

**CALHOUN COUNTY
BOARD OF COMMISSIONERS
POLICY STATEMENT 232**

SUBJECT: CORPORATION COUNSEL: CIVIL MATTERS, FOIA COORDINATOR

DATE APPROVED: August 18, 2011

EFFECTIVE: Immediately

REPLACES: 230 of 10/2/97, 232 of 09/21/06, and 233 of 01/22/91

CORPORATION COUNSEL

It is the Policy, as authorized by MCL §49.71, of the Board of Commissioners to appoint Corporation Counsel who shall represent Calhoun County in all civil matters. In accordance with MCL §49.72, the Calhoun County Prosecuting Attorney shall not act with respect to the civil matters involving Calhoun County, its elected officials, and its Boards and Committees, unless requested to do so by the Board of Commissioners. As required by MCL §49.155, Corporation Counsel shall give legal opinions, as may be required from time to time, by elected or appointed Calhoun County officials when required in the discharge of their respective official duties related to an interest of Calhoun County.

MCL §49.73 requires that the Board of Commissioners employ an attorney to represent elected county officers in civil matters, as a defendant, when Corporation Counsel is unable to represent the particular officer. When an elected county officer requires legal services in defense of a civil matter related to his or her position, that officer must first make a written request to Corporation Counsel to provide legal representation. If Corporation Counsel consents to the representation, then there is no authority to compensate any County elected officer or any attorney retained by that elected officer from the General Fund for the costs of independent legal representation.

In the event that Corporation Counsel determines he or she is unable or unwilling to provide representation, such as in cases of conflict of interest, unfamiliarity with the case or issues, or lack of expertise, the Board of Commissioners shall employ an outside independent attorney retained by the Board of Commissioners. When the Board of Commissioners approves the retention of outside counsel, the attorney shall be paid from County funds.

PROCESSING CIVIL LAWSUITS

In civil cases involving allegations of money damages, Michigan Municipal Risk Management Authority (“MMRMA”) will appoint legal counsel to defend lawsuits against Calhoun County or its elected officials where insurance coverage exists. Corporation Counsel may serve as co-counsel and , the Board of Commissioners, may through a resolution, appoint independent co-counsel.

The filing and service of a civil lawsuit requires an expeditious assignment of counsel to represent the County, its departments or agencies, or its elected officials.

It is important that this policy be followed in order to properly obtain legal representation to defend any court actions against Calhoun County and to monitor the status of all pending civil litigation involving Calhoun County.

The following procedure shall be followed when the County received a civil complaint and summons:

1. ONLY THE COUNTY IS NAMED AS THE DEFENDANT:

In such a case, the suit shall be served and accepted only by Corporation Counsel, the Chairperson of the Board of Commissioners, or the County Clerk-Register.

2. AN ELECTED OR APPOINTED OFFICIAL IS SUED INDIVIDUALLY:

In such a case, the suit shall be served and accepted only by the elected or appointed official who is being sued. Elected or appointed officials may authorize Corporation Counsel, in writing, to accept service on their behalf on a case-by-case basis.

3. BOTH THE COUNTY AND AN ELECTED OR APPOINTED OFFICIAL ARE NAMED TOGETHER AS DEFENDANTS

In such a case, the service against the County shall be handled as in Section 1 above, and the service against the elected or appointed official shall be handled as in Section 2 above.

Copies of all lawsuits shall be immediately transmitted to Corporation Counsel's Office. A written answer to all civil suits must be promptly prepared and filed. DO NOT DELAY IN CONTACTING CORPORATION COUNSEL IF SERVED WITH A LAWSUIT.

Corporation Counsel will contact MMRMA to obtain the appointment of legal counsel. Corporation Counsel will assist and coordinate the defense of claims with outside counsel appointed by MMRMA. If MMRMA is not obligated to defend, Corporation Counsel will provide a defense or other arrangements for legal defense will be made as set forth above.

FOIA COORDINATOR

Corporation Counsel is hereby designated as the Freedom of Information Act ("FOIA") coordinator for Calhoun County as required by MCL §15.236(1). Corporation Counsel shall respond to any requests in compliance with the requirements of the Freedom of Information Act, MCL §15.231 et. Seq. Corporation Counsel shall, if requested to do so in writing, act as the FOIA coordinator for any elected officer of Calhoun County.