

No. 94-1382

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT I

MARINO CONSTRUCTION CO., INC.,

Plaintiff-Appellant,

v.

ERRATA SHEET

**CITY OF MILWAUKEE,
BOARD OF HARBOR COMMISSIONERS
OF THE CITY OF MILWAUKEE
AND KENNETH J. SZALLAI,**

Defendants-Respondents.

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PLEASE TAKE NOTICE that the attached page 2 is to be substituted for page 2 in the above-captioned opinion which was released on October 17, 1995.

Dated this 25th day of December, 2006.

Milwaukee and the Board of Harbor Commissioners of the City of Milwaukee. The trial court dismissed the amended complaint after it concluded that libel is an intentional tort and therefore the City and the Board of Harbor Commissioners as governmental entities were immune from liability under § 893.80(4), STATS.¹ We conclude that Marino Construction's seven causes of action for libel as pleaded in its amended complaint are premised upon alleged intentional conduct on the part of the City and its agents, and accordingly the trial court properly applied the doctrine of governmental immunity in dismissing the amended complaint against the City and the Board of Harbor Commissioners. We affirm.

On August 2, 1991, the City and the Board of Harbor Commissioners entered into a contract with Marino Construction to build portions of the Port of Milwaukee Headquarters Building. The company "constructed" the building.

¹ Section 893.80(4) STATS., provides:

- (4) No suit may be brought against any volunteer fire company organized under ch. 213, political corporation, governmental subdivision or any agency thereof for the intentional torts of its officers, officials, agents or employees nor may any suit be brought against such corporation, subdivision or agency or volunteer fire company or against its officers, officials, agents or employees for acts done in the exercise of legislative, quasi-legislative, judicial or quasi-judicial functions.