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**From:** Redell, Carol <Carol.Redell@legis.wisconsin.gov>  
**Date:** Friday, July 1, 2022 at 9:12 AM  
**To:** Sarah Colombo <sarah.colombo@americanoversight.org>  
**Cc:** Rep.Vos <Rep.Vos@legis.wisconsin.gov>, Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>, Blazel, Ted <Ted.Blazel@legis.wisconsin.gov>  
**Subject:** RE: ASM63 - 2022.05.11 - Am Oversight - records - FW: Public Records Law Request (WI-REP-22-0472)

EXTERNAL SENDER

Sarah Colombo  
American Oversight  
[sarah.colombo@americanoversight.org](mailto:sarah.colombo@americanoversight.org)

Dear Ms. Colombo:

Open records requests are processed through the Assembly Chief Clerk's office for billing purposes only. You submitted an open records request to Representative Vos. The records are being provided in electronic format and, thus, there is no charge for any location or reproduction costs. Accordingly, all records that are responsive to your request are attached to this email.

Carol Redell  
Office of the Assembly Chief Clerk  
17 West Main Street, Suite 401  
Madison, Wisconsin 53703  
608.266.1501  
[carol.redell@legis.wi.gov](mailto:carol.redell@legis.wi.gov)

## AGREEMENT FOR LEGAL SERVICES

This agreement for legal services is effective May 1<sup>st</sup>, 2022. This agreement is between The Wisconsin State Assembly (hereinafter referred to as “the Client”) and Consultare LLC, a Wisconsin limited liability company, by and through its President Michael J. Gableman (hereinafter referred to as “Gableman”).

### RECITALS

- A. The parties previously entered into a series of contracts for services related to the staffing of The Office of The Special Counsel (hereinafter referred to as the “Office”). The second and final amendment to said contracts is set to discontinue after April 30<sup>th</sup>, 2022.
- B. The Parties desire to enter into a further agreement for legal services provided by Consultare, LLC so that the Office may remain open in order prosecute a series of lawsuits the Office is engaged in.

### TERMS

- 1. The client desires to engage Consultare LLC and Gableman for legal services related to the prosecution of lawsuits involving the Office.
- 2. Gableman will execute his duties to the client in accordance with all standards of care, including confidentiality and attorney-client privilege, with respect to an attorney-client relationship with the Client.
- 3. Gableman will work at the direction of the Client in all matters and at the joint direction of the Client and lead outside counsel James Bopp of the Bopp Law Firm in all matters in which the Bopp Law Firm is retained.
- 4. The Client will pay Consultare LLC the current salary of Gableman of Eleven Thousand Dollars (\$11,000) per month for all legal services including but not limited to representation, advice, consultation, and litigation strategy, plus the current rent of Two Thousand Five Hundred Dollars (\$2,500) per month for maintaining the Office. All other expenses are subject to the original budget set forth for the Office and must be preapproved by the Client.
- 5. Other outside legal counsel with written agreements with the Client will continue to be paid for by the Client.
- 6. This agreement represents the sole agreement between Consultare LLC and Gableman and supersedes any previous agreement between the two parties.

7. Client asserts that there are no conflicts of interest and that Consultare LLC represents no other branches of Wisconsin state government, state agencies, or other entities with an interest in the lawsuits involving the Client and the Office.
8. Consultare LLC will retain and remit all documents of the Client upon the Client's (or successor counsel) request within 30 days.
9. Either party to this agreement may terminate said agreement by providing written notice to the other party. Absent termination, this agreement will terminate upon the conclusion of all outside lawsuits involving the Office or special investigator, as either plaintiff or defendant.

In Witness WHEREOF, the parties hereby enter into this agreement as of the date first written above:

By: \_\_\_\_\_



Speaker Robin J. Vos

Wisconsin State Assembly

By: \_\_\_\_\_

Michael J. Gableman, President

Consultare, LLC

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By:   
Speaker Robin J. Vos  
Wisconsin State Assembly

By: \_\_\_\_\_  
Michael J. Gableman, President  
Consultare, LLC

From: "Fawcett, Steve" <Steve.Fawcett@legis.wisconsin.gov>  
Sent: Tuesday, April 26, 2022, 4:37 PM  
To: Coms <Coms@wispécialcounsel.org>  
Cc: "Vos, Robin" <Robin.Vos@legis.wisconsin.gov>  
Subject: RE: Continuing OSC  
Attachments: 202204261602.pdf

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Dear Mr. Gableman,

Thank you for your confidential memorandum regarding the Office of Special Counsel. Please find attached a contract for legal services between the Assembly and Consultare LLC that will allow you and the Assembly to keep the Office of Special Counsel open in order to fully prosecute the lawsuits identified in your memo. Please return to me at your convenience.

Best regards,

Steve Fawcett  
General Counsel  
Office of Assembly Speaker Robin Vos  
608.266.3387

---

**From:** Coms <Coms@wispécialcounsel.org>  
**Sent:** Monday, April 25, 2022 4:10 PM  
**To:** Vos, Robin <Robin.Vos@legis.wisconsin.gov>  
**Cc:** Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>  
**Subject:** Continuing OSC

Good Afternoon,

I have attached three documents in regard to the necessity of keeping the Office of the Special Counsel open.

Very Respectfully,

Mike Gableman  
Special Counsel

From: "Fawcett, Steve" <Steve.Fawcett@legis.wisconsin.gov>  
Sent: Tuesday, April 26, 2022, 7:28 AM  
To: Coms <Coms@wpecialcounsel.org>  
Cc: "Vos, Robin" <Robin.Vos@legis.wisconsin.gov>  
Subject: Re: Continuing OSC  
Attachments: Robin Voss Office Termination Documents.pdf

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Per my message last night, today's meeting is canceled. We received your memo and are reviewing it. We will reach out to reschedule a time to discuss.

Thanks,  
Steve

On Apr 25, 2022, at 4:10 PM, Coms <Coms@wpecialcounsel.org> wrote:

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Very Respectfully,

Mike Gableman  
Special Counsel

**MEMORANDUM**

**PRIVILEGED AND CONFIDENTIAL  
ATTORNEY CLIENT PRIVILEGE  
ATTORNEY WORK PRODUCT**

From: Michael J. Gableman  
To: Speaker Robin J. Vos

**RE: Consequences of the Termination of the Office of Special Counsel  
upon Legislative Subpoenas and Attendant Litigation**

Dear Speaker Vos,

You have expressed a desire to terminate Office of Special Counsel (“OSC”). At the same time, you have also expressed an interest in retaining me to serve as counsel to the Assembly in pending matters related to the work of OSC. As such, this Memorandum is being provided to you in my capacity as a prospective legal representative of the Assembly and is therefore a confidential attorney-client communication.

This Memorandum addresses concerns regarding the effect termination of OSC will have upon the validity of legislative subpoenas that were generated by OSC and signed by you (the “Subpoenas”), as well as the likely effect that termination of OSC will have upon litigation relating to the Subpoenas. I have also attached a memorandum I received today from Attorney Bopp which sets forth the basis for his conclusion that closure of OSC will result in the Subpoenas’ unenforceability.

There are currently two pending matters in Wisconsin Circuit Courts related to the Subpoenas—

- Waukesha County case no. 2021 CV 1710, captioned *Michael J. Gableman, in His Official Capacity as Special Counsel v. Eric Genrich et al.* (the “Waukesha Matter”); and
- Dane County case no. 2021 CV 2552, captioned *Wisconsin Elections Commission et al. v. Wisconsin State Assembly et al.* (the “Dane Matter”)(collectively, the “Litigation”).

**A. The Waukesha Matter**

I advised you in a telephone conference call with other Assembly members Thursday, April 14, 2022, that I recommended against closing the Office of Special Counsel. I expressed concern that such closure would likely result in a court’s determination that the

Robin J. Vos  
April 18, 2022

Subpoenas would be rendered moot and, as such, unenforceable. There are three reasons for my conclusion.

First, if OSC no longer exists it axiomatically will no longer possess any legal rights, including the right to enforce the Subpoenas. As a result, some entity will be required to take its place in the Waukesha Matter as the party seeking enforcement. While that entity would most naturally be the Assembly, such substitution is only going to be allowed as to the OSC's "successor." See Wis. Stat. § 803.10(4)(a). As such, there needs to be an express agreement between the Assembly and OSC that the Assembly is the OSC's "successor" in relation to any legal rights possessed by the OSC.

Second, the defendants failed to comply with the subpoenas by refusing to appear at OSC's office in the City of Brookfield in Waukesha County. The fact that the location of defendants' failure to attend is in Waukesha County is what allowed OSC to file the enforcement action in Waukesha County. See Wis. Stat. § 885.12 ("If any person, without reasonable excuse, fails to attend as a witness...any judge of a court of record...**in the county where the person was obliged to attend** may...issue an attachment for the person, and unless the person shall purge the contempt and go and testify or do such other act as required by law...")(emphasis added).

Accordingly, even if the judge presiding in the Waukesha Matter permits substitution of the Assembly for OSC as petitioner in the Litigation, the basis for venue in that action ceases as the defendants can no longer purge the contempt by appearing where the subpoenas command. This is so because the OSC would no longer be extant and so compliance with the directives of the subpoenas (appear at the OSC office in Brookfield) cannot be accomplished.

The upshot is that termination of the OSC means termination of the Waukesha Matter. Judge Ramirez has already expressed his concerns that Wis. Stat. § 885.12 is not the proper procedural vehicle for enforcing the Subpoenas and has indicated that he believes that such enforcement should be pursued pursuant to the tenets of Chapter 13 of the Wisconsin Statutes.<sup>1</sup> Termination of the OSC, and the attendant issues created thereby, is an open invitation to Judge Ramirez to follow his stated inclination and dismiss OSC's Petitions. Appeal would require the attempted enforcement of novel legal rights based on novel legal theories. The prospect of victory on appeal would be remote.

Third, termination of the OSC would require that all the subpoenas be re-issued, directing the defendants to appear before a Committee of the Assembly at the State Capitol. While it has been suggested that the Subpoenas can be "amended," there is no statutory mechanism for amending a subpoena and doing so would add yet another layer to the procedural defenses already laid out by the defendants. Engaging in novel procedural tactics in this situation is ill-advised at best. In addition, the OSC's authorizing documents,

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<sup>1</sup> In a Memorandum addressed to you dated August 5, 2021, the Legislative Reference Bureau recommended utilizing Wis. Stat. § 885.12 to enforce the Assembly's subpoena power in Wisconsin Courts.

Robin J. Vos  
April 18, 2022

including Assembly Committee on Campaigns and Elections Motion 1, expressly grant the OSC the power to issue subpoenas. Re-issuing the Subpoenas would provide yet another procedural objection the defendants may raise—that the Assembly delegated the authority to issue the Subpoenas to the OSC and consequently does not possess the power to re-issue them once the OSC ceases to exist.

### **B. The Dane Matter**

Termination of the OSC also likely means termination of the Dane Matter as well, but for different reasons. As a co-defendant, substitution of the Assembly in place of the OSC would be relatively simple. However, termination of the OSC would place the Assembly in an untenable defensive posture.

One of the primary arguments advanced by the Plaintiffs in the Dane Matter is that the Subpoenas are not authorized by law because, rather than requiring appearance before the Assembly or a Committee thereof in an open forum, the Subpoenas demand appearance in a non-public setting. See Amended Complaint, Count 1, Document # 86 (Dane Matter), ¶¶ 44-51. Even if the Assembly could convince Judge Lanford that the Assembly may require such appearances via subpoena, it is almost certain she will not take the opportunity to rule as such because if the OSC no longer exists, the question of whether the Assembly is statutorily authorized to require an appearance in the OSC's offices will be rendered moot. See *Marathon Cnty. v. D.K. (In re Condition D.K.)*, 2020 WI 8, ¶ 19, 390 Wis.2d 50, 937 N.W.2d 901 ("An issue is moot when its resolution will have no practical effect on the underlying controversy.") Furthermore, if the appearances required by the Subpoenas can no longer be accomplished, all the other issues raised by the Plaintiffs (the subpoenas do not serve a valid legislative purpose, are unconstitutionally overbroad and/or compliance is unduly burdensome) are rendered moot as well.

### **C. Conclusion**

I am honored that you would consider hiring me as counsel to the Assembly in the Litigation. However, if OSC is terminated I cannot accept that role.

Based on the above, it is clear to me that if the OSC is terminated, there is no viable path to success in the Litigation. All attorneys are ethically bound to pursue only those matters that have a reasonable basis in fact and law. It is my analysis that without the existence of the OSC, there is no reasonable basis to continue pursuing the Litigation. As such, I could not agree to represent the Assembly in those matters.

Again, thank you for the honor of your consideration.

Special Counsel Gableman, you have asked my opinion on whether the closure of the Office of Special Counsel will have an adverse effect on the enforceability of the subpoenas, currently subject to the Waukesha Matter and the Dane Matter ("the Litigation"), and on the ability of the Assembly to litigate the legality of the subpoenas in those cases.

My opinion is that closing the Office of Special Counsel will render the subpoenas unenforceable and the Litigation moot.

First, the subpoenas require the person to appear "before the Special Counsel or his designee." If the Office of Special Counsel is terminated, there is no person "to appear in person before." The subpoenaed person cannot appear before the Special Counsel, since the Special Counsel does not exist, and he cannot appear before "his designee," since there is no Special Counsel to designate someone. This renders the subpoenas unenforceable.

Second, the unenforceability of the subpoenas abort the Litigation. The Waukesha Matter is an effort to enforce the subpoenas, but since there would be no one for the court to order the person "to appear in person before," then there is no relief that the court could order to enforce the subpoenas and the case would be dismissed.

The Dane Matter is a challenge to the subpoenas' enforceability against WEC and other Plaintiffs. However, if the subpoenas are rendered unenforceable because the Office of Special Counsel does not exist, the case would be moot, since the subpoenas are already unenforceable, and the case would be properly dismissed.

Finally, I don't believe that there is anyway to fix the problem of the unenforceability of the subpoenas. To have an enforceable subpoena after the Special Counsel's office is terminated, the subpoenas would have to be reissued with this change, or something like it: the subpoenaed person would be required "to appear in person before the Speaker of the Wisconsin State Assembly, or his designee" and then an appropriate address.

There maybe other reasons that the termination of the Office of Special Counsel would have an adverse effect on the subpoenas and/or litigation, but I express no opinion on these.

**James Bopp, Jr.**

Attorney

The Bopp Law Firm, PC | [www.bopplaw.com](http://www.bopplaw.com)

The National Building | 1 South 6th Street | Terre Haute, IN 47807

voice: (812) 232-2434 ext. 22 | fax: (812) 235-3685 | cell: (812) 243-0825 |

[jboppjr@aol.com](mailto:jboppjr@aol.com)

Michael Gableman  
Special Counsel  
WI State Assembly  
Committee on Campaigns and Elections  
coms@wispecialcounsel.org



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April 25, 2022

The Hon. Robin J. Vos  
Speaker, Wisconsin Assembly  
State Capitol-Room 217 West  
Madison, WI 53708

Dear Speaker Vos,

This letter memorializes my concern that formally disbanding the Office of the Special Counsel (OSC) would (1) legally moot out and render null the pending sunshine lawsuits that are necessary to vindicate the people's right to know how their government is run and thus (2) render pointless and a waste of taxpayer money the entire investigation. My strong recommendation is for the OSC to remain authorized by the Assembly, so that all the subpoenas we issued remain valid and enforceable. I will gladly reduce my salary to a token \$1 per year, if money is an issue. We have already gutted the entire office, including removing all of my staff except for one junior assistant, so money should not be an issue.

I concede that this is a political decision entirely within the authority of the Speaker. At any time you could have refused to authorize OSC, refused to fund OSC, or refused to sign any particular subpoena. It is to your eternal credit that you have thus far resisted the media-hyped, hypocritical, and disingenuous political pressures to do so. But to pull the plug now is to quit at the finish line. We have several well-positioned lawsuits that will inevitably result in the Wisconsin Supreme Court giving us a clear decision on just how accountable the state government is to the people. Blowing up these lawsuits is a bad idea.

There is no downside to keeping the OSC open at this time, other than, possibly, the legal fees to defend the subpoena lawsuits. But our case is strong and losing or dropping these cases would irreversibly weaken our state Assembly. It would irreversibly weaken the office of the Speaker of the Assembly as well. All it would take is a left-wing group to sue to block oversight and cite this case the next time they want to hide something. This time it is nursing home abuse and corrupt elections administration: next time it could be worse. And you can bet there are private left-wing groups drafting new contracts that are even more shady, so that bad actors can privatize our elections again in 2024. This has to stop, and it will not stop if we shut down the OSC and give up on the lawsuits now.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Gableman".

Michael J. Gableman

## MEMORANDUM

**PRIVILEGED AND CONFIDENTIAL  
ATTORNEY CLIENT PRIVILEGE  
ATTORNEY WORK PRODUCT**

From: Michael J. Gableman  
To: Speaker Robin J. Vos

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**James Bopp, Jr.**

Attorney

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[jboppjr@aol.com](mailto:jboppjr@aol.com)

Michael Gableman  
Special Counsel  
WI State Assembly  
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coms@wispecialcounsel.org



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April 25, 2022

The Hon. Robin J. Vos  
Speaker, Wisconsin Assembly  
State Capitol-Room 217 West  
Madison, WI 53708

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This letter memorializes my concern that formally disbanding the Office of the Special Counsel (OSC) would (1) legally moot out and render null the pending sunshine lawsuits that are necessary to vindicate the people's right to know how their government is run and thus (2) render pointless and a waste of taxpayer money the entire investigation. My strong recommendation is for the OSC to remain authorized by the Assembly, so that all the subpoenas we issued remain valid and enforceable. I will gladly reduce my salary to a token \$1 per year, if money is an issue. We have already gutted the entire office, including removing all of my staff except for one junior assistant, so money should not be an issue.

I concede that this is a political decision entirely within the authority of the Speaker. At any time you could have refused to authorize OSC, refused to fund OSC, or refused to sign any particular subpoena. It is to your eternal credit that you have thus far resisted the media-hyped, hypocritical, and disingenuous political pressures to do so. But to pull the plug now is to quit at the finish line. We have several well-positioned lawsuits that will inevitably result in the Wisconsin Supreme Court giving us a clear decision on just how accountable the state government is to the people. Blowing up these lawsuits is a bad idea.

There is no downside to keeping the OSC open at this time, other than, possibly, the legal fees to defend the subpoena lawsuits. But our case is strong and losing or dropping these cases would irreversibly weaken our state Assembly. It would irreversibly weaken the office of the Speaker of the Assembly as well. All it would take is a left-wing group to sue to block oversight and cite this case the next time they want to hide something. This time it is nursing home abuse and corrupt elections administration: next time it could be worse. And you can bet there are private left-wing groups drafting new contracts that are even more shady, so that bad actors can privatize our elections again in 2024. This has to stop, and it will not stop if we shut down the OSC and give up on the lawsuits now.

Sincerely,

A handwritten signature in black ink that reads 'Michael J. Gableman'. The signature is written in a cursive, flowing style.

Michael J. Gableman

## Toftness, Jenny

---

**From:** Fawcett, Steve  
**Sent:** Tuesday, March 29, 2022 10:26 AM  
**To:** Vos, Robin; Toftness, Jenny  
**Subject:** FW: finalizing representation  
**Attachments:** OSC Retainer Agreement Waukesha Co. and Generally.pdf; Assembly Retainer Agreement.pdf

FYI -

**From:** James Bopp Jr <jboppjr@aol.com>  
**Sent:** Tuesday, March 29, 2022 9:00 AM  
**To:** Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>  
**Cc:** coms@wispecialcounsel.org  
**Subject:** Re: finalizing representation

Steve, attached are the two proposed retainer agreements which we have discussed.

### **The First is with The Office of Special Counsel**

The Special Counsel has a brief due on April 5th in Waukesha Co. and, as of March 31, he will have no lawyers to do this. And there will be additional matters in that case that require legal representation.

Furthermore, the Special Counsel needs legal services to assist him in complying with ongoing document request.

We have discussed, and I think agreed, that my Firm would provide those legal services.

The OSC Retainer Agreement Waukesha Co. and Generally covers these services and any other representation, as approved by the Speaker.

### **The Second is with the Assembly**

We have also discussed my Firm representing the Speaker, Assembly and possibly others, as specifically approved by the Speaker, regarding current public records litigation involving The Office of Special Counsel.

The Assembly Retainer Agreement covers these services.

If approved by the Speaker, please have him sign. I am happy to discuss at your convenience. Jim

**James Bopp, Jr.**

Attorney

The Bopp Law Firm, PC | [www.bopplaw.com](http://www.bopplaw.com)

The National Building | 1 South 6th Street | Terre Haute, IN 47807

voice: (812) 232-2434 ext. 22 | fax: (812) 235-3685 | cell: (812) 243-0825 | [jboppjr@aol.com](mailto:jboppjr@aol.com)

Sent from AOL Desktop

In a message dated 3/27/2022 10:31:13 AM US Eastern Standard Time, [jboppjr@aol.com](mailto:jboppjr@aol.com) writes:

Steve, I am very sorry that I could not meet with Speaker Vos either Wed or Thurs as we planned.

I am available for a conf call anytime Monday afternoon, anytime Tue up to 4 pm Eastern, and all day Wed. Please propose a time? Jim

**James Bopp, Jr.**

Attorney

The Bopp Law Firm, PC | [www.bopplaw.com](http://www.bopplaw.com)

The National Building | 1 South 6th Street | Terre Haute, IN 47807

voice: (812) 232-2434 ext. 22 | fax: (812) 235-3685 | cell: (812) 243-0825 | [jboppjr@aol.com](mailto:jboppjr@aol.com)

Sent from AOL Desktop

## Toftness, Jenny

---

**From:** Fawcett, Steve  
**Sent:** Monday, April 11, 2022 2:02 PM  
**To:** Vos, Robin; Toftness, Jenny  
**Subject:** FW: Final Reimbursement and Salary Email  
**Attachments:** March and April OFC Final Reimbursement Sheet - Sheet1.pdf; 20220407154926504.pdf

Was sent on Thur

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**From:** Coms <Coms@wispecialcounsel.org>  
**Sent:** Thursday, April 7, 2022 4:01 PM  
**To:** Blazel, Ted <Ted.Blazel@legis.wisconsin.gov>; Hale, Janine <Janine.Hale@legis.wisconsin.gov>; Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>  
**Subject:** Final Reimbursement and Salary Email

Good Afternoon,

I am attaching the Office of the Special Counsel's final reimbursement and salary request for our office. Please note that one line under office expenses is future reimbursement for this month's services that will be charged early next month. Ted and I wanted to avoid having to make these reimbursements and salaries after our office is closed.

Please note that we are prepared for the printer pick up on April 26<sup>th</sup> and I am waiting to coordinate a furniture pick up for the remaining supplies. The bigger ticket items to be picked up late in April are:

- 5 desks
- 4 computers
- 2 work phones
- 3 filing cabinets
- 1 lamp
- 1 shredder
- 3 printers
- 1 scanner
- 11 office chairs
- miscellaneous small items like mouse's and computer stylists, office phone

Please note that furniture will not be prepared, printer cannot be picked up, and we will not turn over the office lease to The Thomas Moore Society without payment of the contents of this email prior to pickup.

Please note all open records have been organized and will start being released tomorrow along with a response to American Oversight. These bankers boxes of paper documents will need to be delivered to Madison as well.

Remaining Salary to be Paid:

**March Salaries**

Kevin Scott \$10,000

Andrew Kloster \$10,000  
Clint Lancaster \$10,000  
Zakory Niemierowicz \$4,500

**April 15<sup>th</sup> Payment for April Work**

Zakory Niemierowicz \$4,500  
Mike Gableman \$11,000

Could I please get a response from Speaker Voss's Office and from the Clerks Office so I know we are all on the same page. Please feel free to ask me any questions you have.

Very Respectfully,

Zakory Niemierowicz  
WI Special Counsel

Please be aware any communications sent to and from Wispecialcounsel.org email domains may be subject for review in response to Wisconsin open records statutes.

**Toftness, Jenny**

---

**From:** Fawcett, Steve  
**Sent:** Tuesday, April 26, 2022 7:28 AM  
**To:** Coms  
**Cc:** Vos, Robin  
**Subject:** Re: Continuing OSC  
**Attachments:** Robin Voss Office Termination Documents.pdf

Per my message last night, today's meeting is canceled. We received your memo and are reviewing it. We will reach out to reschedule a time to discuss.

Thanks,  
Steve

On Apr 25, 2022, at 4:10 PM, Coms <Coms@wispecialcounsel.org> wrote:

Good Afternoon,

I have attached three documents in regard to the necessity of keeping the Office of the Special Counsel open.

Very Respectfully,

Mike Gableman  
Special Counsel

**Toftness, Jenny**

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**From:** Fawcett, Steve  
**Sent:** Tuesday, April 26, 2022 4:38 PM  
**To:** Coms  
**Cc:** Vos, Robin  
**Subject:** RE: Continuing OSC  
**Attachments:** 202204261602.pdf

Dear Mr. Gableman,

Thank you for your confidential memorandum regarding the Office of Special Counsel. Please find attached a contract for legal services between the Assembly and Consultare LLC that will allow you and the Assembly to keep the Office of Special Counsel open in order to fully prosecute the lawsuits identified in your memo. Please return to me at your convenience.

Best regards,

Steve Fawcett  
General Counsel  
Office of Assembly Speaker Robin Vos  
608.266.3387

---

**From:** Coms <Coms@wispecialcounsel.org>  
**Sent:** Monday, April 25, 2022 4:10 PM  
**To:** Vos, Robin <Robin.Vos@legis.wisconsin.gov>  
**Cc:** Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>  
**Subject:** Continuing OSC

Good Afternoon,

I have attached three documents in regard to the necessity of keeping the Office of the Special Counsel open.

Very Respectfully,

Mike Gableman  
Special Counsel

## Toftness, Jenny

---

**From:** Blazel, Ted  
**Sent:** Thursday, April 28, 2022 4:42 PM  
**To:** Fawcett, Steve; Toftness, Jenny  
**Subject:** FW: Lawyer bills - past due  
**Attachments:** Executed Representation Agreement - Representative Brandtjen and Joseph W. Voiland.pdf; Account Statement March 2022 Brandtjen Committee.pdf; hourly Account Statement February 2022 Representative Brandtjen Committee on Campaigns and Elections.pdf; hourly Account Statement December 2021 Brandtjen Committee.pdf

Jenny and Steve,

I just received this from Representative Brandtjen. Let me know how you would like me to proceed once you have looked it over.

Ted

Ted Blazel  
Assembly Chief Clerk  
Wisconsin State Assembly

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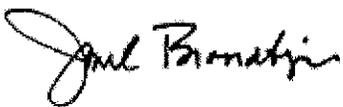
**From:** Rep.Brandtjen <Rep.Brandtjen@legis.wisconsin.gov>  
**Sent:** Thursday, April 28, 2022 4:35 PM  
**To:** Blazel, Ted <Ted.Blazel@legis.wisconsin.gov>  
**Cc:** coms@wispecialcounsel.org  
**Subject:** Lawyer bills - past due

Chief Clerk Blazel,

Please see the attached documents and remit \$44,662.50 to Veterans Liberty Law by May 4, 2022.

Please let me know if you have any questions and feel free to call me on my cell at 414-915-8425.

Thank you,



Janel Brandtjen  
Wisconsin State Representative  
22<sup>nd</sup> Assembly District  
Sign up for my [e-updates!](#)

## Toftness, Jenny

---

**From:** Fawcett, Steve  
**Sent:** Friday, April 29, 2022 9:08 AM  
**To:** Blazel, Ted; Toftness, Jenny  
**Subject:** RE: Lawyer bills - past due

I'm not sure we can pay invoices for which the Assembly does not have an agreement in writing, which to my knowledge we do not have at this time. This has been communicated to Mr. Voiland and Rep. Brandtjen.

---

**From:** Blazel, Ted <Ted.Blazel@legis.wisconsin.gov>  
**Sent:** Thursday, April 28, 2022 4:42 PM  
**To:** Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>; Toftness, Jenny <Jenny.Toftness@legis.wisconsin.gov>  
**Subject:** FW: Lawyer bills - past due

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Ted

Ted Blazel  
Assembly Chief Clerk  
Wisconsin State Assembly

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**From:** Rep.Brandtjen <Rep.Brandtjen@legis.wisconsin.gov>  
**Sent:** Thursday, April 28, 2022 4:35 PM  
**To:** Blazel, Ted <Ted.Blazel@legis.wisconsin.gov>  
**Cc:** [coms@wispecialcounsel.org](mailto:coms@wispecialcounsel.org)  
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Wisconsin State Representative  
22<sup>nd</sup> Assembly District  
Sign up for my [e-updates!](#)

## Toftness, Jenny

---

**From:** Blazel, Ted  
**Sent:** Friday, April 29, 2022 9:14 AM  
**To:** Fawcett, Steve; Toftness, Jenny  
**Subject:** RE: Lawyer bills - past due

Sounds good. I will let Representative Brandtjen know.

Ted

Ted Blazel  
Assembly Chief Clerk  
Wisconsin State Assembly

---

**From:** Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>  
**Sent:** Friday, April 29, 2022 9:08 AM  
**To:** Blazel, Ted <Ted.Blazel@legis.wisconsin.gov>; Toftness, Jenny <Jenny.Toftness@legis.wisconsin.gov>  
**Subject:** RE: Lawyer bills - past due

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**From:** Blazel, Ted <Ted.Blazel@legis.wisconsin.gov>  
**Sent:** Thursday, April 28, 2022 4:42 PM  
**To:** Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>; Toftness, Jenny <Jenny.Toftness@legis.wisconsin.gov>  
**Subject:** FW: Lawyer bills - past due

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I just received this from Representative Brandtjen. Let me know how you would like me to proceed once you have looked it over.

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Ted Blazel  
Assembly Chief Clerk  
Wisconsin State Assembly

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**To:** Blazel, Ted <Ted.Blazel@legis.wisconsin.gov>  
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**Subject:** Lawyer bills - past due

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Thank you,

A handwritten signature in black ink that reads "Janel Brandtjen". The signature is written in a cursive, flowing style.

Janel Brandtjen  
Wisconsin State Representative  
22<sup>nd</sup> Assembly District  
Sign up for my [e-updates!](#)

## Toftness, Jenny

---

**From:** Fawcett, Steve  
**Sent:** Wednesday, March 16, 2022 10:11 AM  
**To:** Vos, Robin; Toftness, Jenny  
**Subject:** FW: Memorandum by The Office of the Special Counsel  
**Attachments:** Memorandum by The Office of The Special Counsel.pdf

---

**From:** Coms <Coms@wispecialcounsel.org>  
**Sent:** Wednesday, March 16, 2022 9:57 AM  
**To:** Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>  
**Subject:** Memorandum by The Office of the Special Counsel

Good Morning,

I have attached a Memorandum created by our office. Please let me know if you have any questions or concerns.

Very Respectfully,

Zakory Niemierowicz  
WI Special Counsel

Please be aware any communications sent to and from Wispecialcounsel.org email domains may be subject for review in response to Wisconsin open records statutes.

This memorandum responds to your request for my office to further analyze the issue of recalling electors or decertifying Wisconsin's 2020 presidential electors. I adhere to the view that questions concerning certification of those electors are within the plenary authority of the Wisconsin Legislature to answer. However, that fact is not—and cannot—be the end of the analysis. I included a discussion of the decertification question in my Second Interim Report in order to address an issue of great public interest and to underscore that, while decertification of the 2020 presidential election is theoretically possible, it is unprecedented and raises numerous substantial constitutional issues that would be difficult to resolve. Thus, the legal obstacles to its accomplishment render such an outcome a practical impossibility. Given these numerous and substantial legal obstacles, it is difficult to imagine an expenditure of state resources that would be more imprudent as it would require an unimaginable amount of time and money and at best yield a result that is important only from a symbolic standpoint.

#### **A. Reasons Decertification is a Practical Impossibility**

The first reason decertification is a practical impossibility relates to the absence of any statutory process or procedure for its accomplishment. Although I included a discussion of the absence of any statutory process or procedure for this in both my Second Interim Report and during my presentation of the reports findings to the Assembly Committee on Campaigns and Elections, I do not believe it garnered a level of attention commensurate with its significance. Put simply, there are no rules governing the hypothetical proceedings by which decertification would be accomplished.

It is axiomatic that procedures affecting even the slightest of personal or property interests (not to mention the questions inherent in a legitimate decertification proceeding) must be governed by rules which comport with fundamental fairness and justice. While the construction of such a statutory scheme that passes constitutional muster might be possible, such a construction, and resolution of the legal issues surrounding it, is simply not possible in the time remaining before the question becomes practically irrelevant, i.e., the 2024 presidential election.

The second reason decertification is a practical impossibility is closely related to the first: the absence of precedent for the completion of the decertification process in a presidential election. And just as the absence of any statutory process or procedure for the act of decertification would—of necessity—require their construction while the proceeding is underway, similarly, the absence of precedent would require the legislature to “make it up as it goes along,” as it considers the substantive question. This will be tied up in court for years and will virtually paralyze the Legislature in terms of all other business and there is no possibility that anything will be achieved other than a de facto full employment program for election law lawyers.

My best advice to anyone whose paramount concern is ensuring fair, honest, and transparent elections in Wisconsin is to set aside any impulse to waste finite time, effort, and energy in pursuit of an end that, like Macbeth's ruminations are, "full of sound and fury, signifying" at best a symbolic result.

However, there is a fruitful path forward, which is to implement the recommendations I have made that would help restore the People's faith in the integrity of our election: (1) pursue justice for the five Wisconsin Elections Commissioners who knowingly and deliberately engaged in criminal conduct when they willfully disobeyed the laws providing protections to vulnerable voters living in continuing care facilities; (2) renew efforts to engage citizens from across the state to serve as poll workers; (3) insist that Wisconsin's voter rolls accurately reflect the identities of actual voters, who live at the addresses they said they lived at when they registered to vote; (4) make those voter rolls freely available to the public; (5) make available to the public the lists of those who voted which now are available only to those who have the means to pay tens of thousands of dollars in order to obtain them; and (6) dismantle the Wisconsin Elections Commission. The first two are not directly within the purview of the Legislature, however, the remaining necessary reforms are and ought to be pursued as soon as practicable, which means as soon as Wisconsin has a governor who will sign such common sense and meaningful legislation.

At several points during my presentation to the Assembly Committee on Campaigns and Elections a little over two weeks ago, I repeatedly made all of the points recited in this memo as support for why I did not—and do not—advocate for decertification. Unfortunately, supporters as well as critics seemed to hear only those parts of my presentation that they wanted to hear. In the end, my position on the current state of the law is not ambiguous and therefore the Legislature has the constitutional obligation to make a policy decision as to whether to pursue decertification, understanding its doubtful benefit and the substantial obstacles to it. While I am charged with making a recommendation, questions regarding certification are for the legislature to make. I am not empowered to make that decision for you.

Thank you for this opportunity to renew and clarify my position on the question of decertification.

## Toftness, Jenny

---

**From:** Fawcett, Steve  
**Sent:** Thursday, March 17, 2022 1:07 PM  
**To:** Vos, Robin; Toftness, Jenny  
**Subject:** FW: All Necessary Legal Fees  
**Attachments:** Joe Voiland.pdf; DeanStatement220224.01 WEC.pdf; DeanStatement220131.04 WEC.pdf; DeanStatement220224.01 AO.pdf; DeanStatement220131.03 AO.pdf; DeanStatement211231.08 WEC.pdf

---

**From:** Coms <Coms@wispecialcounsel.org>  
**Sent:** Thursday, March 17, 2022 12:52 PM  
**To:** Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>  
**Cc:** Miked@Michaeldeanllc.com  
**Subject:** All Necessary Legal Fees

Good Afternoon Steve,

I have attached the legal bills from Mike Dean and Joe Voiland that have not been paid in 5 months. Please address this issue and give our office a response as soon as possible.

Very Respectfully,

Mike Gableman  
WI Special Counsel

Please be aware any communications sent to and from Wispecialcounsel.org email domains may be subject for review in response to Wisconsin open records statutes.

**Toftness, Jenny**

---

**From:** Fawcett, Steve  
**Sent:** Thursday, March 17, 2022 1:11 PM  
**To:** Coms  
**Subject:** RE: All Necessary Legal Fees

I thought Voiland was Rep. Brandtjen's attorney?

---

**From:** Coms <Coms@wispecialcounsel.org>  
**Sent:** Thursday, March 17, 2022 12:52 PM  
**To:** Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>  
**Cc:** Miked@Michaeldeanllc.com  
**Subject:** All Necessary Legal Fees

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Very Respectfully,

Mike Gableman  
WI Special Counsel

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## Toftness, Jenny

---

**From:** Fawcett, Steve  
**Sent:** Friday, March 18, 2022 9:03 AM  
**To:** Blazel, Ted; Hale, Janine  
**Cc:** Toftness, Jenny  
**Subject:** FW: EXTERNAL : RE: EXTERNAL : RE: All Necessary Legal Fees

Call me on this before you process anything.

---

**From:** Coms <Coms@wispecialcounsel.org>  
**Sent:** Friday, March 18, 2022 9:01 AM  
**To:** Hale, Janine <Janine.Hale@legis.wisconsin.gov>  
**Cc:** Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>  
**Subject:** Fw: EXTERNAL : RE: EXTERNAL : RE: All Necessary Legal Fees

Good Morning Janine,

As stated in the attached email, Steve Fawcett would like me to send these invoices directly to you. As a reminder Mr. Voiland and Mr. Dean are outside legal counsel and are to be paid by the assembly, not out of the WI Special Counsel Budget. If you have any questions, please feel free to give me a call. These invoices date back almost 5 months so if you could expedite payment that would be greatly appreciated.

Very Respectfully,

Zakory Niemierowicz  
WI Special Counsel

Please be aware any communications sent to and from Wispecialcounsel.org email domains may be subject for review in response to Wisconsin open records statutes.

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**From:** Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>  
**Sent:** Thursday, March 17, 2022 1:59 PM  
**To:** Coms <Coms@wispecialcounsel.org>  
**Subject:** EXTERNAL : RE: EXTERNAL : RE: All Necessary Legal Fees

Ok, thanks. I have his invoices. The normal process for a member to acquire legal representation is to work through our office, so I'll handle that.

Is Dean your counterpart to James Bopp here in Wisconsin? Assuming that is the case and that you have an agreement with him on file at the Chief Clerk's Office you can submit those invoices directly to Janine.

---

**From:** Coms <Coms@wispecialcounsel.org>  
**Sent:** Thursday, March 17, 2022 1:45 PM  
**To:** Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>  
**Subject:** Re: EXTERNAL : RE: All Necessary Legal Fees

Good Afternoon Steve,

He is representing Janel Brandtjen, but since he has not been paid, he asked our office to also send his invoices.

Very Respectfully,

Zakory Niemierowicz  
WI Special Counsel

Please be aware any communications sent to and from Wispecialcounsel.org email domains may be subject for review in response to Wisconsin open records statutes.

---

**From:** Fawcett, Steve <[Steve.Fawcett@legis.wisconsin.gov](mailto:Steve.Fawcett@legis.wisconsin.gov)>  
**Sent:** Thursday, March 17, 2022 1:11 PM  
**To:** Coms <[Coms@wispecialcounsel.org](mailto:Coms@wispecialcounsel.org)>  
**Subject:** EXTERNAL : RE: All Necessary Legal Fees

I thought Voiland was Rep. Brandtjen's attorney?

**From:** Coms <[Coms@wispecialcounsel.org](mailto:Coms@wispecialcounsel.org)>  
**Sent:** Thursday, March 17, 2022 12:52 PM  
**To:** Fawcett, Steve <[Steve.Fawcett@legis.wisconsin.gov](mailto:Steve.Fawcett@legis.wisconsin.gov)>  
**Cc:** [MikeD@MichaelDDeanLLC.com](mailto:MikeD@MichaelDDeanLLC.com)  
**Subject:** All Necessary Legal Fees

Good Afternoon Steve,

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Very Respectfully,

Mike Gableman  
WI Special Counsel

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CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

## Toftness, Jenny

---

**From:** Fawcett, Steve  
**Sent:** Friday, April 29, 2022 9:15 AM  
**To:** Blazel, Ted; Toftness, Jenny  
**Subject:** RE: Lawyer bills - past due

That might be a conversation for the Speaker since we've already had these discussions with her. I'll let Jenny chime in on how we want to handle it.

---

**From:** Blazel, Ted <Ted.Blazel@legis.wisconsin.gov>  
**Sent:** Friday, April 29, 2022 9:14 AM  
**To:** Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>; Toftness, Jenny <Jenny.Toftness@legis.wisconsin.gov>  
**Subject:** RE: Lawyer bills - past due

Sounds good. I will let Representative Brandtjen know.

Ted

Ted Blazel  
Assembly Chief Clerk  
Wisconsin State Assembly

---

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**Sent:** Friday, April 29, 2022 9:08 AM  
**To:** Blazel, Ted <Ted.Blazel@legis.wisconsin.gov>; Toftness, Jenny <Jenny.Toftness@legis.wisconsin.gov>  
**Subject:** RE: Lawyer bills - past due

I'm not sure we can pay invoices for which the Assembly does not have an agreement in writing, which to my knowledge we do not have at this time. This has been communicated to Mr. Voiland and Rep. Brandtjen.

---

**From:** Blazel, Ted <Ted.Blazel@legis.wisconsin.gov>  
**Sent:** Thursday, April 28, 2022 4:42 PM  
**To:** Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>; Toftness, Jenny <Jenny.Toftness@legis.wisconsin.gov>  
**Subject:** FW: Lawyer bills - past due

Jenny and Steve,

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Assembly Chief Clerk  
Wisconsin State Assembly

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**Sent:** Thursday, April 28, 2022 4:35 PM

**To:** Blazel, Ted <Ted.Blazel@legis.wisconsin.gov>

**Cc:** [coms@wispecialcounsel.org](mailto:coms@wispecialcounsel.org)

**Subject:** Lawyer bills - past due

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Please let me know if you have any questions and feel free to call me on my cell at 414-915-8425.

Thank you,



Janel Brandtjen  
Wisconsin State Representative  
22<sup>nd</sup> Assembly District  
Sign up for my [e-updates!](#)

## Toftness, Jenny

---

**From:** Blazel, Ted  
**Sent:** Friday, April 29, 2022 9:24 AM  
**To:** Fawcett, Steve; Toftness, Jenny  
**Subject:** RE: Lawyer bills - past due

Sounds good. I will hold off.

Ted

Ted Blazel  
Assembly Chief Clerk  
Wisconsin State Assembly

---

**From:** Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>  
**Sent:** Friday, April 29, 2022 9:15 AM  
**To:** Blazel, Ted <Ted.Blazel@legis.wisconsin.gov>; Toftness, Jenny <Jenny.Toftness@legis.wisconsin.gov>  
**Subject:** RE: Lawyer bills - past due

That might be a conversation for the Speaker since we've already had these discussions with her. I'll let Jenny chime in on how we want to handle it.

---

**From:** Blazel, Ted <Ted.Blazel@legis.wisconsin.gov>  
**Sent:** Friday, April 29, 2022 9:14 AM  
**To:** Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>; Toftness, Jenny <Jenny.Toftness@legis.wisconsin.gov>  
**Subject:** RE: Lawyer bills - past due

Sounds good. I will let Representative Brandtjen know.

Ted

Ted Blazel  
Assembly Chief Clerk  
Wisconsin State Assembly

---

**From:** Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>  
**Sent:** Friday, April 29, 2022 9:08 AM  
**To:** Blazel, Ted <Ted.Blazel@legis.wisconsin.gov>; Toftness, Jenny <Jenny.Toftness@legis.wisconsin.gov>  
**Subject:** RE: Lawyer bills - past due

I'm not sure we can pay invoices for which the Assembly does not have an agreement in writing, which to my knowledge we do not have at this time. This has been communicated to Mr. Voiland and Rep. Brandtjen.

---

**From:** Blazel, Ted <Ted.Blazel@legis.wisconsin.gov>  
**Sent:** Thursday, April 28, 2022 4:42 PM  
**To:** Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>; Toftness, Jenny <Jenny.Toftness@legis.wisconsin.gov>  
**Subject:** FW: Lawyer bills - past due

Jenny and Steve,

I just received this from Representative Brandtjen. Let me know how you would like me to proceed once you have looked it over.

Ted

Ted Blazel  
Assembly Chief Clerk  
Wisconsin State Assembly

---

**From:** Rep.Brandtjen <[Rep.Brandtjen@legis.wisconsin.gov](mailto:Rep.Brandtjen@legis.wisconsin.gov)>

**Sent:** Thursday, April 28, 2022 4:35 PM

**To:** Blazel, Ted <[Ted.Blazel@legis.wisconsin.gov](mailto:Ted.Blazel@legis.wisconsin.gov)>

**Cc:** [coms@wispecialcounsel.org](mailto:coms@wispecialcounsel.org)

**Subject:** Lawyer bills - past due

Chief Clerk Blazel,

Please see the attached documents and remit \$44,662.50 to Veterans Liberty Law by May 4, 2022.

Please let me know if you have any questions and feel free to call me on my cell at 414-915-8425.

Thank you,



Janel Brandtjen  
Wisconsin State Representative  
22<sup>nd</sup> Assembly District  
Sign up for my [e-updates!](#)

## Toftness, Jenny

---

**From:** Toftness, Jenny  
**Sent:** Friday, April 29, 2022 9:29 AM  
**To:** Blazel, Ted  
**Cc:** Fawcett, Steve  
**Subject:** Re: Lawyer bills - past due

Hold off please

Sent from my iPhone

On Apr 29, 2022, at 9:24 AM, Blazel, Ted <Ted.Blazel@legis.wisconsin.gov> wrote:

Sounds good. I will hold off.

Ted

Ted Blazel  
Assembly Chief Clerk  
Wisconsin State Assembly

---

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Assembly Chief Clerk  
Wisconsin State Assembly

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**Subject:** RE: Lawyer bills - past due

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Jenny and Steve,

I just received this from Representative Brandtjen. Let me know how you would like me to proceed once you have looked it over.

Ted

Ted Blazel  
Assembly Chief Clerk  
Wisconsin State Assembly

---

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**Sent:** Thursday, April 28, 2022 4:35 PM  
**To:** Blazel, Ted <Ted.Blazel@legis.wisconsin.gov>  
**Cc:** [coms@wispecialcounsel.org](mailto:coms@wispecialcounsel.org)  
**Subject:** Lawyer bills - past due

Chief Clerk Blazel,

Please see the attached documents and remit \$44,662.50 to Veterans Liberty Law by May 4, 2022.

Please let me know if you have any questions and feel free to call me on my cell at 414-915-8425.

Thank you,

<image001.png>  
Janel Brandtjen  
Wisconsin State Representative  
22<sup>nd</sup> Assembly District  
Sign up for my [e-updates!](#)

From: Jake.Wolf@legis.wisconsin.gov  
Sent: Friday, April 15, 2022, 5:03 PM  
To: "Vos, Robin" <Robin.Vos@legis.wisconsin.gov>  
Cc: "Toftness, Jenny" <Jenny.Toftness@legis.wisconsin.gov>  
Subject: Policy Update

---

Robin,

Joint Legislative Council Chair Vacancy – Anne called regarding Rep. Vorpapel’s retirement and his replacement as Chair of Joint Legislative Council. It is my understanding that Tyler plans to resign on June 1. Anne suggested that you take over as Chair until the start of next session. She noted that there is very little to be done as the studies will be ongoing.

Memo – I’ve attached a very rough draft of the memo discussed in leadership this week. I have asked Steve to elaborate a bit more on the final section discussing his transition to legal counsel. If you have a few minutes, please read through this and let me know if this is the direction you would like this to go. As an additional note, you mentioned in the leadership meeting that you would like to request that WEC maintain election records longer than the statutory required window. Election records are housed primarily at the municipal and county level. Any records that WEC possesses (very few) would be subject to state open records law. I don’t think asking WEC to maintain these records would be beneficial.

WEDC Board – You have a WEDC board meeting coming up on Tuesday, April 26<sup>th</sup>. As we’ve discussed before you can step away from the board and nominate someone to fill your spot. I spoke with Tyler about this and he mentioned having Dave Armstrong fill in. Is this something you would like to move forward with?

Happy Easter,

Jake Wolf  
Office of Assembly Speaker Robin Vos  
608-266-9171

# CONSULTARE LLC – #####3834

## Search Transactions

Activity: Date range; Start date: Feb 28, 2022; End date: Apr 08, 2022; Type: All

## Transactions

(i) Pending ● Posted

Date ▼	Description ◊	Debit ◊	Credit ◊	Balance
● Apr 06, 2022	DROPBOX*15CBL2KWL46M POS DB.TT/CCHELP DE 040401	75.00		2,009.52
● Apr 02, 2022	FEDEX OFFIC46600004663 POS BROOKFIELD WI 033127	27.26		2,084.52
● [REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]
● [REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]
● [REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]
● [REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]
● [REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]
● [REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]
● [REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]
● [REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]
● [REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]
● [REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]
● Mar 28, 2022	NYTIMES*NYTIMES DISC POS 800-698-4637 NY 032507	4.00		2,655.74
● [REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]
● [REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]
● [REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]
● [REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]

1-2

Date ▾	Description ◇	Debit ◇	Credit ◇	Balance
● [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
● [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
● [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
● [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
● Mar 15, 2022	MILWAUKEE JOURNAL POS 888-426-0491 IN 031305	9.99		31,659.74
● Mar 14, 2022	KWIK TRIP 971 POS NEW BERLIN WI US 548930	10.48		31,669.73
● Mar 10, 2022	SPECTRUM POS 855-707-7328 MO 030810	247.78		31,680.21
● Mar 10, 2022	WALMART FAMILY MOBILE POS 877-440-9758 FL 030803	50.71		31,927.99
● [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
● [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
● Mar 07, 2022	DROPBOX*XSW8G7VTMVG3 POS DB.TT/CCHELP DE 030401	75.00		32,054.02
● Mar 04, 2022	MAZATLAN POS DELAFIELD WI 030102	111.77		32,129.02
● [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
● Mar 03, 2022	ULI PARKING POS MADISON WI 030101	10.00		33,106.10
● [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
● [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
● Mar 02, 2022	KWIK TRIP 139 POS SHEBOYGAN WI US 038295	10.30		22,211.77
● [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
● [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
● Feb 28, 2022	OFFICE MA 12140 POS WAUWATOSA WI US 024556	124.88		31,412.86
● Feb 28, 2022	NYTIMES*NYTIMES DISC POS 800-698-4637 NY 022505	4.00		31,537.74
● [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

## Jay Stone's Hours from 2/16/2020 through 3/1/2022

Date	Hours
2/16	5.5
2/17	7.75
2/18	10
2/19	11
2/20	11
2/21	9.5
2/22	17
2/23	6
2/24	11
2/25	10
2/26	0
2/27	10
2/28	9
3/1	10.5
	128.25

Jay Stone worked an average of 9.1 hours per day.

$$1,282.50 \quad 32.50 \times 128.25$$

$$32.50 \times 128.25 =$$

$$\underline{\underline{\$3,250.00}}$$

2-1



Past Payments

Account Ending in ...5940

DATE	DESCRIPTION	CATEGORY	CARD	AMOUNT
Mar 30	Subway	Dining	Clinton L. ...5940	\$17.75
Mar 29	Hudson News	Merchandise	Clinton L. ...5940	\$5.39
Mar 29	Cousin's BBQ	Dining	Clinton L. ...5940	\$19.22
Mar 29	Uber Technologies	Other Travel	Clinton L. ...5940	\$14.49
Mar 28	Uber Technologies	Other Travel	Clinton L. ...5940	\$34.73
Mar 28	Uber Technologies	Other Travel	Clinton L. ...5940	\$23.29
Mar 28	Hilton Garden Inn	Lodging	Clinton L. ...5940	\$540.47

22

Mar 28	American Airlines	Airfare	Clinton L. ...5940	\$392.00
Mar 28	Delta Air Lines	Airfare	Clinton L. ...5940	\$557.60
Mar 28	Uber Technologies	Other Travel	Clinton L. ...5940	\$58.05
Mar 28	American Airlines	Airfare	Clinton L. ...5940	\$210.00
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Mar 28	Mke Nonna 6151122	Dining	Clinton L. ...5940	\$20.05
Mar 28	Delta Air Lines	Airfare	Clinton L. ...5940	\$70.00
Mar 26	Arepa's Place	Dining	Clinton L. ...5940	\$18.40
Mar 26	Uber Technologies	Other Travel	Clinton L. ...5940	\$34.45
Mar 25	Uber Technologies	Other Travel	Clinton L. ...5940	\$8.96

2-3

Mar 24	SOUTHWEST NEWS A34	Grocery	Clinton L. ...5940	\$6.80
Mar 24	Chick-fil-A	Dining	Clinton L. ...5940	\$6.35
Mar 23	Uber Technologies	Other Travel	Clinton L. ...5940	\$13.96
Mar 23	Uber Technologies	Other Travel	Clinton L. ...5940	\$13.96
Mar 23	McDonald's	Dining	Clinton L. ...5940	\$5.72
Mar 23	Milwaukee Journal	Other Services	Clinton L. ...5940	\$22.00

2-4

Mar 17	American Airlines	Airfare	Clinton L. ...5940	\$1,077.20
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2-5

Mar 05	CLINTON NTL AIRPORT	Gas/Automotive	Clinton L. ...5940	\$84.72
Mar 05	GREAT AM BAG T3 RB ORD	Dining	Clinton L. ...5940	\$12.61
Mar 05	GROVE ORD ROCKY MOUNT	Dining	Clinton L. ...5940	\$6.44
Mar 04	Uber Technologies	Other Travel	Clinton L. ...5940	\$47.40
Mar 03	Wasabi Sushi Lounge	Dining	Clinton L. ...5940	\$23.07
Mar 03	American Airlines	Airfare	Clinton L. ...5940	\$216.59
Mar 03	Kwik Trip	Gas/Automotive	Clinton L. ...5940	\$19.02
Mar 02	Wasabi Sushi Lounge	Dining	Clinton L. ...5940	\$47.59

2-6

Mar 01	AREPASPLACEMKE.COM	Dining	Clinton L. ...5940	\$18.28
--------	--------------------	--------	-----------------------	---------

Flight receipt

**EXTERNAL : Fw: Your trip confirmation-BDBOYR 28MAR**

Clint Lancaster <Clint@thelancasterlawfirm.com>

Thu 4/7/2022 12:09 PM

To: Coms <Coms@wispecialcounsel.org>

--  
Clinton W. Lancaster,  
Partner, Attorney at Law

LANCASTER LAW FIRM, PLLC  
clint@TheLancasterLawFirm.com  
Tel: (501) 776-2224  
Fax: (501) 778-6186  
www.TheLancasterLawFirm.com

\*\*\*IMPORTANT: This communication contains information which may be confidential and privileged attorney-client communications. If it appears that this communication was addressed or sent to you in error, you may not use or copy this communication or any information contained therein, and you may not disclose this communication or the information contained therein to anyone else. If you have received this electronic mail transmission in error, please delete it from your system without copying it, and notify me immediately by reply email or by calling (501) 776-2224.

----- Original Message -----

On Friday, March 25th, 2022 at 9:04 AM, American Airlines <no-reply@notify.email.aa.com> wrote:

Hello Clinton Lancaster!

Issued: Mar 25, 2022

## Your trip confirmation and receipt

Record locator: **BDBOYR**

A face covering is required while flying on American, except for children under 2 years old. You are also required to wear a face covering while in the airport before and after your flight. Read more about travel requirements.

You'll need your record locator to find your trip at the kiosk and when you call Reservations.

[Manage Your Trip](#)

Flight receipt

Monday, March 28, 2022

MKE	ORD	Seats: <u>5D</u>
<b>8:24</b> AM	<b>9:26</b> AM	Class: Coach (H)
Milwaukee	Chicago O'hare	Meals:

American Airlines 3180  
OPERATED BY SKYWEST AIRLINES AS AMERICAN EAGLE.

ORD	LIT	Seats: <u>12C</u>
<b>10:15</b> AM	<b>12:10</b> PM	Class: Coach (H)
Chicago O'hare	Little Rock	Meals:

American Airlines 4011  
OPERATED BY ENVOY AIR AS AMERICAN EAGLE.

MKE	ORD	Seats: <u>12A</u>
<b>12:25</b> PM	<b>1:20</b> PM	Class: Coach (M)
Milwaukee	Chicago O'hare	Meals:

American Airlines 3778  
OPERATED BY ENVOY AIR AS AMERICAN EAGLE.

ORD	LIT	Seats: <u>10E</u>
<b>3:00</b> PM	<b>4:56</b> PM	Class: Coach (M)
Chicago O'hare	Little Rock	Meals:

American Airlines 3817  
OPERATED BY ENVOY AIR AS AMERICAN EAGLE.

Free entertainment with the American app »

Clinton Lancaster

Earn miles with this trip.

Join AAdvantage® »

Ticket # 0012415838945

Your trip receipt



Flight receipt

Exchange, Visa XXXXXXXXXXXXX5940

**Clinton Lancaster**

FARE-USD	\$ 1153.49
TAXES AND CARRIER-IMPOSED FEES	\$ 133.71
<b>TICKET TOTAL</b>	<b>\$ 1287.20</b>
ADDITIONAL FARE COLLECTION	\$ 210.00
TICKET CHANGE	\$ 0.00

 **Book a hotel**  
Hotel offers

 **Book a car**  
Car rental offers

 **Buy trip insurance**  
Buy trip insurance

 **Thin gsToD**  
Things to do

[Contact us](#) | [Privacy policy](#)

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Additional Services are subject to credit card approval at time of ticketing. Additional Services may appear on multiple accompanied documents as a matter of reference.

**Baggage Information**

Baggage charges for your itinerary will be governed by American Airlines BAG ALLOWANCE - LITMKE-NIL/American AirlinesBAG ALLOWANCE -MKELIT-NIL/American Airlines1STCHECKED BAG FEE-LITMKE-USD0.00/American Airlines/UP TO 50 LB/23 KGAND UP TO 62 LINEAR IN/158 LINEAR CM1STCHECKED BAG FEE-MKELIT-USD0.00/American Airlines/UP TO 50 LB/23 KGAND UP TO 62 LINEAR IN/158 LINEAR CM2NDCHECKED BAG FEE-LITMKE-USD0.00/American Airlines/UP TO 50 LB/23 KGAND UP TO 62 LINEAR IN/158 LINEAR CM2NDCHECKED BAG FEE-MKELIT-USD0.00/American Airlines/UP TO 50 LB/23 KGAND UP TO 62 LINEAR IN/158 LINEAR CMPREPAID BAGGAGE CHARGES1STCHECKED BAG FEE-LITMKE-USD0.00/American Airlines/UP TO 50 LB/23 KGAND UP TO 62 LINEAR IN/158 LINEAR CM1STCHECKED BAG FEE-MKELIT-USD0.00/American Airlines/UP TO 50 LB/23 KGAND UP TO 62 LINEAR IN/158 LINEAR CM2NDCHECKED BAG FEE-LITMKE-USD0.00/American Airlines/UP TO 50 LB/23 KGAND UP TO 62 LINEAR IN/158 LINEAR CM2NDCHECKED BAG FEE-MKELIT-USD0.00/American Airlines/UP TO 50 LB/23 KGAND UP TO 62 LINEAR IN/158 LINEAR CM

CARRY ON ALLOWANCELITDFW DFWMKE MKEORD ORDLIT-02P/American Airlines01/UP TO 40 LINEAR IN/101 LINEAR CM01/UP TO 45 LINEAR IN/115 LINEAR CMADDITIONAL ALLOWANCES AND/OR DISCOUNTS MAY APPLY

You have purchased a NON-REFUNDABLE fare. The itinerary must be canceled before the ticketed departure time of the first unused coupon or the ticket has no value. If the fare allows changes, a fee may be assessed for changes and restrictions may apply.



From: Coms <Coms@wispecialcounsel.org>  
Sent: Monday, April 25, 2022, 4:09 PM  
To: "robin.vos@legis.wisconsin.gov" <robin.vos@legis.wisconsin.gov>  
Cc: "Fawcett, Steve" <Steve.Fawcett@legis.wisconsin.gov>  
Subject: Continuing OSC  
Attachments: Robin Voss Office Termination Documents.pdf

---

Good Afternoon,

I have attached three documents in regard to the necessity of keeping the Office of the Special Counsel open.

Very Respectfully,

Mike Gableman  
Special Counsel

From: Coms <Coms@wispecialcounsel.org>  
Sent: Thursday, March 3, 2022, 1:44 PM  
To: "Fawcett, Steve" <Steve.Fawcett@legis.wisconsin.gov>  
Subject: February Staff Payment

---

Good Morning Steve,

I just talked with Ted Blazel on the phone. He said he is waiting on a sign off by the Office of the Speaker to pay our salary for the staff for the month of February. Can you please have someone give him the go ahead to write those checks or contact me to give me an update.

Very Respectfully,

Zakory Niemierowicz  
WI Special Counsel

Please be aware any communications sent to and from Wispecialcounsel.org email domains may be subject for review in response to Wisconsin open records statutes.

From: Coms <Coms@wispecialcounsel.org>  
Sent: Thursday, April 7, 2022, 4:00 PM  
To: "Blazel, Ted - LEGIS" <Ted.Blazel@legis.wisconsin.gov>; "Hale, Janine" <Janine.Hale@legis.wisconsin.gov>; "Fawcett, Steve" <Steve.Fawcett@legis.wisconsin.gov>  
Subject: Final Reimbursement and Salary Email  
Attachments: March and April OFC Final Reimbursement Sheet - Sheet1.pdf; 20220407154926504.pdf

---

Good Afternoon,

I am attaching the Office of the Special Counsel's final reimbursement and salary request for our office. Please note that one line under office expenses is future reimbursement for this month's services that will be charged early next month. Ted and I wanted to avoid having to make these reimbursements and salaries after our office is closed.

Please note that we are prepared for the printer pick up on April 26<sup>th</sup> and I am waiting to coordinate a furniture pick up for the remaining supplies. The bigger ticket items to be picked up late in April are:

- 5 desks
- 4 computers
- 2 work phones
- 3 filing cabinets
- 1 lamp
- 1 shredder
- 3 printers
- 1 scanner
- 11 office chairs
- miscellaneous small items like mouse's and computer stylists, office phone

Please note that furniture will not be prepared, printer cannot be picked up, and we will not turn over the office lease to The Thomas Moore Society without payment of the contents of this email prior to pickup.

Please note all open records have been organized and will start being released tomorrow along with a response to American Oversight. These bankers boxes of paper documents will need to be delivered to Madison as well.

Remaining Salary to be Paid:

**March Salaries**

Kevin Scott \$10,000

Andrew Kloster \$10,000

Clint Lancaster \$10,000

Zakory Niemierowicz \$4,500

**April 15<sup>th</sup> Payment for April Work**

Zakory Niemierowicz \$4,500

Mike Gableman \$11,000

Could I please get a response from Speaker Voss's Office and from the Clerks Office so I know we are all on the same page. Please feel free to ask me any questions you have.

Very Respectfully,

Zakory Niemierowicz

WI Special Counsel

Please be aware any communications sent to and from Wispecialcounsel.org email domains may be subject for review in response to Wisconsin open records statutes.

From: Steve.Fawcett@legis.wisconsin.gov  
Sent: Wednesday, March 16, 2022, 10:10 AM  
To: "Vos, Robin" <Robin.Vos@legis.wisconsin.gov>; "Toftness, Jenny" <Jenny.Toftness@legis.wisconsin.gov>  
Subject: FW: Memorandum by The Office of the Special Counsel  
Attachments: Memorandum by The Office of The Special Counsel.pdf

---

---

**From:** Coms <Coms@wispecialcounsel.org>  
**Sent:** Wednesday, March 16, 2022 9:57 AM  
**To:** Fawcett, Steve <Steve.Fawcett@legis.wisconsin.gov>  
**Subject:** Memorandum by The Office of the Special Counsel

Good Morning,

I have attached a Memorandum created by our office. Please let me know if you have any questions or concerns.

Very Respectfully,

Zakory Niemierowicz  
WI Special Counsel

Please be aware any communications sent to and from Wispecialcounsel.org email domains may be subject for review in response to Wisconsin open records statutes.

Expense	Documentation	Amount	Category total	Page total	Notes
<b>Hotel Expenses</b>					
Hilton Garden Inn	2-1	\$540.47			
<b>Flight Expenses</b>					
American Airlines	2-2	\$392.00			
Delta Airlines	2-2	\$557.60			
American Airlines	2-2	\$210.00			
Delta Airlines	2-2	\$70.00			
American Airlines	2-4	\$1,077.20			
Clinton NTL Airport	2-5	\$84.72			
American Airlines	2-5	\$216.59			
<b>Office Expenses</b>					
Dropbox	1-1	\$75.00			
Fedex Office	1-1	\$27.26			
NY Times	1-1	\$4.00			
Milwaukee Journal	1-2	\$9.99			
Spectrum Internet	1-2	\$247.78			
Walmart Family Mobile	1-2	\$50.71			
Dropbox	1-2	\$75.00			
Office Max	1-2	\$124.88			
Hudson News	2-1	\$5.39			
Southwest News A34	2-3	\$6.80			
Milwaukee Journal	2-3	\$22.00			
Outstanding Bills for April	NA	\$249.60			\$123.89 Internet and Phone, \$75.00 dropbox, Walmart Family Mobile \$50.71
<b>Transportation Expenses</b>					
Madison Marking	1-2	\$10.00			
Uber	2-1	\$14.49			

Uber		2-1	\$34.73		
Uber		2-1	\$23.29		
Uber		2-2	\$58.05		
Uber		2-2	\$34.45		
Uber		2-2	\$8.96		
Uber		2-3	\$13.96		
Uber		2-3	\$13.96		
Uber		2-5	\$47.40		
<b>Office Meals Expenses</b>					
Kwik Trip		1-2	\$10.48		
Mazatlan		1-2	\$111.77		5 people following testimony in Madison
Kwik Trip		1-2	\$10.30		
Subway		2-1	\$17.75		
Cousins BBQ		2-1	\$19.22		
MKE Nonna		2-2	\$20.05		
Arepa's Place		2-2	\$18.40		
Chick-fil-A		2-3	\$6.35		
Mcdonalds		2-3	\$5.72		
Great AM Bagel		2-5	\$12.61		
Grove ORD Rocky		2-5	\$6.44		
Wasabi Sushi Lounge		2-5	\$23.07		
Kwik Trip		2-5	\$19.02		
Wasabi Sushi Lounge		2-5	\$47.59		2 people
Arepas Place		2-6	\$18.28		
<b>Personel Invoice</b>					
Jay Stone	Jay Stone Invoice		\$3,250.00		Jay Stone worked for the office from 2-16 to 3-01
<b>Milage Expense</b>					
Milage	NA		\$148.48		2 round trips brookfield to Madison on March 1st and March 4th (256 miles) *.58
<b>Office Rent Expense</b>					
April Office Rent	Office Contract		\$1,936.00		

			\$9,987.81		

This memorandum responds to your request for my office to further analyze the issue of recalling electors or decertifying Wisconsin's 2020 presidential electors. I adhere to the view that questions concerning certification of those electors are within the plenary authority of the Wisconsin Legislature to answer. However, that fact is not—and cannot—be the end of the analysis. I included a discussion of the decertification question in my Second Interim Report in order to address an issue of great public interest and to underscore that, while decertification of the 2020 presidential election is theoretically possible, it is unprecedented and raises numerous substantial constitutional issues that would be difficult to resolve. Thus, the legal obstacles to its accomplishment render such an outcome a practical impossibility. Given these numerous and substantial legal obstacles, it is difficult to imagine an expenditure of state resources that would be more imprudent as it would require an unimaginable amount of time and money and at best yield a result that is important only from a symbolic standpoint.

#### **A. Reasons Decertification is a Practical Impossibility**

The first reason decertification is a practical impossibility relates to the absence of any statutory process or procedure for its accomplishment. Although I included a discussion of the absence of any statutory process or procedure for this in both my Second Interim Report and during my presentation of the reports findings to the Assembly Committee on Campaigns and Elections, I do not believe it garnered a level of attention commensurate with its significance. Put simply, there are no rules governing the hypothetical proceedings by which decertification would be accomplished.

It is axiomatic that procedures affecting even the slightest of personal or property interests (not to mention the questions inherent in a legitimate decertification proceeding) must be governed by rules which comport with fundamental fairness and justice. While the construction of such a statutory scheme that passes constitutional muster might be possible, such a construction, and resolution of the legal issues surrounding it, is simply not possible in the time remaining before the question becomes practically irrelevant, i.e., the 2024 presidential election.

The second reason decertification is a practical impossibility is closely related to the first: the absence of precedent for the completion of the decertification process in a presidential election. And just as the absence of any statutory process or procedure for the act of decertification would—of necessity-- require their construction while the proceeding is underway, similarly, the absence of precedent would require the legislature to “make it up as it goes along,” as it considers the substantive question. This will be tied up in court for years and will virtually paralyze the Legislature in terms of all other business and there is no possibility that anything will be achieved other than a de facto full employment program for election law lawyers.

My best advice to anyone whose paramount concern is ensuring fair, honest, and transparent elections in Wisconsin is to set aside any impulse to waste finite time, effort, and energy in pursuit of an end that, like Macbeth's ruminations are, "full of sound and fury, signifying" at best a symbolic result.

However, there is a fruitful path forward, which is to implement the recommendations I have made that would help restore the People's faith in the integrity of our election: (1) pursue justice for the five Wisconsin Elections Commissioners who knowingly and deliberately engaged in criminal conduct when they willfully disobeyed the laws providing protections to vulnerable voters living in continuing care facilities; (2) renew efforts to engage citizens from across the state to serve as poll workers; (3) insist that Wisconsin's voter rolls accurately reflect the identities of actual voters, who live at the addresses they said they lived at when they registered to vote; (4) make those voter rolls freely available to the public; (5) make available to the public the lists of those who voted which now are available only to those who have the means to pay tens of thousands of dollars in order to obtain them; and (6) dismantle the Wisconsin Elections Commission. The first two are not directly within the purview of the Legislature, however, the remaining necessary reforms are and ought to be pursued as soon as practicable, which means as soon as Wisconsin has a governor who will sign such common sense and meaningful legislation.

At several points during my presentation to the Assembly Committee on Campaigns and Elections a little over two weeks ago, I repeatedly made all of the points recited in this memo as support for why I did not—and do not—advocate for decertification. Unfortunately, supporters as well as critics seemed to hear only those parts of my presentation that they wanted to hear. In the end, my position on the current state of the law is not ambiguous and therefore the Legislature has the constitutional obligation to make a policy decision as to whether to pursue decertification, understanding its doubtful benefit and the substantial obstacles to it. While I am charged with making a recommendation, questions regarding certification are for the legislature to make. I am not empowered to make that decision for you.

Thank you for this opportunity to renew and clarify my position on the question of decertification.

From: Coms <Coms@wispecialcounsel.org>  
Sent: Wednesday, March 16, 2022, 9:57 AM  
To: "Fawcett, Steve" <Steve.Fawcett@legis.wisconsin.gov>  
Subject: Memorandum by The Office of the Special Counsel  
Attachments: Memorandum by The Office of The Special Counsel.pdf

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Good Morning,

I have attached a Memorandum created by our office. Please let me know if you have any questions or concerns.

Very Respectfully,

Zakory Niemierowicz  
WI Special Counsel

Please be aware any communications sent to and from Wispecialcounsel.org email domains may be subject for review in response to Wisconsin open records statutes.

This memorandum responds to your request for my office to further analyze the issue of recalling electors or decertifying Wisconsin's 2020 presidential electors. I adhere to the view that questions concerning certification of those electors are within the plenary authority of the Wisconsin Legislature to answer. However, that fact is not—and cannot—be the end of the analysis. I included a discussion of the decertification question in my Second Interim Report in order to address an issue of great public interest and to underscore that, while decertification of the 2020 presidential election is theoretically possible, it is unprecedented and raises numerous substantial constitutional issues that would be difficult to resolve. Thus, the legal obstacles to its accomplishment render such an outcome a practical impossibility. Given these numerous and substantial legal obstacles, it is difficult to imagine an expenditure of state resources that would be more imprudent as it would require an unimaginable amount of time and money and at best yield a result that is important only from a symbolic standpoint.

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Thank you for this opportunity to renew and clarify my position on the question of decertification.

## MEMORANDUM

**PRIVILEGED AND CONFIDENTIAL  
ATTORNEY CLIENT PRIVILEGE  
ATTORNEY WORK PRODUCT**

From: Michael J. Gableman  
To: Speaker Robin J. Vos

**RE: Consequences of the Termination of the Office of Special Counsel  
upon Legislative Subpoenas and Attendant Litigation**

Dear Speaker Vos,

You have expressed a desire to terminate Office of Special Counsel (“OSC”). At the same time, you have also expressed an interest in retaining me to serve as counsel to the Assembly in pending matters related to the work of OSC. As such, this Memorandum is being provided to you in my capacity as a prospective legal representative of the Assembly and is therefore a confidential attorney-client communication.

This Memorandum addresses concerns regarding the effect termination of OSC will have upon the validity of legislative subpoenas that were generated by OSC and signed by you (the “Subpoenas”), as well as the likely effect that termination of OSC will have upon litigation relating to the Subpoenas. I have also attached a memorandum I received today from Attorney Bopp which sets forth the basis for his conclusion that closure of OSC will result in the Subpoenas’ unenforceability.

There are currently two pending matters in Wisconsin Circuit Courts related to the Subpoenas—

- Waukesha County case no. 2021 CV 1710, captioned *Michael J. Gableman, in His Official Capacity as Special Counsel v. Eric Genrich et al.* (the “Waukesha Matter”); and
- Dane County case no. 2021 CV 2552, captioned *Wisconsin Elections Commission et al. v. Wisconsin State Assembly et al.* (the “Dane Matter”)(collectively, the “Litigation”).

**A. The Waukesha Matter**

I advised you in a telephone conference call with other Assembly members Thursday, April 14, 2022, that I recommended against closing the Office of Special Counsel. I expressed concern that such closure would likely result in a court’s determination that the

Robin J. Vos  
April 18, 2022

Subpoenas would be rendered moot and, as such, unenforceable. There are three reasons for my conclusion.

First, if OSC no longer exists it axiomatically will no longer possess any legal rights, including the right to enforce the Subpoenas. As a result, some entity will be required to take its place in the Waukesha Matter as the party seeking enforcement. While that entity would most naturally be the Assembly, such substitution is only going to be allowed as to the OSC's "successor." See Wis. Stat. § 803.10(4)(a). As such, there needs to be an express agreement between the Assembly and OSC that the Assembly is the OSC's "successor" in relation to any legal rights possessed by the OSC.

Second, the defendants failed to comply with the subpoenas by refusing to appear at OSC's office in the City of Brookfield in Waukesha County. The fact that the location of defendants' failure to attend is in Waukesha County is what allowed OSC to file the enforcement action in Waukesha County. See Wis. Stat. § 885.12 ("If any person, without reasonable excuse, fails to attend as a witness...any judge of a court of record...**in the county where the person was obliged to attend** may...issue an attachment for the person, and unless the person shall purge the contempt and go and testify or do such other act as required by law...")(emphasis added).

Accordingly, even if the judge presiding in the Waukesha Matter permits substitution of the Assembly for OSC as petitioner in the Litigation, the basis for venue in that action ceases as the defendants can no longer purge the contempt by appearing where the subpoenas command. This is so because the OSC would no longer be extant and so compliance with the directives of the subpoenas (appear at the OSC office in Brookfield) cannot be accomplished.

The upshot is that termination of the OSC means termination of the Waukesha Matter. Judge Ramirez has already expressed his concerns that Wis. Stat. § 885.12 is not the proper procedural vehicle for enforcing the Subpoenas and has indicated that he believes that such enforcement should be pursued pursuant to the tenets of Chapter 13 of the Wisconsin Statutes.<sup>1</sup> Termination of the OSC, and the attendant issues created thereby, is an open invitation to Judge Ramirez to follow his stated inclination and dismiss OSC's Petitions. Appeal would require the attempted enforcement of novel legal rights based on novel legal theories. The prospect of victory on appeal would be remote.

Third, termination of the OSC would require that all the subpoenas be re-issued, directing the defendants to appear before a Committee of the Assembly at the State Capitol. While it has been suggested that the Subpoenas can be "amended," there is no statutory mechanism for amending a subpoena and doing so would add yet another layer to the procedural defenses already laid out by the defendants. Engaging in novel procedural tactics in this situation is ill-advised at best. In addition, the OSC's authorizing documents,

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<sup>1</sup> In a Memorandum addressed to you dated August 5, 2021, the Legislative Reference Bureau recommended utilizing Wis. Stat. § 885.12 to enforce the Assembly's subpoena power in Wisconsin Courts.

Robin J. Vos  
April 18, 2022

including Assembly Committee on Campaigns and Elections Motion 1, expressly grant the OSC the power to issue subpoenas. Re-issuing the Subpoenas would provide yet another procedural objection the defendants may raise—that the Assembly delegated the authority to issue the Subpoenas to the OSC and consequently does not possess the power to re-issue them once the OSC ceases to exist.

### **B. The Dane Matter**

Termination of the OSC also likely means termination of the Dane Matter as well, but for different reasons. As a co-defendant, substitution of the Assembly in place of the OSC would be relatively simple. However, termination of the OSC would place the Assembly in an untenable defensive posture.

One of the primary arguments advanced by the Plaintiffs in the Dane Matter is that the Subpoenas are not authorized by law because, rather than requiring appearance before the Assembly or a Committee thereof in an open forum, the Subpoenas demand appearance in a non-public setting. See Amended Complaint, Count 1, Document # 86 (Dane Matter), ¶¶ 44-51. Even if the Assembly could convince Judge Lanford that the Assembly may require such appearances via subpoena, it is almost certain she will not take the opportunity to rule as such because if the OSC no longer exists, the question of whether the Assembly is statutorily authorized to require an appearance in the OSC's offices will be rendered moot. See *Marathon Cnty. v. D.K. (In re Condition D.K.)*, 2020 WI 8, ¶ 19, 390 Wis.2d 50, 937 N.W.2d 901 ("An issue is moot when its resolution will have no practical effect on the underlying controversy.") Furthermore, if the appearances required by the Subpoenas can no longer be accomplished, all the other issues raised by the Plaintiffs (the subpoenas do not serve a valid legislative purpose, are unconstitutionally overbroad and/or compliance is unduly burdensome) are rendered moot as well.

### **C. Conclusion**

I am honored that you would consider hiring me as counsel to the Assembly in the Litigation. However, if OSC is terminated I cannot accept that role.

Based on the above, it is clear to me that if the OSC is terminated, there is no viable path to success in the Litigation. All attorneys are ethically bound to pursue only those matters that have a reasonable basis in fact and law. It is my analysis that without the existence of the OSC, there is no reasonable basis to continue pursuing the Litigation. As such, I could not agree to represent the Assembly in those matters.

Again, thank you for the honor of your consideration.

Special Counsel Gableman, you have asked my opinion on whether the closure of the Office of Special Counsel will have an adverse effect on the enforceability of the subpoenas, currently subject to the Waukesha Matter and the Dane Matter ("the Litigation"), and on the ability of the Assembly to litigate the legality of the subpoenas in those cases.

My opinion is that closing the Office of Special Counsel will render the subpoenas unenforceable and the Litigation moot.

First, the subpoenas require the person to appear "before the Special Counsel or his designee." If the Office of Special Counsel is terminated, there is no person "to appear in person before." The subpoenaed person cannot appear before the Special Counsel, since the Special Counsel does not exist, and he cannot appear before "his designee," since there is no Special Counsel to designate someone. This renders the subpoenas unenforceable.

Second, the unenforceability of the subpoenas abort the Litigation. The Waukesha Matter is an effort to enforce the subpoenas, but since there would be no one for the court to order the person "to appear in person before," then there is no relief that the court could order to enforce the subpoenas and the case would be dismissed.

The Dane Matter is a challenge to the subpoenas' enforceability against WEC and other Plaintiffs. However, if the subpoenas are rendered unenforceable because the Office of Special Counsel does not exist, the case would be moot, since the subpoenas are already unenforceable, and the case would be properly dismissed.

Finally, I don't believe that there is anyway to fix the problem of the unenforceability of the subpoenas. To have an enforceable subpoena after the Special Counsel's office is terminated, the subpoenas would have to be reissued with this change, or something like it: the subpoenaed person would be required "to appear in person before the Speaker of the Wisconsin State Assembly, or his designee" and then an appropriate address.

There maybe other reasons that the termination of the Office of Special Counsel would have an adverse effect on the subpoenas and/or litigation, but I express no opinion on these.

**James Bopp, Jr.**

Attorney

The Bopp Law Firm, PC | [www.bopplaw.com](http://www.bopplaw.com)

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[jboppjr@aol.com](mailto:jboppjr@aol.com)

Michael Gableman  
Special Counsel  
WI State Assembly  
Committee on Campaigns and Elections  
coms@wispecialcounsel.org



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262-202-8722

April 25, 2022

The Hon. Robin J. Vos  
Speaker, Wisconsin Assembly  
State Capitol-Room 217 West  
Madison, WI 53708

Dear Speaker Vos,

This letter memorializes my concern that formally disbanding the Office of the Special Counsel (OSC) would (1) legally moot out and render null the pending sunshine lawsuits that are necessary to vindicate the people's right to know how their government is run and thus (2) render pointless and a waste of taxpayer money the entire investigation. My strong recommendation is for the OSC to remain authorized by the Assembly, so that all the subpoenas we issued remain valid and enforceable. I will gladly reduce my salary to a token \$1 per year, if money is an issue. We have already gutted the entire office, including removing all of my staff except for one junior assistant, so money should not be an issue.

I concede that this is a political decision entirely within the authority of the Speaker. At any time you could have refused to authorize OSC, refused to fund OSC, or refused to sign any particular subpoena. It is to your eternal credit that you have thus far resisted the media-hyped, hypocritical, and disingenuous political pressures to do so. But to pull the plug now is to quit at the finish line. We have several well-positioned lawsuits that will inevitably result in the Wisconsin Supreme Court giving us a clear decision on just how accountable the state government is to the people. Blowing up these lawsuits is a bad idea.

There is no downside to keeping the OSC open at this time, other than, possibly, the legal fees to defend the subpoena lawsuits. But our case is strong and losing or dropping these cases would irreversibly weaken our state Assembly. It would irreversibly weaken the office of the Speaker of the Assembly as well. All it would take is a left-wing group to sue to block oversight and cite this case the next time they want to hide something. This time it is nursing home abuse and corrupt elections administration: next time it could be worse. And you can bet there are private left-wing groups drafting new contracts that are even more shady, so that bad actors can privatize our elections again in 2024. This has to stop, and it will not stop if we shut down the OSC and give up on the lawsuits now.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Gableman". The signature is written in a cursive, flowing style.

Michael J. Gableman

From: James Bopp Jr <jboppjr@aol.com>  
Sent: Friday, March 4, 2022, 1:47 PM  
To: rep.vos@legis.wisconsin.gov  
Cc: coms@wispecialcounsel.org; steve.fawcett@legis.wisconsin.gov;  
cmilbank@bopplaw.com  
Subject: Subpoenas

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I have determined that the subpoena issued regarding the OSC's investigation were issued by the Assembly or the Assembly Committee on Elections. Thus, a pause in the investigation, or even the determination that the OSC is without a contract and can no longer act on behalf of the Assembly, will not effect the validity or enforceability of the subpoenas.

As a result, the cases could continue on and not be mooted, if there is no further agreement with the OSC.

Thus, I am willing to go forward with what you have suggested: my firm procecute the existing cases to establish the authority of the Assembly to conduct the litigation and to protect the confidentiality of the investigation document. We would hire Mike Gableman to assist.

If you want me to propose an agreement to this effect, please let me know. Also happy to discuss. Jim