

**FILED**

**DEC 30 2011**

**CLERK OF SUPREME COURT  
OF WISCONSIN**

**STATE OF WISCONSIN  
SUPREME COURT**

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**APPEAL NO. 2011AP765-W**

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STATE OF WISCONSIN and  
STATE OF WISCONSIN EX REL. MICHAEL D. HUEBSCH,  
Secretary of the Wisconsin Department of Administration,

PETITIONERS,

V.

CIRCUIT COURT FOR DANE COUNTY,  
THE HONORABLE MARYANN SUMI, Presiding,  
ISMAEL R. OZANNE

District Attorney for Dane County,

JEFF FITZGERALD,  
SCOTT FITZGERALD,  
MICHAEL ELLIS,  
SCOTT SUDER,  
MARK MILLER,  
PETER BARCA,  
DOUGLAS LAFOLLETTE,  
JOINT COMMITTEE ON CONFERENCE,  
WISCONSIN STATE SENATE and  
WISCONSIN STATE ASSEMBLY,

RESPONDENTS.

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**APPEAL NO. 2011AP613-LV  
TRIAL COURT CASE NO. 2011CV1244**

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STATE OF WISCONSIN *ex rel.*  
ISMAEL R. OZANNE,

PLAINTIFF-RESPONDENT,

V.

JEFF FITZGERALD,  
SCOTT FITZGERALD,  
MICHAEL ELLIS,  
SCOTT SUDER,

DEFENDANTS,

AND

DOUGLAS LAFOLLETTE,

DEFENDANT-PETITIONER-MOVANT

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**DISTRICT ATTORNEY'S MOTION FOR RECUSAL OF JUSTICE  
MICHAEL GABLEMAN AND FOR RELIEF FROM JUDGMENT**

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**INTRODUCTION**

Respondent, Ismael R. Ozanne, District Attorney for Dane County, Wisconsin, and Plaintiff-Respondent, State of Wisconsin *ex rel.* Ismael R. Ozanne ("District Attorney") hereby gives notice of and does move for relief as follows:

1. An Order by Justice Michael Gableman recusing himself from participation in this Matter; or,

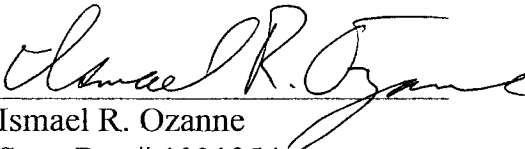
2. In the alternative, an Order from this Court disqualifying Justice Gableman from participation in this Matter;
3. An Order vacating this Court's June 14, 2011 Order, reported at 2011 WI 43, 334 Wis.2d 70, 798 N.W.2d 436; or,
4. In the alternative, oral argument on whether the District Attorney has sufficiently stated a claim for relief pursuant to Wis. Stat. 806.07(1)(h) and whether a further evidentiary hearing is required; and,
5. An Order directing the Dane County Circuit Court, Judge Maryann Sumi presiding ("Circuit Court"), to reinstate its prior orders *nunc pro tunc* to June 5, 2011.

This Motion is brought pursuant to Wis. Stat. §§ 757.19(2)(g), 806.07(1)(h), 809.70, and 809.84, as well as SCR 60:04 and 60:04(a), on the grounds that extraordinary circumstances are present justifying relief in the interest of justice. Specifically, the District Attorney alleges that Justice Michael Gableman should not have participated in the Oral Argument of June 6, 2011, or the Decision and Order of June 14, 2011. As a result of his participation, the Order is void.

This is because Justice Gableman received legal representation from a private law firm, Michael Best & Friedrich, LLP (“MBF”), in a personal legal matter without any obligation to pay legal fees. MBF represented Secretary Huebsch in the instant matter, signed briefs filed in the instant matter, and Attorney Eric McLeod (Justice Gableman’s personal attorney) attended the oral argument in this matter. Furthermore, at no point during the pendency of this matter did Justice Gableman disclose to the District Attorney the circumstances of his financial arrangement with MBF.

This Motion is supported by the accompanying Combined Memorandum of Law and the accompanying Affidavit of Ismael R. Ozanne.

Dated this day of December 30, 2011.



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