

**FILED**

NOV 02 2016

SUPREME COURT OF WISCONSIN  
Case Nos. 2014AP296 and 2014AP417-421 CLERK OF SUPREME COURT  
L.C. Nos. 2012JD23, 2013JD1, 2013JD6, 2013JD9, 2013JD11 OF WISCONSIN

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STATE OF WISCONSIN ex rel. TWO UNNAMED PETITIONERS,

Petitioner,

v. Case No. 2014AP296- OA

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

Respondents, and

JOHN T. CHISHOLM, ISMAEL R. OZANNE, and LARRY E. NELSON,

Intervening Parties.

[CAPTION CONTINUED ON NEXT PAGE]

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**AFFIDAVIT CONCERNING JOHN DOE II EVIDENCE**

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

Petitioner,

JOHN T. CHISHOLM, ISMAEL R. OZANNE, and LARRY T. NELSON,

Intervenors,

v.

Case Nos. 2014AP417 - 421-W

THE HONORABLE GREGORY A. PETERSON, John Doe Judge,

Respondent, and

EIGHT MOVANTS,

Interested Parties.

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STATE OF WISCONSIN )

) ss.

MILWAUKEE COUNTY )

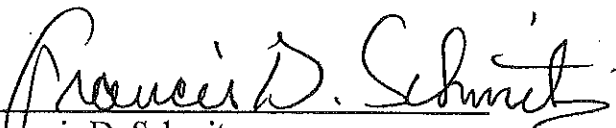
Francis D. Schmitz, being first duly sworn on oath, deposes and says that:

1. I am the former special prosecutor identified in the court's order dated December 2, 2015. *Two Unnamed Petitioners v. Peterson et al.*, 2015 WI 103.
2. This affidavit supplements my statement of compliance dated January 4, 2016 that I filed with the Court in accord with the above order.
3. All original documents, to the extent such original documents were taken in the course of the execution of search warrants on October 3, 2013, have been either tendered or returned to the persons (or their attorneys) from whom they were taken.

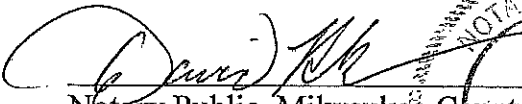
4. To the best of my knowledge, I have collected and submitted to the clerk of this court all other copies of documents and electronic data that were obtained in the course of the John Doe II investigation, including that which was obtained during the John Doe I investigation and used in the John Doe II investigation.
  - a. This includes the two hard drives and disks containing electronic evidence referenced at footnote 11 of the court's order. See Box D.
  - b. This includes documents and evidence in an electronic format as referenced in footnote 11 of the court's order.
  - c. This includes copies of evidentiary documents removed from work product materials and/or otherwise maintained in work product files as referenced in footnote 10 of the court's order.
  - d. I am unaware of any "electronic data obtained in the course of the John Doe II investigation . . . currently stored on the hard drives of computers used by members of the prosecution team." The John Doe II evidence was maintained on file servers in Digital Intelligence or the Milwaukee County District Attorney's Office. These file servers, both at Digital Intelligence and in the Milwaukee County District Attorney's Office have now been wiped clean of all such data. See also ¶7.
5. I also certify that I searched my paper and digital files for materials I am required to turn over as set forth in the December 2, 2015 order, and have turned over those materials to the best of my information and belief. While it was my practice to shred working drafts and other materials, I did find some evidentiary materials that may have been attachments to emails or materials I was given. Some of the documents only reference evidentiary materials and I erred on the side of caution and included those materials. Some evidence is marked consistent with being an attachment to a pleading them, but was no longer attached to that pleading.
6. I have retained very little work product. To the extent that I continue to have access to work product materials, I have removed attached copies of John Doe evidence to the best of my information and belief.
7. To the best of my knowledge, I have received statements from all who had direct access to evidentiary materials as part of the prosecution team. In those statements, those individuals all state that they either turned over documents and electronic data and no longer possess same (or copies thereof), or never

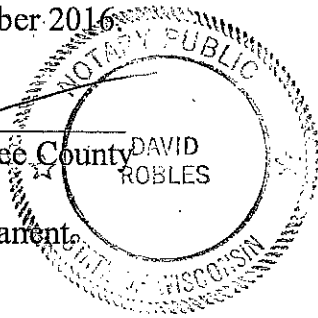
possessed documents and/or data (or copies thereof) obtained in the course of the investigation.

8. I have not yet received statements from some individuals with "secondary" access, that is, authorized access to John Doe materials but only provided with summaries of the investigation and copies of pleadings. Those individuals include several judges who served on the Government Accountability Board. I will supplement this certification when those additional statements are obtained with an additional filing with the court.

  
Francis D. Schmitz  
*FORMER* Special Prosecutor  
State Bar No. 1000023

Subscribed and sworn to before  
me at Milwaukee, Wisconsin on  
this 2<sup>ND</sup> day of November 2016.

  
Notary Public, Milwaukee County  
State of Wisconsin  
My commission is permanent.



**Original list of evidence collected or used in John Doe II  
investigation that was submitted to Clerk of Supreme  
Court has been redacted in its entirety.**