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December 2, 2011

BY HAND DELIVERYA. John Voelker
Acting Clerk
Wisconsin Supreme Court
110 E. Main Street, Suite 215
Madison, WI 53703-1688*Clinard v. Brennan*
Case No. 2011AP2677-OA**RECEIVED**
DEC 02 2011
CLERK OF SUPREME COURT
OF WISCONSIN

Dear Mr. Voelker:

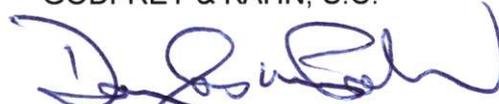
Earlier today, the counsel for the petitioners filed a "Voluntary Withdrawal of Petition." On behalf of the "involuntary petitioners," we write to object to the request and the pleading—if only, for the moment, for the purposes of defining its scope and its effect on the Court's pending orders. The Court's November 30, 2011 order noted that the petition requested relief in the alternative—leave to file an original action or the appointment of a three-judge panel, assertedly subject to state law. It also noted the pendency of yet another case filed by the petitioners in the Waukesha County Circuit Court (No. 2011 CV 3995), requesting similar relief.

The questions raised by the Court on November 30 remain, whatever the intended effect, stated or unstated, of the voluntary withdrawal. Have the intervenors, parties that have filed a responsive pleading, consented? See Wis. Stat. § 805.04(1). Are the petitioners withdrawing their Waukesha County Circuit Court action as well? Does the withdrawal apply to their entire Supreme Court pleading? If not, then the issues already identified by the Court remain, including the constitutional, jurisdictional, statutory and procedural issues triggered by the petition in the face of the almost six-month old federal litigation.

The involuntary petitioners, reserving their rights to challenge the state courts' jurisdiction, intend to file the memorandum on December 6 required by the Court because of the importance of these issues. Having raised them, the petitioners cannot unilaterally discard them without explanation or consequence.

A. John Voelker
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GODFREY & KAHN, S.C.

A handwritten signature in blue ink, appearing to be 'D. Poland', written over the printed name of Douglas M. Poland.

Douglas M. Poland
Wendy K. Arends

DMP:aeg
Enclosures

cc: Maria S. Lazar
J.B. Van Hollen
Eric M. McLeod
Kevin J. Kennedy
Joseph L. Olson
Jeremy P. Levinson

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