STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

TEAMSTERS LOCAL UNION 75

Involving Certain Employees of

BROWN COUNTY

Case 22
No. 48726
ME-628

Decision No. 11983-J

Appearances:

Andrea F. Hoeschen, Goldberg, Uelmen, Gratz, Miller & Brueggeman, S.C. Attorneys at Law, 1555 RiverCenter Drive, Suite 202, P.O. Box 12993, Milwaukee, Wisconsin 53212, appearing on behalf of Teamsters Local Union 75.

John C. Jacques, Assistant Corporation Counsel, 305 East Walnut Street, P.O. Box 23600, Green Bay, Wisconsin 54305-3600, appearing on behalf of Brown County.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

On February 21, 2003, Teamsters Local Union 75 filed a petition to clarify bargaining unit with the Wisconsin Employment Relations Commission seeking to add Judicial Assistants to an existing bargaining unit of Brown County employees for which Local 75 is currently the exclusive collective bargaining representative.

On March 10, 2003, prior to any hearing on the petition, the County filed a motion to dismiss arguing that the Judicial Assistants could not be included in the Local 75 bargaining unit because: (1) inclusion would be constitutionally impermissible under the doctrines of inherent judicial authority and separation of powers; (2) the County is not the "municipal employer" of the Judicial Assistants; and (3) the Judicial Assistants are "confidential employees" and thus are not "municipal employees". On March 28, 2003, Local 75 filed a response to the motion. On June 3, 2003, the WERC issued an order denying the motion to

dismiss concluding that the court decision relied on by the County in its motion did not hold that inclusion of Judicial Assistants in a bargaining unit would be unconstitutional and that an evidentiary hearing was needed before the County's other arguments could be evaluated on their merits.

The County then filed a motion for declaratory judgment in Brown County Circuit Court again arguing that Judicial Assistants constitutionally could not be included in any bargaining unit. The Circuit Court denied the motion by Order dated January 28, 2004. The County then sought review of the Circuit Court's denial of its motion. The Court of Appeals by decision dated October 18, 2004, affirmed the Circuit Court's holding that the WERC has primary jurisdiction to build a factual record with respect to disputed factual issues under the statutes it administers and that the County had the ability to preserve its rights with respect to constitutional issues.

Commission Examiner Stanley H. Michelstetter conducted a hearing on the petition on August 25, 2005, in Green Bay, Wisconsin. Each party filed post-hearing briefs, the last of which was received October 25, 2005.

Having reviewed the record and being fully advised in the premises, the Commission makes and issues the following

FINDINGS OF FACT

1. Brown County, herein the County, is a municipal employer with offices in the City of Green Bay, Wisconsin. It maintains courthouse offices in support of the County's Circuit Courts.

2. Teamsters Local Union 75, herein the Union, is a labor organization that serves as the collective bargaining representative of the County employees in the following bargaining unit as certified by the Commission in 1973:

> all employees of Brown County employed in the Courthouse, Safety Building, Courthouse Annex, Northern Building, Reforestation Camp and University Extension (Agricultural Agents Department), excluding department heads, supervisors, craft and professional employees, police officers, elected and appointed officials, and confidential employees.

This unit includes employees of the County who perform work for the County Circuit Courts, including those employed in the Clerk of Courts office in the classifications of, among others, Court Coordinators.

3. The County established its first Judicial Assistant (JA or Judicial Assistant) position in 1991 to provide administrative and clerical assistance to the Circuit Courts. The County in consultation and negotiation with the Circuit Court Judges agreed in 1993 to

establish five JA positions. There are now eight JA positions in Brown County. No JA has ever been included in a bargaining unit of County employees.

4. Section 758.19(5)(h), Stats. currently states:

> The director of state courts shall establish a description of the qualifications and duties of an individual who is a judicial assistant for the purposes of his subsection. Nothing in this subsection requires a county to employ, to incur costs for salary and fringe benefits for, or to expend payments received under par. (b) for salary and fringe benefits for, judicial assistants for circuit court judges.
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> [Section 758.19(5)(b), Stats, provides the total amount the Director of Courts is required to pay to counties from the overall appropriation for the state courts.]

The Director of State Courts, under the direction of the Wisconsin Supreme Court, provides the non-judicial administration of the State Courts. Pursuant to Sec. 758.19(5)(h), Stats., the Director adopted the following job description for the JA position:

JOB TITLE: JUDICIAL ASSISTANT

Supervisor: Circuit Court Judge

Examples of Work Performed:

- Type opinions, correspondence, and decisions; prepare reports, dispositions, memoranda, agendas, jury instructions, orders, and notices.
- Assist with calendar management including scheduling of court hearings, trials, conferences, legal appointments, meetings, and activities of the judge and holding scheduling conferences.
- Assist with file and record acquisitions
- Organize and maintain judge's files and records
- Post court calendar daily, update weekly calendar
- Maintain judge's law library, if applicable
- Act as receptionist in answering telephones, handling visitors, and processing mail
- Requisition office supplies

- Contact attorneys and parties concerning court dates, appointments and cancellations

NOTE: Specifically excluded are bailiff duties and the statutory responsibilities of the clerks of circuit court, registers in probate, juvenile court clerks, and their deputies.

Desired Qualifications:

High school diploma or the equivalent

Ability to maintain high level of confidentiality, discretion, and integrity

Knowledge of modern office practices, procedures, and equipment

Ability to communicate clearly, concisely, and tactfully

Ability to use word processing

Ability to exercise judgment and diplomacy

Ability to learn computerized records management

Ability to take and transcribe dictation.

This job description generally describes the duties performed by the JAs.

JAs work in an office adjacent to that of their assigned Circuit Judge's chambers. JAs type, edit and proofread Circuit Judges' decisions. They take dictation from those Circuit Judges who dictate their written work. JAs participate in off-the-record matters for the purpose of taking notes for scheduling orders or other reasons. JAs do not ordinarily participate in court proceedings, but function in chambers. A JA functions as the office receptionist for his or her assigned Circuit Judge. Each JA has access to the files of his or her assigned Circuit Judge, but most Circuit Judges keep some files under lock and keep locked files confidential from JAs. JAs generally manage the non-court files kept in chambers. JAs answer the phone and schedule non-court matters. They also give courtroom tours.

5. The County establishes the wages and fringe benefits JAs receive. The County determines the normal operating hours of its Courthouse although Circuit Judges have the authority to hold court or otherwise conduct work outside those hours. The County establishes the normal work hours of JAs, but Circuit Judges may require JAs to work additional hours beyond those set by the County.

6. When a JA is hired, the County seeks and test applicants, arranges interviews and participates in the selection process. The individual Circuit Judge who will work with the JA makes the final decision on the candidate to be selected.

Each Circuit Judge, with the assistance and support of the Office Manager II (currently Jean Eckers), supervises the daily work of his or her assigned JA. The Office Manager II is a County employee not included in any bargaining unit. The Office Manager II trains JAs and ensures that their work conforms to the Circuit Judges' collective policies. She interprets County programs, personnel and administrative policies for JAs and assists JAs in dealing with interpersonal issues with their assigned judge.

The Office Manager II also provides clerical and administrative support for Presiding Circuit Court Judge McKay. In that regard, the Office Manager II attends and takes minutes at meetings of the Circuit Court Judges where the performance of Court-related employees is discussed and decisions are made about recommendations to the County as to wages and benefits for such employees (including JAs).

The Circuit Court Judge has the exclusive authority to remove a JA from his/her position. However, the County determines whether to discipline or discharge a JA from County employment.

7. JA's do not participate in the collective bargaining process or receive confidential information concerning the County's strategy in the negotiation of the County's comprehensive collective bargaining agreements with its various unions. JAs do not participate in the processing of grievances on behalf of the County. They do not receive any confidential information with respect to the County's processing of grievances arising under its collective bargaining agreements with its various unions.

Once a JA advised a Circuit Court Judge of concerns the JA had about the performance of a Union-represented Court Coordinator employee and the Judge then asked the JA to provide ongoing feedback regarding the employee's performance, and type memos recording the Judge's views on the matter. The Judge recommended to the County that the employee be removed from the Court Coordinator position. The County honored the Judge's request and the employee was subsequently transferred to a different County position.

On very infrequent occasion, County Circuit Court Judges decide cases in which County employees represented by labor organizations or the labor organizations themselves are parties.

8. Court Coordinators are County employees included in the Union's bargaining unit. They perform half of their duties in courtrooms. The remainder of their time is spent in the Clerk of Courts office where they each have an office. They are directly supervised by the Clerk of Courts.

Based on the above and foregoing Findings of Fact, the Commission makes and issues the following

CONCLUSIONS OF LAW

1. Brown County is the municipal employer of the Judicial Assistants within the meaning of Section 111.70(1)(j), Stats.

2. The Judicial Assistants are not confidential employees within the meaning of Sec. 111.70(1)(i), Stats. and therefore are municipal employees within the meaning of Sec. 111.70(1)(i), Stats.

3. Inclusion of the Judicial Assistants in the bargaining unit described in Finding of Fact 2 is not prohibited by the judiciary's core zone of exclusive authority.

4. Because the Judicial Assistants are "employees of Brown County employed in the Courthouse", it is appropriate to include them in the bargaining unit described in Finding of Fact 2.

Based on the above and foregoing Findings of Fact, and Conclusions of Law, the Commission makes and issues the following

ORDER

Judicial Assistants are included in the bargaining unit represented by Teamsters Local Union 75 described in Finding of Fact 2.

Given under our hands and seal at the City of Madison, Wisconsin, this 14th day of March, 2006.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/
Judith Neumann, Chair

Paul Gordon /s/
Paul Gordon, Commissioner

Susan J. M. Bauman /s/
Susan J. M. Bauman, Commissioner

BROWN COUNTY

MEMORANDUM ACCOMPANYING FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

This matter returns to us following the Court of Appeal's affirmance of the Circuit Court's dismissal of the County's motion seeking a declaratory judgment that Judicial Assistants constitutionally could not be included in a bargaining unit or, in the alternative, that Judicial Assistants are "confidential employees" within the meaning of the Municipal Employment Relations Act. BROWN COUNTY V. WERC, Cir. Ct. No. 03CV1141, (Brown Co. 1/04); *aff'd* Ct. App. Dist III, App. No 04-0692 (10/04).

When dismissing the County's motion, the Court concluded that: (1) it was not clear that the decision in BARLAND V. EAU CLAIRE COUNTY, 216 Wis. 2D 560 (1998) constitutionally mandated exclusion of the Judicial Assistants from any bargaining unit; and (2) it was appropriate for the Commission to make a factual record and then decide the questions of whether the Judicial Assistants are employees of the County and, if so, whether they are "confidential employees" who for that reason cannot be included in a bargaining unit. Thus, we resumed our processing of the Teamsters' petition for unit clarification by conducting an evidentiary hearing and receiving post-hearing argument from the parties.

In its post-hearing argument, the County continues to place substantial reliance on BARLAND. In our 2003 decision denying the County's motion to dismiss this unit clarification petition (BROWN COUNTY, DEC. NO. 11983-F (WERC, 6/03) we stated the following as to the BARLAND decision:

> The only issue before the BARLAND Court was ". . . whether circuit court judges have the exclusive, inherent constitutional authority to prevent the unilateral removal of their judicial assistants by way of a collective bargaining agreement between county government and its employees." BARLAND at 566. The Court added: "Because we typically decide cases on the narrowest possible grounds (citation omitted), this decision solely encompasses a circuit court judge's power to remove his or her judicial assistant." *Id.*, at 566, n. 2. In resolving the issue it defined, the Supreme Court found that a "bumping provision" in the labor agreement covering the collective bargaining unit that included the Judicial Assistants impermissibly intruded upon the judiciary's "core zone of exclusive authority." Thus, as it applied to the Judicial Assistants, the bumping provision was void and unenforceable. BARLAND, at 590.
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> The BARLAND majority did not, however, address any of the constitutional or statutory issues raised by the County herein. Specifically, BARLAND did not consider whether:

> (1) Judicial Assistants are outside the statutory provisions of Ch. 111.70, Wis. Stats.; (2) the Judicial Assistant positions are not constitutionally within this Commission's authority; (3) *any provision* of a collective bargaining agreement purporting to apply to Judicial Assistant positions is unconstitutional under doctrines of inherent authority and separation of powers; and (4) the positions of Judicial Assistants are exempt from the provisions of Ch. 111.70, Wis. Stats., and the term "municipal employee" as used therein cannot include Judicial Assistant positions.

We also note – as did the BARLAND majority – a Court of Appeals case that preceded BARLAND by some three years. In WINNEBAGO COUNTY V. COURTHOUSE EMPLOYEES ASSOCIATION, 196 Wis. 2D 733 (Ct. App. 1995), the Court of Appeals found no impropriety with the inclusion of a Judicial Assistant in a collective bargaining unit. The Court of Appeals distinguished between a judge's authority to remove and appoint a member of his or her staff and the subsequent termination of that staff member's county employment without regard for the "just cause" provision contained in the labor agreement that covered the bargaining unit of which the affected employee was a member.

We continue to view BARLAND as expressed above. Thus, we think it clear that BARLAND's narrow holding does not require that the Judicial Assistants be excluded from any bargaining unit.

We now proceed to address the other arguments presented by the County in the context of the factual record.

Employer Identity

The County argues that Judicial Assistants cannot be included in a bargaining unit of County employees because the County is not their employer.

We begin our consideration of that issue by noting that Sec. 758.19(h), Stats. provides:

> Nothing in this subsection requires a county to employ . . . judicial assistants for circuit court judges.

Given this statutory language, it seems apparent that the Legislature has identified the County as the employer of the Judicial Assistants. This view was echoed by the testimony of the Deputy Director of State Courts who stated:

> . . . we consider them County employees . . . (Tr. 39).

While we believe that the foregoing is sufficient to establish that the County is indeed the employer of the Judicial Assistants, we think it nonetheless appropriate to respond more specifically to the County's arguments.

The County contends that the following "incontrovertible facts" preclude a conclusion that the County is the employer of the Judicial Assistants:

> The following facts are undisputed; [sic] 1) Judicial Assistant duties are determined by the Judicial Branch of State government, not Brown County; 2) Circuit Court Judges have exclusive statutory and Constitutional authority to hire, fire, discipline and supervise Judicial Assistants; 3) Brown County government has absolutely no control over the duties or the performance of the duties of Judicial Assistants.
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> County Br. at 1.

As to the duties of the Judicial Assistant, Sec. 758.19(h), Stats. provides that:

> (h) The director of state courts shall establish a description of the qualifications and duties of an individual who is a judicial assistant for the purposes of this subsection.

Pursuant to this statutory directive, the Director of State Courts has established the job description set forth in our Finding of Fact 4.

We understand the County to argue that because it does not establish the duties of the Judicial Assistants, it must not be their employer. While authority to establish the duties of a position is generally a relevant consideration when determining employer status, this factor carries less weight in the public sector where the duties of many acknowledged county employees are not established by a county but by statute (for instance, Deputy Clerks of Court-Sec. 59.40 Stats.; Deputy Sheriff's-Secs. 59.27 and .28, Stats.; Deputy Clerks-Sec. 59.23, Stats.). Thus, lack of control over duties is not particularly significant to an analysis of employer identity. Further, as noted above, Sec. 758.19 (h), Stats. provides:

> Nothing in this subsection requires a county to employ . . . judicial assistants for circuit court judges.

Thus, while the statute clearly provides that the Director establishes the duties for the Judicial Assistants, the County retains one of the ultimate indicia of employer status, i.e. the ability to determine whether any Judicial Assistants will in fact be employed. Therefore, we conclude that while the County is correct that it does not establish the duties of the Judicial Assistants, that fact is not particularly supportive of the County's position that it is not the employer.

As to the authority of the Circuit Court Judges to "hire, fire, discipline and supervise" Judicial Assistants, BARLAND establishes only that the Circuit Court Judge has the authority to remove an individual from a Judicial Assistant position. The Court expressly declined to decide whether it is one of the Circuit Court Judge's "core, inherent powers" to appoint a Judicial Assistant after one has been removed. More importantly, as reflected in WINNEBAGO CTY. V. COURTHOUSE EMPLOYEES ASSN., 196 Wis. 2D 733 (1995), it is clear that the right to remove a Judicial Assistant from that position does not include the right to terminate the removed individual's employment with the County. As the Court stated at 741-742,

> A court's right to remove and appoint a staff member is an entirely different issue than the subsequent termination of that staff member's employment. The power to terminate . . . employment without just cause or without adhering to the grievance procedure is not essential to the existence or orderly functioning of the circuit court, nor is it necessary to maintain the circuit court's dignity, transact its business or accomplish the purpose of its existence. . . . That a collective bargaining agreement might require just cause for termination or adherence to a grievance procedure does not restrict the judge's inherent powers.

Thus, contrary to the County's contention herein, WINNEBAGO makes clear that the power to "fire" remains with the County. That right is far more indicative of employer status than is a Circuit Court Judge's right to "remove" an individual from a specific position. Further, while removal can certainly be viewed as disciplinary in nature, we infer from WINNEBAGO that if termination (the ultimate form of discipline) is beyond the Court's authority, so also would be other forms of discipline such as suspension or written reprimand. Those disciplinary decisions would ultimately remain with the County as well.

As to the right to "hire", the record reflects that the Circuit Court Judge makes the final hiring decision after the County processes and screens applications and participates in the interview process.

As to the right to "supervise", the record reflects that the right to supervise is the Judges' but the actual responsibility for day to day supervision is shared by the Judges and the County's Office Manager II.

Given the foregoing, we do not agree with the County's contention that the "hire, fire, discipline and supervise" facts all support a conclusion that the County is not the employer of the Judicial Assistants. The County retains the right to "fire" and "discipline" and has some responsibility as to "hire" and "supervise."

The third "uncontroverted fact" cited by the County is lack of control over duties and performance. We have already discussed the matter of control over duties and the reasons why it plays no meaningful role in our analysis. As to control over performance, the record reflects a shared day to day supervision between the Judges and the Office Manager II. While the

Judge's power to remove provides some control over a Judicial Assistant's performance, it is the County that retains the ultimate control through its power to "fire". Thus, this third "fact" provides at best mixed support for the County's position that it is not the employer.

Of course, any analysis of employer status must include consideration of who controls compensation and hours of work. As to compensation through wages and fringe benefits, the record establishes that it is the County that determines the level of compensation received by the Judicial Assistants. While the County correctly notes that it can seek reimbursement from the State for Court operating costs which includes the compensation received by the Judicial Assistants, the potential for reimbursement does not negate the County's control over the levels of compensation. As to hours of work, the County establishes the normal work schedule with the Judge retaining the ability to require that work be performed outside of the normal schedule. Thus, County control over compensation and input into hours of work provide further support for the County's status as the employer of the Judicial Assistants.

Given all of the foregoing, even if Sec. 758.19(h), Stats. did not resolve the question of employer identity, we would conclude that the County is the employer of the Judicial Assistants.

The County cites THOMPSON V. COUNTY OF ROCK, 648 F. Supp. 861 (W.D. Wis. 1986) in support of its position that it is not the employer. In THOMPSON, the federal court held that court commissioners are "state officers" rather than "county officers" in the context of determining whether Rock County could be held liable for alleged violations of the Fourth and Fourteenth amendments to the United States Constitution. Obviously, this holding did not deal with Judicial Assistants nor determine "employer" status in the context of the Municipal Employment Relations Act. Further, this decision was based in part on a determination that circuit court judges had the sole authority to "terminate" the court commissioners. As we concluded earlier herein, WINNEBAGO persuades us that that for Judicial Assistants, the power to "terminate" continues to reside with the County. Thus, there is also a critical factual distinction between the THOMPSON analysis and our own. For all of these reasons, we do not find THOMPSON to be a persuasive basis for concluding the County is not the employer of the Judicial Assistants.

The County also cites MILWAUKEE COUNTY, DEC. NO. 9621 (WERC, 4/70) wherein the Commission concluded that court reporters were not county employees because they served at the pleasure of the circuit court judges and their salary and fringe benefits were largely set and paid for the State. Because, as discussed above, Judicial Assistants' employment cannot be terminated by the Circuit Court Judges and their salary and fringe benefits are established by the County, MILWAUKEE COUNTY does not support the County's position.

We also understand the County to argue that it is not the employer because it cannot enter into a collective bargaining agreement that limits the Judges' authority over Judicial Assistants. This alleged incompatibility between collective bargaining and judicial authority has been rejected by the Court in KEWAUNEE COUNTY V. WERC, 141 Wis. 2D 347 (Ct. App.

1987) and IOWA COUNTY V. IOWA COUNTY COURTHOUSE, 166 Wis. 2D 614 (1992) as a basis for excluding employees from a bargaining unit. Further, contrary to the County arguments, assuming the Judicial Assistants are not "confidential employees" excluded by statute from the right to be represented in a bargaining unit, much remains fair game for collective bargaining including the key components of wages, fringe benefits, and job security.

Given all of the foregoing, we have concluded that the County is the "municipal employer" of the Judicial Assistants. We turn to the County's argument that the Judicial Assistants are "confidential employees".

Confidential Status

The following legal standard set forth by the Commission in MINERAL POINT SCHOOL DISTRICT, DEC. NO. 22284-C (WERC, 9/00), and affirmed by the Court of Appeals in MINERAL POINT SCHOOL DISTRICT V. WERC, 251 Wis. 2D 325, 337-338 (2002) is used when determining whether an individual is a confidential employee:

> We have held that for an employee to be held confidential, the employee must have sufficient access to, knowledge of or participation in confidential matters relating to labor relations. For information to be confidential, it must (a) deal with the employer's strategy or position in collective bargaining, contract administration, litigation or other similar matters pertaining to labor relations and grievance handling between the bargaining representative and the employer; and (b) be information which is not available to the bargaining representative or its agents. . . .
>
> While a *de minimis* exposure to confidential materials is generally insufficient grounds for exclusion of an employee from a bargaining unit, . . . we have also sought to protect an employer's right to conduct its labor relations through employees whose interests are aligned with those of management. . . . Thus, notwithstanding the actual amount of confidential work conducted, but assuming good faith on the part of the employer, an employee may be found to be confidential where the person in question is the only one available to perform legitimate confidential work, . . . and, similarly, where a management employee has significant labor relations responsibility, the clerical employee assigned as his or her secretary may be found to be confidential, even if the actual amount of confidential work is not significant, where the confidential work cannot be assigned to another employee without undue disruption to the employer's organization. . . . (Citations omitted)

The County's argument that the Judicial Assistants are confidential employees focuses on the Circuit Court Judges' role in: (1) responding to performance issues involving Teamster represented employees who work in the County court system; and (2) deciding cases that

involve Teamsters or other labor organizations representing County employees. The County contends that the Judicial Assistants' advance knowledge of or role in addressing judicial concerns regarding employee performance and advance knowledge of how labor cases will be decided creates an unacceptable conflict between loyalty to the judge and representation by Teamsters.

As to the argument related to performance issues, the record establishes that a Judicial Assistant reported performance concerns regarding a Union-represented employee to a Judge and was then asked to keep a record of performance issues. Where, as here, such duties are only occasional and do not directly involve the employee in the decision-making process as to what disciplinary response, if any, is appropriate, we have concluded that such duties are not sufficient to warrant a finding of confidential status. MILWAUKEE COUNTY, DEC. NO. 22519 (WERC, 4/85). We reach that same conclusion here.

We acknowledge that the second County argument presents the issue of confidential status in a unique light because it relates to the Judge's role as decision-maker (and the Judicial Assistant's advance knowledge of how a case was going to be resolved) rather than the Judge's role as the supervisor of employees. However, after due consideration, we conclude that the basic principles recited in MINERAL POINT, *supra*., are nonetheless applicable when assessing the merits of this argument.

The record establishes that labor cases are a very small and unpredictable portion of each Judge's caseload. Some Judges may not have any labor cases for periods of a year or more. In such circumstances, we conclude that the very limited and speculative amount of confidential labor relations knowledge that a specific Judicial Assistant may from time to time acquire by virtue of preparing a Judge's decision is not sufficient to warrant a conclusion that all Judicial Assistants are confidential employees. [1] Therefore, we do not find this County argument to be a persuasive basis for finding the Judicial Assistants to be confidential employees.

Conclusion

In summary, we conclude that: (1) there is no persuasive constitutional basis for concluding that Judicial Assistants cannot be included in a bargaining unit; (2) the County is the "municipal employer" of the Judicial Assistants; and (3) the Judicial Assistants are not "confidential employees" and therefore are "municipal employees." We concur with the County's view that the judiciary's "core zone of exclusive authority" will limit what can be bargained on behalf of the Judicial Assistants. However, as reflected in KEWAUNEE and IOWA COUNTY, such limitations do not form a persuasive basis for concluding that Judicial Assistants cannot be included in a bargaining unit. Because the Union is the collective bargaining

[1] We note that the Office Manager II has the skills (ie. dictation/typing) to perform the work which would give a Judicial Assistant advance knowledge of the outcome of a labor case.

representative of "all employees of Brown County employed in the Courthouse . . .", it is appropriate to clarify the Judicial Assistants into this Union bargaining unit.

Dated at Madison, Wisconsin, this 14th day of March, 2006.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/
Judith Neumann, Chair

Paul Gordon /s/
Paul Gordon, Commissioner

Susan J. M. Bauman /s/
Susan J. M. Bauman, Commissioner

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