UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WISCONSIN

DEBRA TIETJEN, individually and as the SPECIAL ADMINISTRATOR OF THE ESTATE OF JAMES TIETJEN,

the ESTATE OF JAMES TIETJEN, on

behalf of themselves and all others similarly situated,

Plaintiffs,

v.

Case No. 2:16-cv-01542

MARIAN NINNEMAN, MILWAUKEE COUNTY, and

EMPLOYEE MEMBERS’ RETIREMENT SYSTEM OF THE COUNTY OF MILWAUKEE,

Defendants.

**MOTION TO DISMISS SUIT AGAINST DEFENDANTS MARIAN NINNEMAN AND MILWAUKEE COUNTY**

NOW COME Defendants Marian Ninneman and Milwaukee County, by their attorneys, Lindner & Marsack, S.C., by Alan M. Levy and Samantha J. Wood, and, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, move for dismissal of the Amended Complaint in the above-captioned action because it fails to state viable claims of violations of the Due Process and Takings Clauses under 42 U.S.C. § 1983, because the allegations it makes against Marian Ninneman are barred by her immunity from such prosecution, and because the remaining state law claims belong in state court.

WHEREFORE, Defendants Marian Ninneman and Milwaukee County move for:

1. Dismissal of the Amended Complaint against them, with prejudice, and in its entirety;
2. Reimbursement of the reasonable attorney fees and costs they have incurred in their defense of this action; and
3. Such other and/or further relief as the Court may deem necessary and/or appropriate.

Dated at Milwaukee, Wisconsin this 9th day of March, 2017.

Respectfully submitted,

s/Alan M. Levy Alan M. Levy

Wisconsin State Bar No.: 1010285 Samantha J. Wood

Wisconsin State Bar No.: 1091367

Attorneys for Defendants, Milwaukee County and Marian Ninneman

LINDNER & MARSACK, S.C.

411 E. Wisconsin Avenue, Suite 1800

Milwaukee, WI 53202-4498

Telephone: (414) 273-3910

Fax: (414) 273-0522

Email: [alevy@lindner-marsack.com](mailto:alevy@lindner-marsack.com) [swood@lindner-marsack.com](mailto:swood@lindner-marsack.com)

2