C-1118 (E.D. Wis. Apr. 16, 2024) (denying the Plaintiff's second motion for extension of time for discovery and for protective order, granting the County's motion to compel Plaintiff's deposition, granting motion to deem Plaintiff's failure to respond to requests for admission to be facts deemed admitted, granting the County's motion for attorney's fees and costs, and warning Plaintiff that if the conduct continued the case would be dismissed); *Opalescent v. Manpower US Inc. and the County of Outagamie.*, Case No. 22-C-1118 (E.D. Wis. Feb. 15, 2024) (ordering Plaintiff to respond to the County's outstanding discovery requests within ten days of the date of the order); *Opalescent v. Manpower US Inc. and the County of Outagamie.*, Case No. 22-C-1118 (E.D. Wis. Mar. 30, 2023) (decision and order dismissing Plaintiff's constructive discharge claim against Defendants because ERD complaint only presented facts consistent with allegations that Defendants failed to reasonably accommodate her disability but did not contain any allegations that she was constructively discharged); *Henderson v. City of Madison*, 2024 U.S. Dist. LEXIS 20565, 2024 WL 418737 (W.D. Wis. Feb. 5, 2024) (granting the City's Rule 12(b)(6) motion to dismiss after former officer was issued a *Brady* letter after resigning his employment based on the City's determination that the officer was dishonest in connection with his law enforcement duties because defamation, even if shown, is not enough to invoke the procedural safeguards of the Fourteenth Amendment and because it was impossible for the plaintiff to show that he were deprived of a constitutionally protected liberty interest due to his resignation); *Kressin v. Jokala*, 2024 U.S. Dist. LEXIS 14534, 2024 WL 307490 (W.D. Wis. Jan. 24, 2024) (granting the City's Rule 12(b)(6) motion to dismiss on the same basis as in *Henderson*); *Oconomowoc Area School District v. Gregory L. Cota*, 2024 WI App 8, App. No. 2022AP001158 (Ct. App.) (*pending review*) (holding the District's termination of the complainants based upon civil, municipal charge information it received did not constitute unlawful employment discrimination in violation of the "arrest record" provision of the Wisconsin Fair Employment Act, which reversed the circuit court and ordered remand to LIRC to dismiss on the merits); *Ho-Chunk Nation Legislature v. Gerald Cleveland, Sr.*, Case No. SU 19-06 (Ho-Chunk Nation Supreme Court Case, Mar. 29, 2021) (reversing Trial Court holding that declaratory relief was proper, finding that the appellee Legislature had not presented a justiciable controversy for adjudication and did not have standing to sue the client former Chair of the 2017 Ho-Chunk Nation General Council Meeting for alleged procedural errors committed during the meeting); *Robles v. Green Bay Area Public School District*, Case No. 12-C-1172 (E.D. Wis. Apr. 15, 2014) (dismissing race discrimination claim by former teacher on summary judgment as employee submitted no admissible evidence that would undermine the Defendant's assertion that she was not meeting its legitimate expectations and could not meet *prima facie* burden) *aff'd* *Robles v. Green Bay Area Public School District*, App. No. 12-C-1172 (7th Cir. Apr. 14, 2015) (unpublished) (*per curiam*); *Robles v. Green Bay Area Public School District*, Case No. 12-C-1172 (E.D. Wis. Oct. 17, 2013) (granting Rule 37 sanctions and

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reimbursing in part defendant's costs of appearing at a deposition skipped by plaintiff's counsel who took a last minute vacation to Wisconsin Dells); *Madison City Attorneys Association (MCAA) Local 4562, AFT-W, AFL-CIO v. The City of Madison*, Case AP M-075 (Arb. Marvin Hill Dec. 31, 2012) (prevailed on the City's behalf in two cases that reaffirmed the rights of a public sector employer to implement economically motivated layoffs for budgetary reasons under the Wisconsin Supreme Court's *City of Brookfield* decision); *Wisconsin Council, AFSCME, AFL-CIO, and its affiliated locals 2085, Richland County Courthouse Employees and 2085-C, Richland County Professional Employees v. Richland County*, Dec. No. 33079-A (Nielsen, Aug. 1, 2011) (Furloughs) *aff'd* Dec. No. 33079-B (WERC Aug. 30, 2011) (affirming County's right to impose economically-necessary layoffs upon bargaining units in the face of unprecedented economic challenges in line with the *City of Brookfield* decision).

Additional examples are available upon request.

Worker's Compensation Defense.

Finerty and Wistrom regularly represent employers defending WIS. STAT. § 102.35(3) claims filed by employees who have either been terminated, lost hours, experienced a wage decrease or other job change following return to work from a workplace injury. This claims is not insurable through CDA's worker's compensation carrier and must be defended by CDA.

Should the Village wish to extend this relationship to provide legal advice, counsel, or representation in underlying worker's compensation matters, we are happy to discuss such an arrangement.

2. GENERAL INFORMATION.

For over 100 years, the Firm has been engaged by large and small public sector entities at all levels to provide winning strategies to solve our clients' most pressing legal challenges within its sole area of expertise, Labor and Employment law, its singular focus. Among the recognition that the Firm has received for its work with the clients that have entrusted us to handle their legal challenges include:

- Six Lindner & Marsack, S.C. attorneys rated *AV Preeminent* by [Martindale-Hubbell](#).
- For 2024, Finerty was rated a Martindale-Hubbell *Client Champion*.
- Lindner & Marsack, S.C. has been recognized among the [Best Law Firms](#) with a National Ranking in *Appellate Practice* and a Regional Ranking in *Appellate Practice, Employment Law–Management, Labor Law–Management, Workers' Compensation Law–Employers* and *Litigation–Labor & Employment*.
- Six Lindner & Marsack, S.C. attorneys recognized as [Best Lawyers](#) in the noted practice areas.

Lindner & Marsack, S.C. Submission

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- Lindner & Marsack, S.C. attorneys are regularly recognized as *SuperLawyers* or *Rising Stars* by [SuperLawyers Magazine](#).
- Lindner & Marsack, S.C. has been recognized by [Chambers and Partners](#) for more than 14 years as a “[s]trong labor and employment boutique” and its strong “capabilities in employment disputes, regularly acting on behalf of public sector clients” in addition to Chambers’ specific recognition of Wistrom for the last 6 years.

These accolades stand testament to the strength of the Firm’s client relationships and the laudable results the Firm achieves for its clients achieve every day. Government entities, businesses and organizations need, and rightly expect, a legal partner who can achieve results efficiently and cost-effectively. The Firm approaches every labor and employment law matter and every client with this simple premise by regularly providing viable alternatives, considering the business and legal support for each, and not hesitating to provide a “gut” feeling on the options, from best to least, in an unbiased manner in order to guide decision-making while realizing it is not our role to be the decision-maker. In this way, the Firm commits to its clients, and to CDA, that it will:

- Provide a road map of solutions to CDA’s most pressing challenges in each individual matter in order to define the route, assess the costs and risks, and assist CDA in deciding on a course of action and, in the end, reaching their goal(s), whether early resolution or an ultimate victory.
- Save money for CDA through a proactive, preventive approach. While the Firm is proud of the numerous court victories its attorneys have achieved, it is the millions of dollars saved by the Firm’s clients through appropriate training, planning and pre-termination assessment that makes litigation unnecessary. That proactive approach drives the Firm’s attorneys every day.
- Provide a team of labor and employment law attorneys who are superb communicators and know when to speak as well as when to listen.
- Work with CDA’s insurance partners and other professional advisors, always keeping in mind that the central focus must be providing cost-effective, timely, and coordinated advice.
- For those cases that cannot be resolved, the Firm commits to aggressively litigate to win while taking advantage of strategic opportunities to seek cost-effective resolutions when it is to CDA’s advantage.



When providing these legal services, we are happy to work with internal personnel employed by CDA or, as necessary, insurance adjusters for claims arising under any insurance coverage available to the Village, such as Employment Practice Liability Insurance coverage, if applicable.

3. SERVICES TO BE PROVIDED.

The Firm is well-equipped to provide all the labor and employment-related legal services with regard to the specific practice areas outlined above, including the coordination with any insurance carriers as may be necessary throughout our work, something we do virtually every day for our other public sector clients.

If the Firm cannot handle an employment-related litigation matter or any other work, for some unknown or unanticipated reason, we commit that we will ensure the names of at least three (3) experienced, qualified attorneys (not firms) with public sector experience and legal expertise to assist are provided. The Firm is happy to modify the attorneys who are included in this response to accommodate, as necessary.

4. RELATED PROPOSAL REQUIREMENTS.

A. Responsible Attorney. Daniel Finerty will be the responsible attorney and single point of contact for CDA, including assignment of legal work, billing issues and/or other issues that may arise during the course of our relationship. Daniel, a Shareholder and Member of the Board of Directors with Lindner & Marsack, S.C., with almost 26 years of experience, has been with the Firm since 2012:

Daniel Finerty
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Milwaukee, WI 53202-4498
Direct: (414) 226-4807
Mobile: (414) 232-7992
E-Mail: DFinerty@lindner-marsack.com

Authorized officials for CDA will be provided with direct phone lines, e-mail addresses and mobile phones for all the attorneys included in this Response. Background and biographical information for all four attorneys are attached to this Response, all of whom are duly licensed to practice law in Wisconsin.

Mr. Finerty will communicate regarding potential costs and the attorney who would be most effective at timely and cost-efficient completion of any assigned work. He may ask other attorneys to get involved due to a defined need for a particular area of expertise, an hourly rate that is comparatively lower to accomplish some defined task or set of tasks that may be more time-consuming but require comparatively less experience or an additional attorney or attorneys to handle an increased workload and/or a particular project. These attorneys include Oyvind Wistrom, Sean Lees, and Alexandra Chepov. A copy of biographical sketches for the referenced attorneys and our firm resume is attached for your convenience.

B. Current Municipal Governmental Clients. We represent and have represented many municipal clients from cities and villages to counties and large school districts.

i. **Wisconsin Economic Development Corporation**. The Firm has provided employment litigation defense and other employment law counseling and advice to this quasi-governmental body since it was selected in an RFP process in 2016 and re-selected in 2019 over 4 other competing firms for Employment Law. Contact: Jennifer Campbell, Chief Legal Officer, (608) 210-6811. E-mail: Jennifer.campbell@wedc.org

ii. **Wisconsin Municipal Mutual Insurance Company (WMMIC)**. The Firm has been engaged as defense counsel in litigation of various employment litigation claims for Jefferson County, Kenosha County, LaCrosse County, Outagamie County, and St. Croix County since 2015. Contact: Jackie Kaul, AINS, AIC, CCP, Senior Liability Claim Representative. Phone: (608) 229-6819. Email: jkaul@wmmic.com.

iii. **Wisconsin Counties Mutual Insurance Company/Community Insurance Company (WCMIC/CIC)**. These entities provide insurance for 52 of the 72 counties in Wisconsin and numerous municipalities and school districts throughout the state. Our Firm has provided pre-loss claim support and defense litigation of all labor and employment related claims for the majority of their insureds. The Firm has provided legal services to both WCMIC and CIC for 20+ years. Contact: Dave Bisek, Senior Vice President Claims & Litigation Management, Aegis Corporation. Phone: 262-781-7020. Email: dave@aegis-wi.com.

iv. **Kenosha County**. The Firm provides employment compliance counseling and support for the County since 2019 in addition to providing employment litigation defense through its insurance carrier, WMMIC. Contact: Jennifer Kopp, First Assistant Corporation Counsel, Kenosha County Corporation Counsel's Office. Phone:(262) 925-8021. Email: jennifer.kopp@kenoshacounty.org.

v. **Outagamie County.** The Firm has provided the County with employment litigation defense through its insurance carrier, WMMIC, in a number of matters since 2016. Contact: Kyle Sargent, Corporation Counsel, Outagamie County. Phone: (920) 832-1522. Email: kyle.sargent@outagamie.org.

vi. **City of Milwaukee.** The Firm was retained to handle a ERD matter filed against the Office of the City Attorney by the Judiciary and Legislation Committee, a matter which was successfully resolved. Contact: Robin Pederson, Deputy City Attorney, City of Milwaukee. Phone: (414) 286-2676. Email: rpederson@milwaukee.gov.

Over time, the Firm also represented the following public sector employers in labor and employment matters:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Clark County | <input checked="" type="checkbox"/> City of Lodi |
| <input checked="" type="checkbox"/> Calumet County | <input checked="" type="checkbox"/> City of Milwaukee |
| <input checked="" type="checkbox"/> Jefferson County | <input checked="" type="checkbox"/> City of Sheboygan |
| <input checked="" type="checkbox"/> Manitowoc County | <input checked="" type="checkbox"/> City of Waukesha |
| <input checked="" type="checkbox"/> Marinette County | <input checked="" type="checkbox"/> Village of Bayside |
| <input checked="" type="checkbox"/> Milwaukee County | <input checked="" type="checkbox"/> Village of Brownsville |
| <input checked="" type="checkbox"/> Polk County | <input checked="" type="checkbox"/> Village of Fox Point |
| <input checked="" type="checkbox"/> St. Croix County | <input checked="" type="checkbox"/> Village of Menomonee Falls |
| <input checked="" type="checkbox"/> City of Beaver Dam | <input checked="" type="checkbox"/> Orfordville Fire District |
| <input checked="" type="checkbox"/> City of Milwaukee | <input checked="" type="checkbox"/> Town of Beloit |
| <input checked="" type="checkbox"/> City of Horicon | <input checked="" type="checkbox"/> Beloit Fire Department |
| <input checked="" type="checkbox"/> City of Hurley | <input checked="" type="checkbox"/> North Shore Fire Department |

If necessary, contacts can be provided for these limited engagements.

C. Fee Schedule. A fee schedule is provided as directed along with this submission. Should CDA wish to extend our engagement to include Worker's Compensation defense or include any other attorneys within the Firm into this engagement, we are happy to provide additional information upon request and/or modify this engagement as necessary. Further if the Firm can differentiate itself by negotiating these hourly rates, we are happy to discuss and try to reach an accommodation that works for CDA.

The proposed rates are based on the traditional hourly arrangement where work is done, billed the following month and paid as agreed. We are willing to extend a percentage discount for payment within 30 days to be discussed. Should the CDA wish to provide a retainer against



services to be billed, we may agree to a further rate reduction dependent upon the amount of the retainer that would be deposited into the Lindner & Marsack, S.C. Client Trust Account.

Regardless, work would be performed and billed as normal. CDA then would have 5 days from receipt of an invoice to review any invoiced amounts and, if a dispute arose regarding certain charges, we would not deduct those charges from the retainer until a dispute was resolved. However, if no dispute arose, which we expect, we would have the right to deduct the invoiced amounts. Any retainer paid to the Firm would be credited toward services to be performed – we don't need a retainer to hold CDA's place in our system and ensure that we can respond in a timely fashion.

for our services.. Please describe the parameters and charges with specific attention given to the scope of services that would be included or excluded from the retainer. 5. The fee schedule should include charges for services not included in the retainer or hourly charges. Examples would include mileage, postage, telephone charges. 6. The CDA seeks a three-year agreement with the selected firm and proposals should reflect a three-year service contract quote with the ability to terminate upon 60 day written notice given by either party.

5. EVALUATION CRITERIA.

A. Scope and Cost of Services. These topics are addressed elsewhere in this response. However, for clarity and budget predictability, Lindner & Marsack, S.C. offers the following in addition to the foregoing outline of its services:

i. *Regular E-Alerts*. The Firm regularly issues E-Alerts on breaking Labor, Employment and Worker's Compensation related topics including, more recently, the Pregnant Workers Fairness Act, the Department of Labor changes to the annual salary threshold for Executive, Administrative, and Professional employees as well as Highly Compensated Employees and the Federal Trade Commission's attempt to outlaw non-competition agreements in employment. This webinar is on Thursday, May 23, 2024, from 8:00 a.m. and registration can be found at the following website: <https://events.teams.microsoft.com/event/ed02780d-9a13-4260-9401-462b1032ca40@385ea059-a511-489a-96ad-174540752cbb> (last access, May 13, 2024). We would be happy to specifically tailor any presentation for CDA, complimentary, and present a second time at the site of your choosing for a sponsored breakfast meeting or a "brown bag" lunch session.

ii. *Training.* To add value, if CDA needs training for employees on sexual harassment prevention, training for management personnel on how to properly conduct performance reviews or other labor or employment-related topics, we are happy to work with CDA in order to ensure that we are able to do so in an efficient and cost-effective way.

iii. *Alternative fee arrangements.* We are happy to discuss mutually-advantageous flat fee arrangements to handle regular, predictable work within the scope of this response in order to ensure CDA obtain an acceptable level of budgetary predictability that is essential in the public sector while also ensuring the work is completed by its trusted outside partner.

iv. *Rate reductions.* If selected, and the Firm is able to lock in these rates for a period of two to three years, we may offer a percentage reduction off our regular hourly rates for fees in a calendar year once work that is billed and paid above an agreed threshold or, alternatively, provide a credit for outstanding invoices paid inside a 30-day window.

6. TERMS AND CONDITIONS.

The Firm acknowledges the terms and conditions set forth and provides the following information in addition to the information specified by CDA.

All attorneys that will perform work assigned by CDA will be licensed by the State Bar of Wisconsin and have not been the subject of any disciplinary proceedings by the Office of Lawyer Regulation or any other regulatory body.

The Firm maintains the following insurance policies: Lawyers Errors & Omissions (QBE Insurance Corporation, 7/1/2023-7/1/2024); General Liability/Auto: Travelers Property Casualty Company of America, 10/1/2023-10/1/2024); Workers Compensation (Travelers Indemnity Company of Connecticut, 10/1/2023-10/1/2024); and Cyber Insurance (At-Bay Insurance Services LLC (08/11/2023-08/11/2024) . Declaration pages for these policies can be provided upon request.

The Firm agrees that, in connection with the performance of work under this contract, it will not discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, as required by federal and Wisconsin law.



Conclusion

In the preparation of this response, the Firm made a specific decision *not* to include numerous attorney biographies and Firm marketing materials that will likely make other firms' submission to the RFP much heavier. Our submission is solely targeted to provide specific responses with regard to labor and employment-related areas. We respect our clients' time – it is how we practice each day.

We thank you in advance for consideration of this proposal. If you have any questions regarding this submission, please contact Daniel Finerty via e-mail at dfinerty@lindner-marsack.com or by phone at (414) 226-4807.



Daniel Finerty is a Shareholder with the Firm who concentrates his legal practice on representing and counseling private and public sector clients in labor and employment law and compliance matters in front of administrative agencies, federal and state courts and in labor arbitration. Daniel has represented Wisconsin counties and cities as well as private sector employers in long-term care, healthcare, hospitality, transportation, construction, manufacturing, the service sector and other industries. As an Employment Attorney, he has handled litigation matters involving Title VII, the Fair Labor Standards Act, the Age Discrimination in Employment Act, the Family and Medical Leave Act, the Occupational Safety

and Health Act, the Wisconsin Fair Employment Act, as well as other federal, state, local law and tribal ordinances.

He regularly works with, or at the request of, his clients' Employment Practice Liability Insurance carriers with whom he has positive working relationships, achieving the best outcomes possible in a cost-effective manner while stressing the high client service ideals of his EPLI carrier partners. He has also represented several agencies of various Tribal Nations, their business entities and Employment Practice Liability Insurance carriers in employment disputes arising under tribal ordinances, in constitutional disputes and related litigation in tribal court and other disputes arising under tribal law.

Daniel prides himself on achieving his clients' most important goals through his strong written and verbal advocacy as well as his skilled negotiation to cost-effectively resolve claims. He recognizes that clients see value in both a complete "win" against a litigious employee as well as a successful, cost-effective resolution of a contentious matter.



Oyvind Wistrom, a Shareholder and President of the Firm's Board of Directors, has practiced his entire legal career in the field of labor and employment law with the Firm. His current practice is focused primarily on the litigation of employment claims, equal employment matters, and the development and oversight of personnel policies and procedures.

Mr. Wistrom also devotes a significant portion of his law practice to counseling private companies and municipal corporations in various employment matters, including discharge and discipline issues, employment contract matters, wage & hour disputes, reductions in force/severance matters,

discrimination/retaliation, harassment, family and medical leave (FMLA) issues, as well as individual rights and responsibilities in the workplace.

Mr. Wistrom has successfully litigated innumerable discrimination and other alleged unlawful employment claims before various state and federal courts, as well as numerous administrative agencies. He has served as first chair in several state and federal civil trials, but seeks to avoid trial when possible. To that end, he has obtained summary judgment for defendants in more than 30 employment discrimination/civil rights lawsuits and has defended appeals of those favorable employment decisions before the Seventh and Eleventh U.S. Circuit Courts of Appeal. He has also prosecuted and defended restrictive covenant matters in Wisconsin and across the United States involving non-competition agreements, non-solicitation agreements and confidentiality/non-disclosure agreements. With his extensive background in labor and employment law, Mr. Wistrom is a frequent speaker on various employment related topics and is actively engaged with numerous local human resource organizations and charitable organizations.



Sean E. Lees is an associate at Lindner & Marsack, S.C., who strives to protect his clients' interests by providing practical legal advice in labor and employment matters. His practice

covers a broad range of issues, including employment discrimination defense, collective bargaining, and labor arbitration. Prior to joining Lindner & Marsack, Mr. Lees focused primarily on labor and employment law in his work representing public sector unions throughout Wisconsin. In addition to his labor work, Mr. Lees gained significant experience litigating civil cases at the circuit court level and successfully represented clients in cases before the Wisconsin Supreme Court. Mr. Lees now focuses on helping management assess risk and navigate complex legal issues to make the best decision possible in each situation.

Prior to attending law school, Mr. Lees played Division I college football at Wofford College in Spartanburg, South Carolina. This experience taught him valuable lessons about teamwork and dedication that he uses to help his clients when challenging situations arise.



Alexandra S. Chepov is an attorney at Lindner & Marsack, S.C. whose practice is dedicated to providing employers with comprehensive legal advice and rigorous representation in labor and employment matters. Ms. Chepov represents and defends employers in a wide variety of labor and employment issues, including: wage and hour (FLSA), employment discrimination, harassment and retaliation (Title VII, ADA, ADEA), family and medical leave (FMLA), restrictive covenant agreements (non-competition, non-solicitation, confidentiality), severance agreements, business immigration and general labor relations disputes.

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Coming from a family of business owners, Ms. Chepov understands the value of implementing state-of-the-art employment policies and maintaining proper employment practices to avoid litigation. Aside from navigating employers through the complexities of litigation, a fundamental component of Ms. Chepov's practice is working proactively with employers of all sizes to customize employment practices and policies that best promote their business interests and objectives.

Prior to joining Lindner & Marsack, S.C., Ms. Chepov gained valuable experience as a law clerk, particularly with respect to general litigation and labor union representation. Ms. Chepov received her Bachelor of Arts in Political Science from the Indiana University – Bloomington. Ms. Chepov received her Juris Doctor from Marquette University Law School. While in law school, Ms. Chepov served as the President of the Moot Court Executive Board, participated in the honor's moot court competition, and competed in the national labor and employment moot court competition.