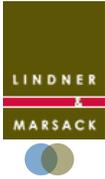




# Lafayette County wins Fourteenth Amendment Liberty Interest Lawsuit

BY Oyvind Wistrom, Lindner & Marsack, S.C.



## About Lindner & Marsack, S.C.

Lindner & Marsack, S.C. is one of the nation's preeminent law firms specializing in labor and employment law. Established in Milwaukee in 1908, the business and legal communities uniformly respect the firm's experience and talents.

The firm represents companies of all sizes in a variety of industries in the Midwest throughout the country. Its attorneys serve as labor and employment advisors, negotiators, and litigators and have been providing winning strategies for employers since 1908.



## About the County Mutual:

The Wisconsin County Mutual Insurance Corporation is dedicated to serving Wisconsin counties and local governments and the people they serve by providing long-term stability in insurance coverage, while controlling these costs.

What makes the County Mutual unique is our close working relationships with our member counties. Acting in collaboration, the County Mutual and county owners work as a team to aggressively control their claims costs by promoting quality risk management efforts that are second-to-none in the industry.

What started as a handful of counties joining forces in the midst of an insurance crisis in 1988 has grown to close to 75% of Wisconsin's counties being insured by the County Mutual today.

Working together, we truly are a **Mutual Effort.**

The legal battle between Lafayette County Sheriff Scott Pedley and one of his former sheriff's deputies is finally over, with the U.S. Supreme Court declining to accept certiorari of the Seventh Circuit Court of Appeals' decision finding in favor the Sheriff.

Cory Goecks was a deputy with the Lafayette County Sheriff's Department. In July 2005, Goecks sustained a work related injury to his Achilles' tendon. Upon his release to return to work in September 2005, there were no light duty assignments available within his department. After exhausting his available sick leave, Goecks agreed to withdraw his claim for unemployment compensation benefits, but believed that his pursuit of such benefits adversely affected his career with the sheriff's department.

In December 2005, Goecks resigned his employment and moved to Texas to pursue a career in the insurance industry. However, some eighteen months later, Goecks began a search for employment with another law enforcement agency in Wisconsin. According to the lawsuit, during a background check of Goecks, Pedley told officials with a local law enforcement agency that during his tenure with Lafayette County, Goecks abused sick time, was a thief, and was being investigated for unemployment fraud.

The lawsuit brought pursuant to 42 U.S.C. § 1983 and alleged that Sheriff Pedley infringed on Goecks' constitutionally-protected "liberty interest" by making public, stigmatizing statements which made it virtually impossible for Goecks to find employment in his chosen field of law enforcement.

Pedley moved for summary judgement before the district court, arguing that Goecks' liberty interest was not at issue because the alleged defamatory statement were not uttered incidental to the end of his employment with Lafayette County. Pedley also argued that, even if the facts gave rise to a liberty interest, Goecks failed to prove that he suffered a tangible loss of the other employment opportunities as a result of the alleged defamatory statements or that the stigmatizing statements were publicly disclosed. The district court granted summary judgement for Pedley finding that since the public statements were not uttered incidental to the end of Goecks' employment, he could not state a liberty deprivation claim under the Fourteenth Amendment.

In a decision issued in August 2011, the Seventh Circuit Court of Appeals agreed with the district court and found that the alleged defamatory statements made by Sheriff Pedley did not state a liberty interest deprivation under the Fourteenth Amendment, as the alleged statement were not uttered incidental to the end of Goecks' employment. With the U.S. Supreme Court refusing to hear the appeal, the decision of the Seventh Circuit stands.

Sheriff Pedley was please and vindicated by the outcome, stating, "to that end, I want to thank you for providing extremely competent legal professionals who are clearly well-versed in federal laws and procedures. Jim Scott (Lindner & Marsack, S.C.) and Oyvind Wistrom (Lindner & Marsack, S.C.) were both tremendous professionals to work with."