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STATE OF WISCONSIN
SUPREME COURT

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Case No. 2013AP2504-2508-W
Case No. 2014AP296-OA
Case No. 2014AP417-421-W

STATE OF WISCONSIN ex rel. THREE UNNAMED PETITIONERS,

Petitioner,

v.

Case Nos. 2013AP2504-2508-W

THE HONORABLE GREGORY A. PETERSON, John Doe Judge,
THE HONORABLE GREGORY POTTER, Chief Judge, and
FRANCIS D. SCHMITZ, Special Prosecutor

Respondents,

L.C. Nos. 2013JD11, 2013JD9, 2013JD6, 2013JD1, 2012JD23

STATE OF WISCONSIN ex rel. TWO UNNAMED PETITIONERS,

Petitioner,

v.

Case Nos. 2014AP296-OA

THE HONORABLE GREGORY A. PETERSON, John Doe Judge, and
FRANCIS D. SCHMITZ, Special Prosecutor

Respondents,

L.C. Nos. 2012JD23, 2013JD1, 2013JD6, 2013JD9, 2013JD11

STATE OF WISCONSIN ex rel. FRANCIS D. SCHMITZ, Special
Prosecutor,

Petitioner,

v.

Case Nos. 2014AP417-421-W

THE HONORABLE GREGORY A. PETERSON, John Doe Judge,

Respondent,

and

EIGHT UNNAMED MOVANTS,

Interested Parties.

L.C. Nos. 2013JD11, 2013JD9, 2013JD6, 2013JD1, 2012JD23

ORIGINAL BRIEF OF UNNAMED MOVANT NO. 8

[REDACTED]

Concerning John Doe Proceedings in Five Counties
Hon. Gregory A. Peterson, Presiding
Columbia County No. 2013JD11; Dane County No. 2013JD9;
Dodge County No. 2013JD6; Iowa County NO. 2013JD1;
Milwaukee County No. 2012JD23

Jeffrey J. Morgan
State Bar No. 1027924
Counsel for Unnamed Movant No. 8
309 N. Water Street, Suite 350
Milwaukee, WI 53202
(414) 276-1233
jeff@ldm-law.com

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TABLE OF AUTHORITIES

Unnamed Movant No. 8 [REDACTED] expressly adopts the Table of Authorities as set forth in the respective opening briefs of: Unnamed Movant No. 1 [REDACTED]; Unnamed Movant No. 2 [REDACTED] and its Officers and Directors); Unnamed Movant No. 4 and 5 [REDACTED] and [REDACTED]; and Unnamed Movant No. 7 [REDACTED].

Cases Cited:

In re John Doe Proceeding, 2003 WI 30, 260 Wis.2d 653, 660 N.W.2d 260 9
State v. Bollig, 222 Wis.2d 558, 587 N.W.2d 908 (Ct. App. 1998) 2
Wisconsin Coalition for Voter Participation, Inc. v. State Elections Board, 231 Wis.2d 670, 605 N.W.2d 654 (Ct. App. 1999), petition for review dismissed, 231 Wis.2d 377, 607 N.W.2d 293 (1999) iii,4

Wisconsin Statutes:

Wis. Stat. §9.10 ii,13
 Wis. Stat. Chapter 11 ii,iii,iv,5,6,14,15,16,17
 Wis. Stat. §11.01(6) 3
 Wis. Stat. §11.01(7) 3
 Wis. Stat. §11.01(16) 3,4
 Wis. Stat. §11.06(4)(d) 3
 Wis. Stat. §11.06(7) ii,13
 Wis. Stat. §11.10(4) iii,3,17
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 Wis. Stat. §11.26(13m) ii,2,13,14
 Wis. Stat. §11.27 7
 Wis. Stat. §11.61(1) 7
 Wis. Stat. §939.05 7
 Wis. Stat. §939.31 7
 Wis. Stat. §968.26 1
 Wis. Stat. §978.045(1r) 2

Other Authorities:

GAB §1.42 iii,15,17
 First Amendment, United States Constitution 4,6,10,25
 Fourth Amendment, United States Constitution vi,22
 Article I, Section 3, Wisconsin Constitution 6

ISSUES PRESENTED

In its December 16, 2014 Order, this Court set forth the relevant issues as follows:

1. Whether the Director of State Courts had lawful authority to appoint reserve judge, [REDACTED] as the John Doe judge to preside over a multi-county John Doe proceeding.

2. Whether the Chief Judge of the First Judicial District had lawful authority to appoint reserve judge, [REDACTED], as the John Doe judge to preside over a multi-county John Doe proceeding.

3. Whether Wis. Stat. §968.26 permits a John Doe judge to convene a John Doe proceeding over multiple counties, which is then coordinated by the district attorney of one of the counties.

4. Whether Wisconsin law allows a John Doe judge to appoint a special prosecutor to perform the functions of a district attorney in multiple counties in a John Doe proceeding when (a) the district attorney in each county requests the appointment; (b) but none of the nine grounds

for appointing a special prosecutor under Wis. Stat. §978.045(1r) apply; [REDACTED]

- [REDACTED]
5. If, arguendo, there was a defect in the appointment of the special prosecutor in the John Doe proceedings at issue in these matters, what effect, if any, would that have on the competency of the special prosecutor to conduct the investigation; or the competency of the John Doe judge to conduct these proceedings? See, e.g., *State v. Bollig*, 222 Wis. 2d 558, 569-70, 587 N.W.2d 908 (Ct. App. 1998).
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

6. Whether, with regard to recall elections, Wis. Stat. §11.26(13m) affects a claim that alleged illegal coordination occurred during the circulation of recall petitions and/or resulting recall elections.
- [REDACTED]
- [REDACTED]

7. Whether the statutory definitions of "contributions", "disbursements," and "political purposes" in Wis. Stat. §§11.01(6), (7) and (16) are limited to contributions or expenditures for express advocacy or whether they encompass the conduct of coordination between a candidate or a campaign committee and an independent organization that engages in issue advocacy. If they extend to issue advocacy coordination, what constitutes prohibited "coordination?"

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- 7a. Whether Wis. Stat. §11.10(4) and §11.06(4)(d) apply to any activity other than contributions or disbursements that are made for political purposes under Wis. Stat. §11.01(16) by: (i) the candidate's campaign committee; or (ii) an independent political committee.

[REDACTED]

[REDACTED]

- 7b. Whether Wis. Stat. §11.10(4) operates to transform an independent organization engaged in issue advocacy into a "subcommittee" of a candidate's campaign committee if the independent advocacy organization has coordinated its issue

1. *Journal of the American Medical Association*, 1997; 277: 1033-1038.

10. *Journal of the American Medical Association*, 2000; 283: 2686-2692.

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	52
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[illegible][illegible]

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Age Group	2006	2008	2010
18-29	78	82	85
30-49	72	75	78
50-69	65	68	70
70+	58	60	62

[illegible]

1. *Journal of the American Medical Association*, 1997; 277: 1001-1005.

1. *Journal of the American Medical Association*, 1997; 277: 103-107.

[illegible][illegible][illegible]

1. *Journal of Management Studies*, 1996, 33, 1, 1-14.

8. Whether fundraising that is coordinated among a candidate or a candidate's campaign committee and independent advocacy organization violates Wis. Stat. ch. 11.

9. Whether a criminal prosecution may, consistent with due process, be founded on a theory that coordinated issue advocacy constitutes a regulated "contribution" under Wis. Stat. ch. 11.

10. Whether the records in the John Doe proceedings provide a reasonable belief that Wisconsin law was violated by a campaign committee's coordination with independent advocacy organizations that engaged in express advocacy speech. If so, which records support such a reasonable belief?

[REDACTED]

[REDACTED]

[REDACTED]

11. If Wis. Stat. ch. 11 prohibits a candidate or a candidate's campaign committee from engaging in "coordination" with an independent advocacy organization that engages solely in issue advocacy, whether such prohibition violates the free speech provisions of the First Amendment of the United States Constitution and/or Article I, Section 3 of the Wisconsin Constitution.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12. Whether pursuant to Wis. Stat. ch. 11, a criminal prosecution may, consistent with due process, be founded on an allegation that a candidate or candidate committee "coordinated" with an independent advocacy organization's issue advocacy.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
13. Whether the term "for political purpose" in Wis. Stat. §11.01(16) is unconstitutionally vague unless it is limited to express advocacy to elect or defeat a clearly identified candidate.
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

14. Whether the affidavits underlying the warrants issued in the John Doe proceedings provided probable cause to believe that evidence of a criminal violation of Wis. Stat. §§11.27, 11.26(1)(a), 11.61(1), 939.31, and 939.05
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

STATEMENT ON ORAL ARGUMENT AND PUBLICATION

Because these issues have vast statewide public importance, this Court should follow its usual practice of allowing oral argument and publishing its decision, as this Court indicated it would in its December 16 and 19, 2014 orders.

STATEMENT OF THE CASE

Unnamed Movant No. 8 [REDACTED] expressly adopts the Statement of the Case as set forth in the opening brief of Unnamed Movant No. 1 [REDACTED]
[REDACTED], Unnamed Movant No. 2 [REDACTED]
[REDACTED], Unnamed Movant No. 4 [REDACTED] and Unnamed Movant No. 5 [REDACTED]
[REDACTED].

Unnamed Movant No. 8 [REDACTED]
[REDACTED]
[REDACTED] The instant brief addresses the issues delineated in the Supreme Court Order of December 16, 2014. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

STATEMENT OF THE FACTS

Unnamed Movant No. 8 [REDACTED] expressly adopts the Statement of the Facts, including its subsections, of Unnamed Movant No. 2 [REDACTED].

ARGUMENT

With respect to Issues 1-5 below, Unnamed Movant No. 8 maintains that, even if procedural errors require the parties to be returned to the positions they occupied before August 2013, the remaining issues before this Court should still be decided. "[E]ven if an issue is moot, this court may address the issue if: (1) the issue is of great public importance; (2) the situation occurs so frequently that a definitive decision is necessary to guide circuit courts; (3) the issue is likely to arise again and a decision of the court would alleviate uncertainty; or (4) the issue will likely be repeated, but evades appellate review because the appellate review process cannot be completed or even undertaken in time to have a practical effect on the parties." *In re John Doe Proceeding*, 2003 WI 30, ¶19, 260 Wis.2d 653, 660 N.W.2d 260.

Here, the constitutionality and reach of Wisconsin's campaign finance laws, and ultimately the First Amendment rights of individuals, candidates, elected officials, donors, and third party groups to participate freely in Wisconsin's political processes are at stake. These issues will undoubtedly and necessarily recur each election cycle, and the answers have clear, state-wide import. Everyone involved in any aspect of a political campaign - candidates, campaign committees, 501(c) organizations, and the voting public - deserves clarity from this Court on the governing rules. Accordingly, this Court should reach the remaining questions regardless of whether the outcome of Issues 1-5 might otherwise moot those questions.

I. RESERVE JUDGES MAY NOT BE APPOINTED TO PRESIDE OVER MULTI-COUNTY JOHN DOE INVESTIGATIONS (SUPREME COURT ISSUE NOS. 1 and 2)

A. Standard of Review

Unnamed Movant No. 8 [REDACTED] expressly adopts the Standard of Review of Unnamed Movant No. 7 [REDACTED] [REDACTED] as set forth in Argument I(A) of [REDACTED] opening brief.

B. The Director of State Courts May Not Appoint a Reserve Judge to Preside Over a Five-County John Doe Investigation

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 7 [REDACTED] as set forth in Argument I(B) of [REDACTED] opening brief.

C. A Chief Judge in One Judicial District Certainly May Not Make Such an Appointment Extending to Four Counties in Other Judicial Districts

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 7 [REDACTED] as set forth in Argument I(C) of [REDACTED] opening brief.

II. A JOHN DOE JUDGE HAS NO COMPETENCY TO CONVENE A JOHN DOE INVESTIGATION OVER FIVE COUNTIES, AT LEAST IF LED BY ONE COUNTY'S DISTRICT ATTORNEY (SUPREME COURT ISSUE NO. 3)

A. Standard of Review

Unnamed Movant No. 8 [REDACTED] expressly adopts the Standard of Review of Unnamed Movant No. 7 [REDACTED] [REDACTED] as set forth in Argument III(A) of [REDACTED] opening brief.

B. Merits

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 7 [REDACTED] as set forth in Argument III(B) of [REDACTED] opening brief.

III. THIS SPECIAL PROSECUTOR'S APPOINTMENT WAS UNLAWFUL FROM THE START (SUPREME COURT ISSUE NO. 4)

A. Standard of Review

Unnamed Movant No. 8 [REDACTED] expressly adopts the Standard of Review of Unnamed Movant No. 7 [REDACTED]

██████████ as set forth in Argument II(A) of █████ opening brief.

B. Overview

Unnamed Movant No. 8 ██████████ expressly adopts the Argument of Unnamed Movant No. 7 ██████████ as set forth in Argument II(B) of █████ opening brief.

C. No Statutory Authority

Unnamed Movant No. 8 ██████████ expressly adopts the Argument of Unnamed Movant No. 7 ██████████ as set forth in Argument II(C) of █████ opening brief.

D. No Case Law Authority

Unnamed Movant No. 8 ██████████ expressly adopts the Argument of Unnamed Movant No. 7 ██████████ as set forth in Argument II(D) of █████ opening brief.

E. No Public Policy Justification

Unnamed Movant No. 8 ██████████ expressly adopts the Argument of Unnamed Movant No. 7 ██████████ as set forth in Argument II(E) of █████ opening brief.

F. No Competence

Unnamed Movant No. 8 ██████████ expressly adopts the Argument of Unnamed Movant No. 7 ██████████ as set forth in Argument II(F) of █████ opening brief.

IV. BECAUSE NEITHER THE JOHN DOE JUDGE NOR THE SPECIAL PROSECUTOR HAD COMPETENCY TO PROCEED, EVERYONE MUST RETURN TO THE POSITIONS THEY OCCUPIED BEFORE AUGUST 2013 (SUPREME COURT ISSUE NO. 5)

A. Standard of Review

Unnamed Movant No. 8 [REDACTED] expressly adopts the Standard of Review of Unnamed Movant No. 7 [REDACTED] [REDACTED] as set forth in Argument IV(A) of [REDACTED] opening brief.

B. Merits

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 7 [REDACTED] as set forth in Argument IV(B) of [REDACTED] opening brief.

V. WIS. STAT. §11.26(13m), WHEN READ IN CONJUNCTION WITH WIS. STAT. §§9.10 AND 11.06(7), ELIMINATES ANY JUSTIFICATION FOR THE SPECIAL PROSECUTOR'S EXPANSIVE VIEW OF COORDINATION RESTRICTIONS (SUPREME COURT ISSUE NO. 6)

A. Standard of Review

Unnamed Movant No. 8 [REDACTED] expressly adopts the Standard of Review of the opening brief of Unnamed Movant No. 1 [REDACTED].

B. Wisconsin Statutory Restriction on Coordination in Wis. Stat. §11.06(7) Only Applies to a Specific Kind of Disbursement

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 1 [REDACTED] [REDACTED] as set forth in Issue No. 6(B) of its opening brief.

C. An Incumbent Officeholder Does Not Become a Recall "Candidate" Subject to the Coordination Restrictions of Wis. Stat. §11.06(7) Until

Constitutional and Statutory Requirements Are
Met

Unnamed Movant No. 8 [REDACTED] expressly adopts
the Argument of Unnamed Movant No. 1 [REDACTED]
[REDACTED] as set forth in Issue No. 6(C) of its
opening brief.

D. Wis. Stat. §11.26(13m) Permits a Window of
Unlimited Campaign Contributions Prior to the
Time an Incumbent Officeholder is Subject to a
Recall Election

Unnamed Movant No. 8 [REDACTED] expressly adopts
the Argument of Unnamed Movant No. 1 [REDACTED]
[REDACTED] as set forth in Issue No. 6(D) of its
opening brief.

E. The Alleged "Conduct of Coordination" Does
Not, and Cannot, Violate Chapter 11)

Unnamed Movant No. 8 [REDACTED] expressly adopts
the Standard of Review of Unnamed Movant No. 1 [REDACTED]
[REDACTED] as set forth in Issue No. 6(E) of
its opening brief.

**VI. WISCONSIN CAMPAIGN FINANCE LAW DOES NOT REGULATE
COORDINATED ISSUE ADVOCACY (SUPREME COURT ISSUE NO.
7, INCLUDING SUBPARTS)**

Unnamed Movant No. 8 [REDACTED] expressly adopts
the Argument of Unnamed Movant No. 2 [REDACTED]
[REDACTED] as set forth in Argument III of its
opening brief.

A. Standard of Review

Unnamed Movant No. 8 [REDACTED] expressly adopts the Standard of Review, including subsections, of Unnamed Movant No. 2 [REDACTED] as set forth in its opening brief.

B. Only Express Advocacy Communications Qualify as Regulated "Disbursements" or "Contributions"

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 2 [REDACTED] [REDACTED] as set forth in Argument III(A) of its opening brief.

C. The Special Prosecutor's Theory of Criminal Liability is Incompatible with Chapter 11

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 2 [REDACTED] [REDACTED] as set forth in Argument III(B) of its opening brief.

1. Coordinated Issue Advocacy Communications are not "In-kind" Contributions

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 2 [REDACTED] [REDACTED] as set forth in Argument III(B)(1) of its opening brief.

2. GAB §1.42 Does Not Apply to Non-Committee Issue Advocacy

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 2 [REDACTED] [REDACTED] as set forth in Argument III(B)(2) of its opening brief.

3. Coordinating Issue Advocacy Does Not Convert an Independent Organization into a "Subcommittee" of a Candidate

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 2 [REDACTED] [REDACTED] as set forth in Argument III(B)(3) of its opening brief.

4. WCVF Does Not Apply, and if it Does, Should be Overruled

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 2 [REDACTED] [REDACTED] as set forth in Argument III(B)(4) of its opening brief.

VII. FUNDRAISING THAT IS COORDINATED AMONG A CANDIDATE OR A CANDIDATE'S CAMPAIGN COMMITTEE AND AN INDEPENDENT GROUP DOES NOT, AND CANNOT, VIOLATE WIS. STAT. CH. 11 (SUPREME COURT ISSUE NO. 8)

A. Standard of Review

Unnamed Movant No. 8 [REDACTED] expressly adopts the Standard of Review of the opening brief of Unnamed Movant No. 1 [REDACTED].

- B. Since 1980, the Wisconsin Legislature Has Explicitly and Repeatedly Rejected Prohibitions on Coordinated Fundraising

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 1 [REDACTED] [REDACTED] as set forth in Issue No. 8(B) of its opening brief.

C. Statutory and Regulatory Language, Including GAB §1.42 and Wis. Stat. §11.10(4), Does Not Prohibit Coordinated Fundraising

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 1 [REDACTED] [REDACTED] as set forth in Issue No. 8(C) of its opening brief.

D. The Common Sense Understanding of Permissible Coordinated Fundraising is Shown Through the Almost Identical Coordination Activity of [REDACTED]

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 1 [REDACTED] [REDACTED] as set forth in Issue No. 8(D) of its opening brief.

VIII. STRETCHING CHAPTER 11 TO REACH COORDINATED ISSUE ADVOCACY COMMUNICATIONS WOULD RENDER THE STATUTE UNCONSTITUTIONAL (SUPREME COURT ISSUE NOS. 9, 11-13)

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 2 [REDACTED] [REDACTED] as set forth in Argument IV of its opening brief.

A. Standard of Review

Unnamed Movant No. 8 [REDACTED] expressly adopts the Standard of Review, including subsections, of Unnamed Movant No. 2 [REDACTED] as set forth in Argument IV(A) of its opening brief.

B. Absent a "Content" Standard, the "Conduct" of Coordination Cannot Convert Communications Into Campaign Contributions

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 2 [REDACTED] [REDACTED] as set forth in Argument IV(A) of its opening brief.

1. Contribution Limits Are Unconstitutionally Overbroad if Not Closely Drawn to Government Interest

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 2 [REDACTED] [REDACTED] as set forth in Argument IV(A)(1) of its opening brief.

2. Untethered to a "Content" Standard, Converting Coordinated Communications Into Contributions is Unconstitutionally Overbroad

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 2 [REDACTED] [REDACTED] as set forth in Argument IV(A)(2) of its opening brief.

3. The Scope of the Investigation Into the [REDACTED] Demonstrates the

Overbreadth of the Special
Prosecutor's Flawed Theory of
Criminal Liability

Unnamed Movant No. 8 [REDACTED] expressly adopts
the Argument of Unnamed Movant No. 2 [REDACTED]
[REDACTED] as set forth in Argument IV(A)(3) of its
opening brief.

C. Absent a Limiting Construction, the
Definition of Political Purposes is
Unconstitutionally Vague

Unnamed Movant No. 8 [REDACTED] expressly adopts
the Argument of Unnamed Movant No. 2 [REDACTED]
[REDACTED] as set forth in Argument IV(B) of its
opening brief.

1. "For the Purpose of Influencing" is
Unconstitutionally Vague

Unnamed Movant No. 8 [REDACTED] expressly adopts
the Argument of Unnamed Movant No. 2 [REDACTED]
[REDACTED] as set forth in Argument IV(B)(1) of its
opening brief.

2. Wisconsin Law Does Not Provide Any
Objective "Content" Standard Beyond
Express Advocacy

Unnamed Movant No. 8 [REDACTED] expressly adopts
the Argument of Unnamed Movant No. 2 [REDACTED]
[REDACTED] as set forth in Argument IV(B)(2) of its
opening brief.

IX. THE RECORDS IN THE JOHN DOE PROCEEDINGS DO NOT INDICATE THAT WISCONSIN LAW WAS VIOLATED BY A CAMPAIGN COMMITTEE'S COORDINATION WITH INDEPENDENT ADVOCACY ORGANIZATIONS THAT ENGAGED IN EXPRESS ADVOCACY SPEECH (SUPREME COURT ISSUE NO. 10)

A. Standard of Review

Unnamed Movant No. 8 [REDACTED] expressly adopts the Standard of Review of the opening brief of Unnamed Movant No. 1 [REDACTED].

B. The John Does Judge Did Not Clearly Violate a Plain Duty [REDACTED]

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 1 [REDACTED] as set forth in Issue No. 10(B) and the preamble of its opening brief.

C. A De Novo Review of the Records Confirms That There is no Evidence of Express Advocacy or Criminal Conduct

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 1 [REDACTED] as set forth in Issue No. 10(C) and the preamble of its opening brief.

X. THE AFFIDAVITS UNDERLYING THE DOE WARRANTS AND SUBPOENAS DID NOT PROVIDE PROBABLE CAUSE FOR THEIR ISSUANCE AND THEY ARE CONSTITUTIONALLY INFIRM (SUPREME COURT ISSUE NO. 14)

A. Standard of Review

Unnamed Movant No. 8 [REDACTED] expressly adopts the Standard of Review of the opening brief of Unnamed Movant No. 4 [REDACTED] and Unnamed Movant No. 5 [REDACTED].

B. The Warrant and Subpoena Standard is Probable Cause: An Honest Belief, Supported by Facts, That Some Crime Has Occurred

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 4 [REDACTED] [REDACTED] and Unnamed Movant No. 5 [REDACTED] as set forth in Argument I(C) of their opening brief.

C. Regardless of the Standard, There Can be No Evidence of a Crime Without Any Crime to Charge

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 4 [REDACTED] [REDACTED] and Unnamed Movant No. 5 [REDACTED] as set forth in Argument II of their opening brief.

i. Under Any Standard of Review, [REDACTED]

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 4 [REDACTED] [REDACTED] and Unnamed Movant No. 5 [REDACTED]

[REDACTED] as set forth in Argument II(A) of their opening brief.

- ii. Impermissible Coordination, Even As the Prosecutor Defines It, Requires Far More Than the Activities Alleged to Support the Subpoenas

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 4 [REDACTED] [REDACTED] and Unnamed Movant No. 5 [REDACTED] as set forth in Argument II(B) of their opening brief.

- iii. The Specific Allegations About [REDACTED] Conduct and Speech Cannot Sustain a Subpoena

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 4 [REDACTED] [REDACTED] and Unnamed Movant No. 5 [REDACTED] as set forth in Argument II(C) of their opening brief.

- iv. The Conduct Identified by the Prosecutor is Constitutionally-Protected Speech

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 4 [REDACTED] [REDACTED] and Unnamed Movant No. 5 [REDACTED] as set forth in Argument II(D) of their opening brief.

- D. On Both Due Process and Fourth Amendment Grounds, the Subpoenas Should Remain [REDACTED]

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 4 [REDACTED] [REDACTED] and Unnamed Movant No. 5 [REDACTED] as set forth in Argument III of their opening brief.

- i. Neither the Courts Nor the Administrative Agencies Have Found the "Law" on Impermissible Coordination Settled

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 4 [REDACTED] [REDACTED] and Unnamed Movant No. 5 [REDACTED] as set forth in Argument III(A) of their opening brief.

- ii. The Subpoena's Overbreadth is Fatal

Unnamed Movant No. 8 [REDACTED] expressly adopts the Argument of Unnamed Movant No. 4 [REDACTED] [REDACTED] and Unnamed Movant No. 5 [REDACTED] as set forth in Argument III(B) of their opening brief.

- E. The Subpoena for [REDACTED] [REDACTED] Suffers the Same Flaws As for Other Parties

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

a. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

b. [REDACTED]

[REDACTED]

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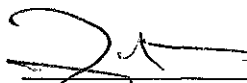
The subpoena fails to establish the nexus between the materials sought and the subject matter of the Doe. The tight connection required between those concerns have not been properly limited. The subpoenas overbreadth and invasion into free speech renders it fatally defective.

CONCLUSION

For the foregoing reasons, as well as the adopted arguments, Unnamed Movant No. 8 [REDACTED] requests that the Court uphold Judge Peterson's January 10, 2014 decision and dismiss the Special Prosecutor's petition, as well as issue writs of mandamus and prohibition with respect to the proceedings initiated by the three unnamed petitioner.

Dated at Milwaukee, Wisconsin this 2nd day of February, 2015.

Respectfully submitted,



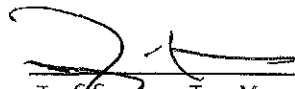
Jeffrey J. Morgan, SBN 1027924
Counsel for Unnamed Movant No. 8
309 N. Water Street, Suite 350
Milwaukee, WI 53202
(414) 276-1233
jeff@ldm-law.com

CERTIFICATION

I hereby certify that this brief conforms to the rule contained in Wis. Stats. §809.19(8)(b) and (c) for a brief produced with a monospaced font. The length of this petition is 27 pages.

Dated in Milwaukee, Wisconsin this 2nd day of February, 2015.

Respectfully submitted,



Jeffrey J. Morgan, SBN: 1027924
Counsel for Unnamed Movant No. 8
309 N. Water Street, Suite 350
Milwaukee, WI 53202
(414) 276-1233
jeff@ldm-law.com

CERTIFICATION

I hereby certify that:

I have submitted an electronic copy of this brief, excluding the appendix, if any, which complies with the requirements of Wis. Stats. 809.19(12)(f).

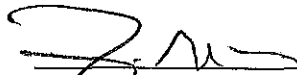
I further certify that:

This electronic brief is identical in content and format to the printed for of the brief filed as of this date.

A copy of this certificate has been served with the paper copies of this brief filed with the court and served on all parties.

Dated in Milwaukee, Wisconsin this 2nd day of February, 2015.

Respectfully submitted,



Jeffrey J. Morgan, SBN: 10297924
Counsel for Unnamed Movant No. 8
309 N. Water Street, Suite 350
Milwaukee, WI 53202
(414) 276-1233
jeff@ldm-law.com

APPENDIX

Unnamed Movant No. 8 [REDACTED] hereby expressly adopts the Joint Appendix filed on behalf of the parties to this action and any appendix reference shall be to that document.