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January 18, 2013

**For Immediate Release**

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## **Dane County Court Judge Upholds Administrative Code**

*Permit Required to Hold Events at Capitol*

A Dane County Circuit Court judge has ruled that permits are required to hold events at the state Capitol building, as outlined in the state's Administrative Code.

Judge Genovese was asked to interpret the meaning of a portion of the law governing conduct at the Capitol, Wisconsin Administrative Code provision ADM 2.14(2)(v), which relates to conducting a picket, rally, parade or demonstration at the state buildings, including the Capitol.

In her oral decision yesterday in reviewing *State vs. Jason Huberty*, Judge Genovese reaffirmed that a person violates this law (2.14.(2)(v)) if he or she conducts a demonstration in the State Capitol Building without first obtaining Department of Administration (DOA) approval. This approval is given through the permit process administered by the Capitol Police. This provision has been part of Wisconsin's Administrative Code since 1979.

Previous court rulings have validated the Department's ability to manage the State Capitol Building on an equal basis for all groups and members of the public by requiring permits for all demonstrations:

- In September 2012 in the case *Ryan v. Huebsch*, Judge Remington refused to rule that any portion of the Administration Code was unconstitutional, and instead stated, "*it was (and still is) well established that the government may impose reasonable restrictions on the time, place or manner of protected speech, even in a public forum... .*"
- In June of 2011, in *WSEU vs. Huebsch*, Judge Albert approved a settlement that the State Capitol Building rotunda and grounds are open to the public, but expressly stated events are, "*subject to Wis. Admin. Code 2 and to DOA's permitting authority under that Code.*"

Judge Genovese ruled in favor of DOA in two other issues in *State vs. Jason Huberty*, in which Huberty was cited for his unpermitted protest conduct in the Wisconsin State Capitol:

- **Recaptioning Cases:** Huberty's attorney, Bob Jambois, had asked the court to recaption the court cases from "State" to "Department of Administration." Jambois had made this request so that he could seek attorney's fees in representing Huberty and other plaintiffs who have received citation. The court denied this action.

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- **Seeking Attorney's Fees:** Jambois was seeking reimbursement of \$5,000-8,000 per case from anyone he represents related to the civil citations issued by Capitol Police for unpermitted events. To receive reimbursement, the case would first need to be recaptioned, which was denied. In addition, the court denied reimbursement.

Judge Genovese also provided guidance on the meaning of the word "conduct" as used in the Administrative Code, stating that "conduct" must involve an element of leadership. Therefore, DOA will work with the Department of Justice, who is representing the State, to review the citations issued in other cases to ensure they meet the guidance provided by Judge Genovese. Some citations may be dismissed in the future, while other cases are strengthened by the court's ruling.

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