

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ONE WISCONSIN INSTITUTE, INC.,
CITIZEN ACTION OF WISCONSIN EDUCATION
FUND, INC., RENEE M. GAGNER,
ANITA A. JOHNSON, CODY R. NELSON,
JENNIFER S. TASSE, SCOTT T. TRINDL
and MICHAEL R. WILDER,

Plaintiffs,

15-cv-324-jdp

v.

JUDGE GERALD C. NICHOL, JUDGE ELSA LAMELAS,
JUDGE THOMAS BARLAND,
JUDGE HAROLD V. FROEHLICH,
JUDGE TIMOTHY VOCKE, JUDGE JOHN FRANKE,
KEVIN J. KENNEDY and MICHAEL HAAS,

Defendants.

MOTION TO QUASH SUBPOENA

Pierce County Clerk, Jamie Feuerhelm, moves the court to quash the Subpoena of Joseph Wenzinger for production of documents pursuant to Federal Rule of Civil Procedure 45(c)(2)(A) and (d)(3)(A), based on the following grounds as well as those set forth in the Affidavit of Jamie Feuerhelm:

1. Attorney Joseph Wenzinger served a Subpoena to Produce Documents on Pierce County Clerk Jamie Feuerhelm on October 7, 2015.
2. Said documents are to be produced to Attorney Wenzinger at his address at 700 13th Street NW, Suite 600, Washington DC, 20005 by October 23, 2015.
3. The Subpoena seeks compliance in violation of the geographical limits of Federal Rule of Civil Procedure 45(c)(2)(A), by requiring the production of documents at a

location approximately 890 miles from the attorney for the Plaintiff in Washington D.C., to the Pierce County Courthouse which is the location of the Pierce County Clerk's employment office; said subpoena is in violation of Federal Rule of Civil Procedure 45(c)(2)(A) which limits the command of a Subpoena to the "production of documents, electronically stored information, or tangible things at a place *within 100 miles of where the person resides, is employed, or regularly transacts business in person.*" (emphasis added).

4. Apparently Attorney Wenzinger's firm also has an office located in Madison, Wisconsin at 1 East Main Street, Suite 201, Madison, WI 53703. Even if that office were used, said office is approximately 193 miles from Mr. Feuerhelm's office, and as such the use of that location would still be in violation of Federal Rule of Civil Procedure 45(c)(2)(A).

5. The Subpoena contains a lengthy "Attachment" with 23 numbered "Document Production Topics," including one "Topic" that contains 18 sub-"Topics." The topics are exceedingly broad, sweeping and extensive, and upon reviewing the vast breadth of the demand, requires the Pierce County Clerk to produce virtually every document containing election documentation or communications for the time period from January 1 2008 and through the present, as set forth in Subpoena Instruction paragraph number 6.

6. As set forth in the Affidavit of Jamie Feuerhelm, considerable and substantial time and resources would be necessary to comply with the Subpoena, in addition to the full time statutory duties that already need to be performed by the Pierce County Clerk pursuant to §59.23 Wis. Stats., all to the detriment of the citizens of Pierce County.


7. As such the Subpoena subjects the Pierce County Clerk to an undue burden of complying with the Subpoena, in violation of Federal Rule of Civil Procedure 45(d)(3)(A)(iv).

8. The Subpoena is further unduly burdensome to the extent that it calls for all documents to be produced 21 days following service, which occurred on October 7, 2015, or in other words by October 28, 2015. Given the unduly burdensome scope of the subpoena as set forth above, it is not possible to comply within 21 days. As such the Subpoena fails to allow a reasonable time to comply, in violation of Federal Rule of Civil Procedure 45(d)(3)(A)(i).

For the foregoing reasons, Pierce County Clerk Jamie Feuerhelm respectfully requests that the court quash the Subpoena.

Dated: October 20, 2015

Respectfully submitted,



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