

**CONFIDENTIAL LEGAL MEMORANDUM**

**ATTORNEY-CLIENT PRIVILEGED**

**TO:** Troy Streckenbach, Brown County Executive  
Chad Weininger, Brown County Director of Administration

**FROM:** von Briesen & Roper, s.c.  
By: Jill Pedigo Hall, Esq.

**DATE:** March 11, 2016

**RE: Summary of Findings and Conclusions**

On December 30, 2015, [redacted] in the Brown County Corporation Counsel Office submitted a written complaint to Human Resources regarding the conduct of Corporation Counsel Juliana Ruenzel. Following communications by Human Resources on the Complaint, Ms. Ruenzel filed a rebuttal to the Complaint which contained a complaint about Human Resources' handling of the Complaint. [redacted] complaint and the communication accompanying it identified legal claims relating to sex discrimination and harassment by the Corporation Counsel. Ms. Ruenzel's rebuttal cited damage to Ms. Ruenzel personally and her reputation. Because these allegations suggested possible litigation, the County Executive determined privileged independent review was required, von Briesen & Roper, s.c. was then engaged by Brown County to conduct an independent confidential review of, and render legal advice regarding, potential liability involving the leadership and personnel of the Corporation Counsel Department pertaining to these allegations. The investigation was initiated on January 15, 2016. We interviewed all employees located in the sixth floor Corporation Counsel office, including the Corporation Counsel, and [redacted] Human Resources. Initial interviews were conducted in person and some follow-up discussions occurred. Interviewees were advised of the confidential nature of the interviews and provided with an *Upjohn* warning as to privilege.

**Complaint Process and Allegations**

Findings regarding [redacted] complaint and the initial investigation by Human Resources were based upon review of Human Resources documentation and subsequently corroborated in interviews with Human Resources and Corporation Counsel staff. Those findings are as follows:

[redacted] first expressed complaints to the County regarding treatment by Ms. Ruenzel on December 18, 2015, in a meeting with [redacted] Human Resources. The meeting occurred when [redacted] went to [redacted] office with the express purpose of apologizing to [redacted] based upon something Ms. Ruenzel had told her. According to [redacted] Ms. Ruenzel had represented to [redacted] that [redacted] had said [redacted] had been disrespectful to her in an earlier interaction. When [redacted] explained the reason she had come

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to see her. [redacted] told [redacted] that she had never told Ms. Ruenzel that [redacted] had disrespected her, and that she did not consider [redacted] to have been disrespectful. [redacted] then told [redacted] that Ms. Ruenzel had also told her that she needed to punch out whenever she took a break to express breast milk (hereinafter "pump" or "pumping"). [redacted] also corrected that information, telling her that she only needed to punch out if her pumping break exceeded the break time given to all other employees. Following that portion of the conversation, [redacted] informed [redacted] that Ms. Ruenzel had walked in on her while she was pumping in the locked law library and also that Ms. Ruenzel had made offensive comments regarding nursing. At that time, [redacted] did not ask [redacted] for any details regarding her allegations nor did [redacted] provide any, and the meeting ended.

We reviewed the circumstances leading up to [redacted] coming to [redacted] office on December 18, 2015. In our investigation interview, [redacted] reported a sequence of communications with Ms. Ruenzel related to [redacted] pumping breaks. [redacted] notes from these interactions are consistent with what she related in the interview. [redacted] reported that approximately December 14, 2015, Ms. Ruenzel came to her and expressed frustration with [redacted], stating that she thought [redacted] was spending excessive amounts of time pumping. [redacted] told Ms. Ruenzel she would look at regulations she recalled relating to nursing mothers and would let Ms. Ruenzel know what, if any restrictions there were on employers regarding nursing mothers. A few days later, [redacted] identified by [redacted] as December 16, 2015, [redacted] had informed Ms. Ruenzel that from what she had read, the County had to allow nursing mothers time to pump but did not need to compensate them for any break time in excess of that allowed to other employees. [redacted] then met with Ms. Ruenzel in her office on December 18, 2015. [redacted] showed Ms. Ruenzel the Fair Labor Standards Act regulations related to providing pumping breaks and again explained to Ms. Ruenzel her understanding that the County needed to allow [redacted] the time to pump and also an agreed upon location to do so. She informed Ms. Ruenzel that [redacted] could be required to punch out for any time exceeding the time beyond the two 15-minute paid breaks allowed all employees. [redacted] reported that she stressed to Ms. Ruenzel that the County needed to allow [redacted] a space and the time to pump. Following that meeting and on the same day, December 18, 2015, Ms. Ruenzel met on with [redacted], and the conversation [redacted] related to [redacted] later that day occurred.

Ms. Ruenzel stopped by to talk with [redacted] again later on December 18, 2015, the same day of [redacted] verbal complaint. [redacted] did not tell Ms. Ruenzel of [redacted] complaint. She did tell Ms. Ruenzel that [redacted] had been down to see her and had apologized for disrespecting her. She told Ms. Ruenzel that [redacted] had not "disrespected" her. [redacted] also told Ms. Ruenzel that she had explained again to [redacted] that her time needed to be accounted for, that she had explained to [redacted] that any break time taken in excess of the fifteen minute break times would be unpaid. [redacted] then asked Ms. Ruenzel if she had ever walked in on [redacted] while she was pumping. [redacted] reported that Ms. Ruenzel said, "No never."

No further inquiry was made regarding [redacted] complaint until December 30, 2015; and only after a Corporation Counsel staff member contacted Human Resources on December 29, 2015 and repeated [redacted] allegations regarding Ms. Ruenzel making comments to

about nursing and pumping, and intruding into the law library while [redacted] was there pumping. In a meeting with [redacted], Human Resources Administration, and County Executive Troy Streckenbach, the staff member expressed concerns regarding "harassment" of [redacted] by Ms. Ruenzel for her pumping activity and also repeated the allegation regarding Ms. Ruenzel's intrusion on

Based upon the concerns expressed, [redacted] sought and held a meeting with [redacted] on December 30, 2015, to obtain further details regarding the alleged intrusion incident. [redacted] described how Ms. Ruenzel had come into the locked law library while [redacted] was in the process of pumping. [redacted] also identified two witnesses to the event. She also recounted two unrelated incidents--one, when she said Ms. Ruenzel had "yelled" at her in the office, and a second, when she reported Ms. Ruenzel had called her cell phone for a work-related matter when she was attending a funeral. She indicated that Ms. Ruenzel was aware that she had sought time off for the funeral.

On December 30, 2015, following the meeting with [redacted], another Corporation Counsel staff member approached [redacted] and presented him with an email from [redacted] to the staff member and an attached written complaint. The staff member then met with [redacted] and [redacted], providing direct observations of the intrusion event and also Ms. Ruenzel's comments to [redacted] regarding pumping.

Both staff members that met with Human Resources voiced their additional concerns over Ms. Ruenzel's office behavior, her dishonesty in communications, her unpredictable personality and their belief that Ms. Ruenzel had retaliated against former employees.

[redacted] written complaint repeated the allegations she had first made verbally on December 18, 2015, and then repeated in her interview on December 30, 2015, including Ms. Ruenzel's: (1) knowingly intruding on her privacy when she was using a breast pump in a locked room designated for that purpose; (2) regularly making inappropriate and "off color" comments to [redacted] regarding her pumping; and, (3) affecting her ability to pump by advising her incorrectly on County policy related to pumping and failing to provide her a viable alternative pumping space when Ms. Ruenzel's actions prevented her from using the previously designated pumping space. [redacted] characterized Ms. Ruenzel's behavior as "discrimination" and "harassment."

Following receipt of the written complaint, [redacted] and [redacted] met with Ms. Ruenzel on January 6, 2016. They informed her of the complaint allegation that she was making inappropriate comments on pumping and breastfeeding, and reiterated the County's obligation to provide space for a nursing mother to pump. Ms. Ruenzel questioned the source of the complaint and volunteered, without it being raised, that she had never walked in on [redacted] or knocked on the door. She denied all allegations. Ms. Ruenzel was reminded of the County's policy against retaliation. She stated that Human Resources had impeded her ability to manage and that things were going well and she did not understand the problem. On January 7, 2016, Ms. Ruenzel sought another meeting with [redacted] and [redacted] was not available on that date.

On January 8, 2016, [redacted] met again with [redacted] for further fact-finding regarding the allegations of the complaint. In the meeting, [redacted] confirmed that Ms. Ruenzel had not

denied a space to pump on the occasion the law library was being used and unavailable, but had instead offered her a conference room. She also confirmed an allegation made by another staff member that when had asked where she could pump on the day of a Christmas party, Ms. Ruenzel said it was "not my problem." further confirmed that while Ms. Ruenzel had made inappropriate comments regarding her nursing and pumping, they had stopped recently.

Ms. Ruenzel requested a meeting with and on January 8, 2016. In the meeting, informed her of a plan for to use a designated room on another floor for pumping. Ms. Ruenzel requested to have a meeting with and to "clean the air." After meeting with Ms. Ruenzel, informed of the request and told her that she had the option to agree to the meeting. told she was not comfortable having the meeting with Ms. Ruenzel and declined to attend. The meeting was never held.

Ms. Ruenzel then submitted a "Written Rebuttal" on January 13, 2016, disputing the claims that she made remarks and that she denied the use of the law library, and that any allegations made were "unfounded." She further alleged that and had breached policy and made assumptions in their initial actions on the complaint that were "clearly damaging to [her] and [her] reputation."

Based upon the assertions of reputational damage in Ms. Ruenzel's rebuttal and the harassment and discrimination claims already asserted by , von Briesen was retained to conduct an investigation into complaint.

### **Findings and Conclusions**

Based upon our interviews of all employees and review of documentation provided by the County, we conclude that allegations regarding the intrusion, and Ms. Ruenzel making repeated inappropriate comments regarding her nursing and pumping were credible and accurate. The communication record from December 2015 also suggests that Ms. Ruenzel provided with inaccurate information as to County policy regarding her pumping breaks despite Ms. Ruenzel discussing it with multiple times. It appears that Ms. Ruenzel did participate in trying to find an alternative room for pumping on an occasion when the library was not available so we do not conclude that Ms. Ruenzel prevented from pumping on that occasion.

Details of the intrusion event were sufficiently corroborated by Corporation Counsel personnel to allow a conclusion that the intrusion did occur. Based upon this corroboration, we have concluded that the event occurred as indicated by as follows: On or about October 29, 2015, while was in the law library during her designated pumping break, Ms. Ruenzel went to the law library door. She pounded loudly on the door for a time estimated to be between 10 and 15 seconds, shouting through the door at She then entered the unlock code on the law library door keypad, opened the door, stepped into the law library and shouted at "[w]hen someone asks you where I am, you tell them I am in court!" has indicated that she was disrobed at the time and in the midst of using her breast milk pumping machine, Ms. Ruenzel then stepped back out of the law library, slamming the door.

Witnesses have confirmed that [redacted] had followed her regular process of posting a note on the locked library door indicating that she was inside pumping. In addition, [redacted] had placed a note on the computer screen on her desk noting the same. This was standard protocol for [redacted]

Witnesses have confirmed seeing her walking toward the law library, hearing the pounding on the door, hearing Ms. Ruenzel shouting, hearing the door open and then slam. One witness met [redacted] immediately after the event as [redacted] was exiting the law library. When the witness asked [redacted] if she had invited Ms. Ruenzel into the library, [redacted] said she had not and stated that Ms. Ruenzel had walked in on her. Multiple witnesses indicated that [redacted] told them the same day that Ms. Ruenzel had walked in on her while she was pumping in the law library. One witness recounted that she had been out of the office when the event had occurred but that when she returned to the office that day, she noticed that [redacted] appeared to have been crying. When she asked [redacted] what was wrong, [redacted] whispered to her, "Juliana walked in on me in the library."

Multiple witnesses also reported hearing Ms. Ruenzel make regular remarks to [redacted] regarding nursing and breast feeding from the time [redacted] began working in the Corporation Counsel office in August 2015, until just before Christmas 2015. The comments overheard by multiple other staff members included, but were not limited to, such comments as, "Isn't that [pumping] getting old?", "[redacted] gotta' go feed the baby again.", "Aren't you tired of pumping yet?", and "That is gross to me." The comments were made on a regular basis and then were reported to have ceased during the same period that [redacted] made her complaint to Human Resources.

When we interviewed Ms. Ruenzel during our investigation, Ms. Ruenzel flatly denied pounding on the door or even approaching the law library. She denied that the intrusion occurred and stated that it would be an "ethical violation" for her to have done so. She denied the allegations of [redacted] complaint. She also alleged that other staff in the office had joked with her that she should go knock on the library door while [redacted] was in the library pumping. She said she told them she would not do that because "it would scare [redacted]". Corporation Counsel staff have denied having such a conversation with Ms. Ruenzel. During the investigation interview, Ms. Ruenzel also denied making any remarks regarding nursing to [redacted]. While Ms. Ruenzel contacted Human Resources in mid-December regarding her concern over [redacted] taken extended time off to pump, she did not raise this concern with [redacted] at any time.

Ms. Ruenzel and office staff confirmed that in December 2015, Ms. Ruenzel allowed visiting counsel to use the law library— thus preventing [redacted] use for breast pumping. While she did not secure an alternate location for [redacted], Ms. Ruenzel did engage in a dialogue with [redacted] to suggest other locations for [redacted] to use within the Corporation Counsel Office space. However, staff have also confirmed [redacted] allegation that on the day of the holiday party, when Ms. Ruenzel indicated that the food should be put in the law library, that Ms. Ruenzel told [redacted] that it "was [redacted] problem" to find an alternate place to pump.

Based upon the communications [redacted] had with [redacted], it appears that Ms. Ruenzel may have purposely misadvised [redacted] regarding her need to punch out for all nursing breaks rather than only those where she exceeded regular break times. This conclusion is based upon the fact that [redacted] met with Ms. Ruenzel on at least three occasions in December about the policy and showed Ms. Ruenzel the federal regulations on providing pumping breaks for nursing

mothers. It would be presumed that Ms. Ruenzel would have an independent understanding of the language of the regulations and County 15-minute break policy even apart from discussing the County's obligation with

## Conclusions

Ms. Ruenzel denied her intrusion on \_\_\_\_\_ while she was breast pumping. However, we received sufficient corroboration to conclude that it occurred as described and that Ms. Ruenzel had been dishonest to the investigator and also Human Resources in its initial investigation. In our interview Ms. Ruenzel herself characterized the privacy intrusion complained of by \_\_\_\_\_ as one that would be a terminable violation if it had occurred. The intrusion by the Corporation Counsel into a space where a staff member had a reasonable expectation of privacy could be characterized as a violation of legal privacy protections and thus, as illegal conduct by the Corporation Counsel, has created possible legal exposure for the County.

Moreover, every staff member interviewed provided examples of Ms. Ruenzel's inappropriate and offensive communications and behavior toward Corporation Counsel office staff and other County personnel. Some aspects of this on-the-job treatment of her staff taken as a whole, or in part, might implicate liability exposure. We discuss findings regarding this treatment below:

- **Bias against women of childbearing age:** Ms. Ruenzel's actions and communications to \_\_\_\_\_ and others concerning \_\_\_\_\_ need to pump demonstrate Ms. Ruenzel's resistance to allowing her the time to pump. Paired with other reported comments and actions, however, this behavior suggests a bias or resentment toward her female staff of childbearing age. It was reported that she has made comments to and about female staff members not being able to do things after work, attend meetings or "be a boss" because they have children. It was also reported that when a female staff member told Ms. Ruenzel that she needed to take the day off because her pregnancy was going to be induced, Ms. Ruenzel remarked, "What are you going to do, lay around all day?" A staff member reported that when \_\_\_\_\_ indicated \_\_\_\_\_ was not going to need to take time off related to the birth of \_\_\_\_\_ child, Ms. Ruenzel made a sarcastic remark to \_\_\_\_\_ to the effect of, "You aren't going to need to take time off to pump too, are you?" Whether or not the bias exists, making comments about family status, childbearing, breast feeding and expressing breast milk, and suggesting any of those factors impacts a woman's ability to work, is entirely inappropriate for a supervisor and is generally construed by courts as indicia of discrimination.
- **Dishonesty:** We were informed of instances, and experienced firsthand, situations where Ms. Ruenzel deflected responsibility for her choices by either attributing or creating comments supposedly made by others. The instance we experienced during the investigation was when Ms. Ruenzel denied the intrusion event to independent counsel despite all evidence to the contrary. Despite being provided many opportunities in our investigatory interview to admit that it had occurred, she remained adamant, insisting that her own staff was dishonest about the event. More significant is that she told the investigator that others in her office had encouraged her to knock on the door of the law library while \_\_\_\_\_ was in pumping as a joke and she declined to do it. As stated, that story was denied by staff. Staff related incidences of Ms. Ruenzel distancing herself from

inappropriate behavior by deflecting responsibility onto others. The fact that at least two members of her staff have maintained journals of instances of her dishonesty in communications for over a year suggests they have identified a pattern of this behavior. We were informed that the journals are maintained by the staff because of their concerns of retaliation by Ms. Ruenzel; however, the journals also signal litigation preparation by those staff members.

- **Retaliation:** It was reported that Ms. Ruenzel has historically reminded hourly staff of her ability to fire them and remarked about how they are "at will." While she does this casually and with supposed humor, employees report that they do not receive these comments as humor but instead as a threat to their job security. It was reported that when she delivers paystubs to employees, she reminds them that she is the one who pays them. It was also reported that she mentions individuals being fired because they are "at will" often in pointed conversation. This has created job security concerns for the hourly employees and they fear retaliation by Ms. Ruenzel. [redacted] did not report the intrusion incident for a month and a half due to her concern over retaliation by Ms. Ruenzel. It should be noted that every staff member interviewed expressed great fear over retaliation by Ms. Ruenzel based upon their participation in the investigation interview and every staff member indicated distrust of Ms. Ruenzel.
- **Communication style.** She was reported to yell and "scream" at Corporation Counsel staff regularly, to generally have loud communications, and to engage in name calling. She was reported to have called [redacted] Corporation Counsel staff members "crybabies" and "whiner" directly, and to other staff members. It was reported that she was overheard shouting in phone conversations with County personnel and others. She was described as having "no filter" for her emotions. Multiple staff members reported witnessing an incident where she yelled at the [redacted] to the County [redacted] driving the staff member from her office, yelling at her until she was out the door. This communication style was identified as cyclical and unpredictable.

Standing alone and by her own acknowledgement, her dishonesty and other conduct would allow the County to consider discipline of Ms. Ruenzel in a range up to and including termination. And, while we did not fully investigate the full scope of other possible liability created by her actions and communications, we recommend that the County act to safeguard against the further liability exposure suggested by these findings. Thus, if the County retains Ms. Ruenzel, while one approach to safeguard exposure might be to place her on a performance improvement plan, with requirements for management assessment and coaching, anger management counseling, employment law training and training in conflict resolution and other approaches deemed appropriate by her supervisors, such training may not address the identified retaliation concerns and distrust of her staff.

JPII



AUGMENTATION OF RECORD per Sec. 19.356(9)(b), Wis. Stats.

June 13, 2016

“Due to the unjust manner in which I was being treated by the county executive in his narrow response to a complaint by a younger county employee whom I supervised and her co-worker within the corporation counsel office, who I believe had personal ulterior motives and who did not like being held accountable for inefficient use of her county time prior to the breast milk-pumping complaint being filed, I had no choice but to either resign the position of corporation counsel, or to submit to a public hearing before the county board at the insistence of the county executive. This hearing would have been predicated solely on a worker’s allegations of discontent that in this instance would have been more effectively handled through sound human resource management practices rather than the spectacle of a public hearing concerning the corporation counsel. In this instance, the very purpose of sound, efficient government would have been seriously eroded by the spectacle. After considering my professional duties and standards, I found it to be beneath my principles to be a part of a spectacle that was orchestrated without regard for the truth and a more efficient handling of the need for better workplace efficiency.

Factually speaking, I, as supervisor of the corporation counsel office, had first questioned an employee’s productivity in the workplace unrelated to any breast-feeding issue. And further questioned another employee as to her failing to follow directives when obtaining office supplies. Due to the county executive’s conclusory, one-sided, outcome-driven “investigation” that he bought and paid for through an outside attorney without notice to the county board and without any pretext of any independence whatsoever even though the initiating circumstances was that employees were being held accountable for county time unrelated to breast milk pumping, I had no choice to but resign my position as corporation counsel in order to avoid a growing toxic situation not of my doing. The unjust situation was being orchestrated by others and imprudently accepted by the county executive without regard to a full, fair review of the entire workplace dynamic, and it served to undercut the supervisory authority that is inherent in the position of corporation counsel. It was a situation that became clear to me that he was bound and determined to win, no matter the truth. I was merely holding employees accountable for county time and protecting the county coffers. There was no harassment here as was concocted by two disgruntled employees. I leave with my head held high and my professional principles intact, and fully understand the questions that surround this unhealthy, expensive, inefficient approach to county governance. The taxpayers deserve much better.”

Respectfully submitted,

Juliana Ruenzel

