



The Inside Scoop

An Inside Look at National, State and Local Politics

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J.B. Van Hollen, his daughter Maddy, son Byron and wife Lynne

JB 4 AG

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JB 4 AG
Scoop Interview with Attorney
General Hopeful JB Van Hollen
by Rick Sense

RS- Thanks for making time in your schedule to answer some questions and provide a campaign update to readers of the Scoop.

In discussing the campaign with your wife Lynne earlier it sounds like you are maintaining a very busy schedule so far. What has surprised you the most in talking to voters across Wisconsin? What issues are you finding that voters are most concerned about?

JB- We have been very busy campaigning an average of 70 hours per week for the past 8 months and we plan on getting even busier. In fact, State Senator Dave Zien who is heralded at being such a hard worker who is constantly on the go, recently said that I was the hardest working AG candidate he had ever seen. That said, I make sure my down time is spent with my family, attending church and catching a few minutes of Packer and Badger football games when I can.

What has surprised me most about the campaign so far as I travel the state and meet with voters is the incredible faith people put in me versus my opponents. Both the current AG and my primary opponent started this race with considerably higher name ID than I had but that has not proven to be a disadvantage. A good example of this is the straw poll I won at the Republican Party of Wisconsin's State Convention. We won with roughly 84% of the vote over my primary opponent. And we followed up that primary straw poll victory with another in **(Van Hollen continued pg 3)**



Protecting Your Property
by John Gard
Speaker of the Wisconsin State Assembly

Both the Constitution of the United States and the Constitution of the State of Wisconsin are clear: we are supposed to have three separate, but equal branches of government. Those lines are getting blurred frequently by activist judges who believe that it is their job to decide public policy from the bench rather than interpreting the law. One of the most blatant attempts at undermining the authority of the people is the now infamous Kelo vs. City of New London in which the United States Supreme Court ruled, in effect, that your property could be seized by the government, if they can make a profit of it.

The Kelo case stems from the case of a woman named Susette Kelo who one day found a note pinned to the front door of her home in New London, Connecticut. The note said she had four months to vacate her home or the police would remove both her and her belongings from the house. What's even scarier is that it wasn't even the City of New London that was evicting her. The city had transferred their eminent domain powers to a private non-profit organization called the New London Development Corporation.

Cities have long had the power of eminent domain. The Fifth Amendment to the United States Constitution says that property shall not be "taken for public use without just compensation." Generally, eminent domain is used by communities when they build new roads or improve blighted areas. However, Susette Kelo's home wasn't blighted, it wasn't in a high crime area and it wasn't next to a road that needed widening.

The city wanted Susette's home was near an area that the drug manufacturer Pfizer wanted to turn **(Gard continued pg 3)**

(Gard continued from pg 2)

into a \$300-million research facility. The city wanted her property because they had the idea to develop the land into upscale residences to go along with a new hotel, a marina and a conference center. The city argued that Pfizer can pay more in taxes and provide more jobs than Susette Kelo ever could.

Even though Susette's property would be used for the economic development and wasn't part of any kind of urban renewal, the United States Supreme Court ruled that the City of New London's private, non-profit development corporation could exercise eminent domain and kick Susette Kelo out of her home. To say that this ruling expanded the "public use" definition of eminent domain is an understatement.

That was a ruling that shook both sides of the aisle. Republicans and Democrats joined together in condemning this attack on property rights. Even the Green Party, not exactly known for supporting property rights, called the decision "legalization of theft." In politics, there is a saying – every attack is an opportunity. The Kelo decision is an attack on property rights, but it's also an opportunity for us as legislators to make sure Wisconsin law is clearly on the side of property owners. When we reviewed current law, it was pretty clear that Wisconsin needed to better define the rights of property owners.

Assembly Republicans made a promise that we would fix this potentially dangerous ruling and we kept our word.

Recently, the State Assembly overwhelmingly passed Assembly Bill 657 authored by Representative Mary Williams (R-Medford) and myself. To show you how serious and bipartisan this issue is, the bill passed with 88 votes. This legislation prohibits the condemnation of property that is not blighted. A property could only be declared blighted if it is abandoned, converted to a multiple dwellings unit or associated with a high crime rate. This bill firmly establishes the rights of property owners and makes it clear to communities when they can exercise eminent domain and when they cannot.

AB 657 is now in the State Senate's Natural Resources Committee. It is my hope that it will receive the prompt attention it deserves and quickly head to Governor Doyle's desk and become law.

(Van Hollen continued from pg 2)

Walworth County, where I won with 63% of the vote.

For those people who did not know me, I've been able to share my experience, commitment to law enforcement and our accomplishments. It seems people are finding the correct choice for AG to not be that difficult. Of course, we recognize the need to raise money and spend time getting that message out to the voters but we have been doing both of those things quite successfully and will continue to do so.

The voters across the state are universally most concerned about two issues, voter fraud and methamphetamine, and rightly so. When I speak with them, they seem to take comfort in the fact that I have a great track record as U.S. Attorney and that the federal prosecutors in Wisconsin are the ones taking the lead on these two issues. There seems to be strong faith that when I become AG I will bring some of that leadership from the federal level to the state level.



JB with friends

RS- J.B., I heard that you were in a plane crash earlier in the campaign. Are you willing to share what happened? Are you ok and how did it impact your campaign schedule?

In keeping with my desire to reach the maximum number of Wisconsin citizens and to make sure rural Wisconsin does not get neglected, I perhaps set out to do a little too much in one day. I crashed at the Waunakee airport at about 10:20 at night, returning home from a 14 hour campaign day that involved four hours of piloting my own plane with stops in Madison, Spooner and Green Bay. It was one of those rare nights where there were no silhouettes and you could not even see the ground
(Van Hollen continued on pg 5)



**If the Election Were Held
Today....
Green Defeats Doyle
Doyle Beats Walker
by Rick Sense**

Recent poll numbers from left-leaning pollster John Zogby's organization are a great encouragement to supporters of Mark Green for Governor. According to the Zogby Battleground States Poll as reported in the Wall Street Journal, Mark Green is beating Jim Doyle 46% - 44%. The very same survey showed Jim Doyle leading Milwaukee County Executive Scott Walker 47% - 44%. Both results are within the polls' margins of error.

According to Mark Graul, Mark Green's campaign chief of staff (see Scoop #23 for exclusive interview with Graul), the results of the poll are indicative of the fact that Doyle's policies are out-of-step with Wisconsin residents. "This poll confirms two key points. It tells us Jim Doyle doesn't share the values of most Wisconsinites and his record of spending too much and taxing too much is leading Wisconsin in the wrong direction. It also shows that Mark Green is best positioned to beat Jim Doyle next November."

"Mark's message of making Wisconsin great again by lowering taxes, providing stronger education opportunities, and relying on common sense Wisconsin values is being well received everywhere he goes. We have a long way to go between now and next November, but the Zogby poll shows we're off to a great start," stated Graul.

To give these numbers even deeper significance, a quick historical review is in order. According to the Wisconsin Blue Book, in 2002 Wisconsin elected Jim Doyle with only 45% of the vote. Doyle received 800,515 votes and defeated then Governor Scott McCallum by only 65,736 of the 1,775,349 votes cast. In 1998, then Governor Tommy

Thompson received 1,047,716 votes, nearly 250,000 more votes than Doyle polled in 2002.

Based on these numbers and the Zogby poll results it is safe to say that Doyle has not been able to build on his base of support from the teacher's union, other labor unions and the Madison-Milwaukee liberal establishment.

A little more history points to some interesting trends. No Democrat running for governor in Wisconsin's 157 year history has ever polled more than 900,000 votes. On the other hand, there have been three occasions when Republican candidates have polled more than one million votes; Tommy Thompson in 1998 and 1994 and Walter Kohler, Jr. in 1952.

Only four Democrats have exceeded 800,000 votes - Doyle in 2002, Tony Earl with 896,872 in 1982, John Reynolds in a losing effort with 837,901 in 1964 and Gaylord Nelson with 890,868 in 1960. Additionally, no sitting Democrat governor that received 800,000 or more votes in their previous election has ever been re-elected and Tony Earl received nearly 200,000 less votes in his re-election bid than when he was first elected in 1982. Conversely, Republican gubernatorial candidates have passed the 800,000 vote mark 10 times, winning 9 of those elections.

Now, before we back up the moving van to the Governor's Mansion, we need to remember Jim Doyle has powerful friends and deep pockets and he should be sitting on a ton of cash after the Republican primary next September. However, an uninspiring incumbent, 2 strong candidates facing off in the Republican primary, sagging Doyle poll numbers and Wisconsin history should be a cause for real concern in the Doyle camp.



Brian Murray, Congressman Mark Green and Carl Soderberg share a moment at Appleton's Octoberfest.

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when you were on it. Waunakee has a very short and poorly lit runway and I could not immediately tell where on the runway I had landed. When I could tell by feel from the contour of the runway, that I had landed a little long, I decided I had enough runway and speed to take off and try to land again. Even though air traffic control had told me winds were calm, I must have suddenly gotten a tail wind because my plane would not gain altitude the way it should have. I realized there was a chance I was going to hit the second story of the first house off the end of the runway so rather than jeopardizing the lives of anyone sleeping on that floor, I decided to nose forward and crash into the ground. It is amazing the number of thoughts that can go through one's mind and the number of rational decisions one can make in a few seconds if you don't panic. (It turns out the part of the house we would have hit had a boy sleeping in it.) The good Lord obviously has other things in mind since my passenger and me both walked away unscathed and were out campaigning again the next morning. Even an FAA official was shocked that we walked away from that crash since the plane was a total loss. I still fly and this incident has not dissuaded me although it has made me a better pilot. Even bad things can have value in life if you chose to look for the silver lining and try to take something away from it.



RS- As Wisconsin's Attorney General there will be many important issues facing Wisconsin that you will need to address, the growing methamphetamine epidemic, the challenge to the sanctity of marriage, voter fraud; the list seems endless. What issue will be your top priority when you are sworn in as Attorney General? How will you address the other issues mentioned?

JB- The list of issues that the Attorney General's office needs to face does seem endless, but we can tackle more than one might think if it is approached the correct way. The way business is done in the AG's office needs to change. For example, in my last full year as U.S. Attorney, we prosecuted 75% more criminal cases than Lautenschlager did in her last full year as U.S. Attorney just four years earlier and we returned money to Washington every one of those years. With this sort of partnership, leadership and increased efficiency we can tackle many more of the problems you mentioned above with the same amount of resources.

The current AG has brought many of these issues to the forefront with her own actions. She recently gave remarks at a gay pride rally in Madison; calling the same sex marriage movement the "civil rights" movement of the current generation. At the same time she is supposed to be defending the state against a lawsuit seeking domestic partnership benefits. This is yet another example of her politics standing in the way of her work as the AG. I believe marriage is defined as one man and one woman. And the state should pass a constitutional amendment defining it as such so there is no ambiguity in the law.

My top priority will be to dismiss the incredibly inappropriate nuisance lawsuits that our current AG has brought against people and businesses that have broken no laws. These suits are a travesty of justice and before government takes any affirmative steps to start helping the people, it should take the very simple step of stopping the harm it is causing to the public itself. Even though our current AG has done very little from a law enforcement perspective to help the people of this state, there is nothing she could do more to help them than to stop harming them herself. When people are abiding by the law, they should be able to expect to be safe from the long arm of the government. This problem can be corrected very quickly once I take office and permit me to move forward by focusing on issues the Attorney General's office should be concentrating on.

The focus needs to change from suing innocent businesses to prosecuting guilty criminals and focusing on crime prevention. With this focus in mind, I will reach out to the law enforcement
(Van Hollen continued pg 6)

(Van Hollen continued from pg 5)

community, civic and business leaders throughout the state to see what their main concerns are and to explain how we may be able to assist them to accomplish our joint goals as a team. In this process, I will incorporate the centuries of experience and good ideas of those career people who are already working in the Department of Justice. When I was U.S. Attorney, I used these two principals of leadership and partnership to lead and it proved very successful. Even though it is not currently a sexy issue, terrorism will be a high law enforcement priority for me. We have been safe from terrorist attacks on our soil since 9-11 but we would not have been but for the Patriot Act and a lot of hard work. Having been integrally involved in terrorism prevention when I was U.S. Attorney, I am aware of how important an issue it still is and have ideas of how the State Department of Justice can help more. However, issues such as voter fraud, government misconduct, cyber crimes and the scourge of Methamphetamine are high on my list as well. If one explores my tenure as U.S. Attorney, it is evident that I have been a law enforcement leader already in these areas and I look forward to doing so for the citizens of the entire state with more discretion and resources at my disposal.

RS- With disaster preparedness and homeland security back on the front page after hurricane Katrina ravaged parts of the U.S. Gulf Coast, what role, if any; do you see the office of Wisconsin Attorney General playing in the protection of the American homeland?

JB- As I mentioned before, terrorism prevention should be the highest priority of the State Department of Justice, just as it is federally. Since the AG's office is in the position to be the statewide law enforcement leader, I intend to use it that way. This helps the state in numerous ways but with respect to homeland security, it allows us to be a collection and dissemination point for information regarding threats that are in the hands of the federal and state agencies as well as law enforcement throughout the state. Federal authorities have done a phenomenal job of collecting intelligence and preventing terrorism around the country but we can do so much to help them. Especially in Wisconsin, we have very few federal law enforcement officers. They cannot possibly be on watch throughout the state for suspicious behavior and vulnerable targets. The State Department of Justice can be very involved as a player on this team and can use its leadership to

help law enforcement and others around the state become more active members of this team.

RS- With more and more people using the Internet what are your plans to improve policing of the web to help protect children from predators and others from Internet scams and fraud?

JB- As I also mentioned earlier, computer crimes are a large and growing problem. It is an area that desperately needs the attention of the AG and that is not happening. The Internet is a very difficult medium to police. The way to reduce Internet crimes is to step up our awareness and enforcement of them. Criminals believe the Internet seems to be a safe place to commit crimes because law enforcement largely is not trained to recognize and investigate Internet crimes. This sort of training and leadership needs to come from the AG. There are many types of white collar and other crimes like this that our rural law enforcement agencies cannot have people specialize in. With statewide leadership, regionalization can take place to help the local law enforcement agencies without increasing anybody's burden. Perhaps nothing disgusts me more than adults preying on our kids. I intend to lead in this area.

The Wisconsin State Crime Lab, which is within the State Department of Justice, headed by the AG, is a necessary player in our fight against Internet crime. Without adequate computer analysis law enforcement has its hands tied. Currently, the State Crime Lab does not adequately deal with this concern or most any other. This is not the fault of the capable and committed workers at the crime lab, but rather it is the failed leadership of our current AG who is not focused on this important issue. She continues to pass blame to others yet she received the funds to address the problem from the state legislature.

RS- Under the current Attorney General it seems as if there has been a decrease in cooperation between state and local law enforcement agencies. Do you agree with this assessment, and if so what are your plans to improve the relationship and strengthen coordinated crime-fighting in Wisconsin?

JB- I absolutely agree with this assessment and nobody seeking this post has done more to increase cooperation between law enforcement agencies than I have. As U.S. Attorney, where I was President Bush's federal law enforcement leader for 44

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Doyle Fails Taxpayers Again



For the fourth time in a row, Governor Doyle is failing taxpayers at the bargaining table. Despite having his previous sweetheart compact deal thrown out by the Wisconsin State Supreme Court, Governor Doyle is once again giving away the store according to Assembly Speaker John Gard. Gard says once again taxpayers are getting a raw deal.

“The tribe is getting more and more from the governor and taxpayers are getting less and less,” Gard said, “this deal is far below what Wisconsin tribes are offering other states and the tribe will continue to operate gambling games that the Wisconsin Supreme Court declared illegal.”

The first of the secretly negotiated tribal compacts became public this week. Taxpayers in Wisconsin will get less and less money in future years of the compact signed by Governor Doyle. In addition, the compacts will continue indefinitely unless the Legislature is able to pass a statute terminating the compacts. Unfortunately for taxpayers, one man – the governor – would be able to veto that statute. Gard said the new deal completely ignores the will of the people of Wisconsin.

“The voters and the Supreme Court have already decided this issue,” Gard said, “Governor Doyle is ignoring the constitution and the people. He has used these deals to consolidate his power and push the taxpayers of Wisconsin out of the picture.”

Gard said the compacts could actually get worse for Wisconsin. If the proposed casino in Kenosha is approved, taxpayers will be forced to get even less from the tribe. The governor also rejected the ruling in *Panzer v. Doyle* that stated only the Legislature can waive the state’s sovereign immunity. Gard said the compacts are more of the same from Governor Doyle.

“Ultimately this deal is more of the same—expanded games, allowing the tribes to sue state residents and diminishing payments to the taxpayers,” Gard said, “Governor Doyle had a chance to make sure the state got a fair deal and he failed. Taxpayers deserve a better deal but they never even had a chance.”



First Impression of Appleton’s Common Council and City Government

by Peter Stueck

(Editor’s note-Newest Scoop contributor Peter Stueck was elected to the Appleton Common Council in August of 2005.)

I want to thank Rick for asking me to become a regular contributor to The Inside Scoop. I’m looking forward to sharing my thoughts and opinions with you. (Right now I’m wishing I would have worked harder during English class in high school!) I invite everyone to let me know what you’re thinking and what is on your mind when it comes to issues facing the City of Appleton. I know we might not agree on everything, but that we will have an intelligent and respectful discussion about the topics at hand.

For my first article I want to share my impressions about the people serving us in elected and non-elected positions within the City of Appleton. I am very impressed with the people I work with. The city staff is courteous and respectful and regardless of the issue I need to speak with them about, they take the time to make sure I understand the facts and they provide me with all the details I request. I might not always agree with them, but they continue to respect me and my position. I have enjoyed working with them.

As for the members of the Appleton’s Common Council, I am VERY impressed with them. Each and every council member is passionate about doing the best job they can for the city and their constituents. They take their committee assignments seriously; they are prepared for every meeting with intelligent and insightful questions and none of them are afraid to speak their minds about any topic to anyone. They are also mindful of the fact that not everyone agrees with them on each issue. We have a respectful debate that, I feel, allows us to come to informed decisions. As a whole, I think the people of Appleton should be happy and proud of the people they have elected.

Please contact me at district9@appleton.org with your comments and questions. I’m looking forward to hearing from you. Thanks for reading.

Legislators Zien and Suder Announce Fairness in Litigation Act

Sen. Dave Zien (R-Wheaton) and Rep. Scott Suder (R-Abbotsford) are introducing legislation today to curb unfair litigation brought by government against businesses and citizens. The Fairness in Litigation Act will protect private citizens against frivolous and unfair lawsuits brought forth by an Attorney General (AG).

Zien and Suder said the legislation is needed to shield Wisconsin citizens and businesses against unfair lawsuits, which ultimately cost millions of dollars in economic development each year. Organizations representing farmers, businesses, cranberry growers, realtors, developers, utilities, and others showed the lawmakers case after case where the current AG has overstepped her bounds and abused her power as an elected official.



State Senator Dave Zien

“The Attorney General is elected to be the chief law enforcement officer, but has also become a self-anointed lawmaker,” said Zien. “She has abused the power that voters placed in her through vigilante tactics aimed at private citizens and businesses.”

The Zien-Suder legislation will prevent the Attorney General from: bringing nuisance lawsuits against citizens and businesses that are not violating the law, piling on private party lawsuits without the Governor or Legislature’s approval, or joining in a lawsuit commenced by another state without the Governor’s order.

Suder said the AG’s zealous tactics are well known by businesses, farmers and private citizens in Wisconsin. “In documented case after case the Attorney General has overstepped her bounds and harassed Wisconsin citizens,” said Suder. “In one case the Attorney General went after a family owned farm and the Supreme Court threw out her

case, saying it was completely without merit – this abuse has to stop.”

Zien and Suder said they’ve been researching the issue over the past year, meeting with groups and private citizens, and working to draft legislation to curb legal abuses by the AG, while still allowing the Department of Justice to do its job and go after real criminals.



State Representative Scott Suder

“We recognize the importance that this elected position has in being the chief law enforcement officer in this state,” says Zien. “But when that law enforcement officer goes after the very people they are elected to protect, it’s time to put some checks and balances in place.” Continued Suder: “Our legislation provides that balance, and recognizes the separation of powers that must exist between the branches of government. Legislators are elected to be law makers. The AG is elected to be the law enforcer. Our legislation provides the clarity between the two that is currently lacking.”

Zien and Suder said hearings will be held on the legislation yet this fall.



Meet Speaker Gard

U.S. Congressional candidate John Gard will be attending a “meet and greet” at the Appleton Yacht Club, located at 1200 Lutz Drive in Appleton on Thursday October 20th from 5:30- 7:00p.m.

For an invitation or questions contact Joe Sullivan at 920-882-0399.

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Wisconsin counties, two-thirds of our state, I personally traveled to each of those counties to meet with law enforcement leadership, learn of their concerns, and talk about ways we could work together to help. At first these people were very skeptical of my offers of assistance and rightly so. They had experienced years of U.S. Attorneys and Attorneys General who said the same but didn't back it up. Now, if you talk to law enforcement leaders in those counties they will tell you I am a man of my word. I talked the talk AND walked the walk. Every case that was brought to us that had a federal nexus was accepted by our office, no matter how small. Why? Even if a case was small for our office – yet it was an important case for local law enforcement in one of our counties – we wanted to help. We were true law enforcement partners. That is why, despite my strong, unwavering and consistent conservative views throughout my life, I have the support and endorsement of a large number of sheriffs and district attorneys.

Of course this method of governing that I believe in and utilize should be no stranger to Republicans as we all believe in local control. My tenure as U.S. Attorney not only proved that this is the best and most efficient way to govern, but it will go a long way towards helping us to win this race. People in both parties like to know that you care about them and value their input and opinions.

RS- I see that well-respected former Lieutenant Governor Margaret Farrow has endorsed your candidacy for Wisconsin Attorney General. Have other prominent Wisconsinites endorsed your candidacy?

JB- Yes. We have an incredible list of very important and respected people endorsing my candidacy and many more helping out in other ways. Dave Opitz, former Republican Party of Wisconsin Chairman and former state legislator, recently endorsed. We are going to go public with endorsements soon so I encourage you and your readers to watch our website for more details. I can say that we have already secured the endorsements of more state representatives, more district attorneys and more sheriffs than any other candidate in either party. As the campaign progresses, we will have some very big names coming on board as campaign co-chairs so keep posted.

RS- If someone were to ask why should he or she vote for JB Van Hollen for Attorney General what would you tell them?

JB- Two primary reasons, with many subcategories, we will effectively do the job once we get it and we have the best ability of any other candidate to win this race.

The current AG has proven her inability to do the job in a manner that is even remotely acceptable to the people of this state. Instead of spending our limited law enforcement resources helping to build partnerships to fight terrorism, voter fraud, methamphetamine production, computer and other white collar crimes, elder abuse, corruption and a long list of other growing problems, she has been suing businesses that have violated no laws and giving biased legal opinions to undermine the laws we currently have to protect the sanctity of marriage and our Second Amendment rights. She is advancing her liberal agenda instead of objectively doing her job.

As U.S. Attorney, I have proven I will do what is right regardless of the circumstances. Republicans want someone with proven principled leadership and I bring that to this race. They want leaders they can trust to do the best they can within the confines of laws and ethics. I have always done that. As U.S. Attorney, we created partnerships, efficiencies, law enforcement programs and a level of excitement about government that has not been seen in Wisconsin in recent years and we can duplicate and grow on those same successes at the helm of the State Department of Justice.

Just as importantly, we can not do these things without getting elected first. I relish a head-to-head match up with the current AG. Since she was the U.S. Attorney in the very same office as me (immediately prior to my term) we don't have to ask the voters to hypothetically believe I am a better law enforcement leader than her. All they have to do is look to the numbers and compare apples to apples. It is no contest and she has gotten even worse.

In addition, people know where I stand on the issues and I am a man of my word. I don't flip-flop or tell voters what the polls indicate are the politically right answers. The voters deserve to know exactly where you stand on important issues. My primary
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(Van Hollen continued from pg 9)

opponent has already flip-flopped on the issue of conceal carry. He also campaigns on the theory that because of where he lives, he stands the best chance of winning this primary. Even if that were true, and there are many reasons why it is not, Republicans will never get a chance to govern by simply winning our own primary. We need to choose the candidate in the primary who is not only the best candidate, but the one who has the best chance to win the general election. I am both of those things. I have been a law enforcement leader in two-thirds of the state. We have a proven track record in that part of the state that tends to vote Democrat, that has many undefined media markets and that is very difficult to campaign in. In that part of the state, we are well known, well respected by people in both parties and have thousands of very committed volunteers. We now can and are focusing our attention and monies on those parts of the state such as the Valley and much of southeastern Wisconsin that tends to vote Republican, has defined and limited media markets and truly wants to learn about and elect the best person for the job.

RS- Finally J.B., if someone wanted to find out more about you, volunteer or contribute to your campaign what should he or she do?

JB- We encourage people to find out more about our campaign and what I stand for. We strongly believe that a well informed electorate is quite important and what you do here helps accomplish that goal so thank you for what you do and for giving us this opportunity. We also strongly believe that if people have a chance to learn about my career, my successes, my faith and who I am, I compare very favorably to my opponents and potential opponents in both parties. If someone wants to help us out, we of course would be quite pleased as we recognize that grassroots supporters win these campaigns and a little funding certainly doesn't hurt either. Having been a grassroots political activist my entire life, I truly appreciate the value of everyone's assistance. The easiest way to learn more about our campaign, to volunteer or to contribute money is to log on to our interactive website at www.VanHollenforAG.com. You can also call us at 608.335.5222 or write to Van Hollen for AG, P.O. Box 2537, Madison, WI 53701. We welcome everybody to the JB 4 AG team!

RS- Thanks again JB!



From left to right-Jason Buss, Carl Soderberg, Representative and Lieutenant Governor hopeful Jean Hundertmark, Tim Higgins, Jean Sense and Bill Sense

Hundertmark Meets Appleton Area Supporters

by Rick Sense

Jean Hundertmark, candidate for Wisconsin Lieutenant Governor, recently stopped by a gathering of supporters in Grand Chute. Jean currently serves as District 40 State Representative in Madison.

In the 90 minute meeting, Jean addressed a wide range of issues facing Wisconsin. As Lieutenant Governor, Jean stated that she would work to ensure that state government is more efficient and works within its means. Jean's position stands in stark contrast with the Doyle-Lawton administration. "Doyle has twice vetoed the property tax freeze, directly causing a tax increase of several hundred million dollars," stated Hundertmark.

Turning to Voter-ID, Jean commented, "there is no question Wisconsin has a serious problem with fraud at the polls. Identity theft is a real concern, and photo ID is one way to get at the problem. The majority of Wisconsin voters definitely agree. However, the Doyle-Lawton administration has ignored the voice of the people. Doyle has vetoed photo ID measures three times." As Lieutenant Governor, Jean stated she would work to ensure every vote cast in Wisconsin is done so legally.

When asked about health care Jean replied, "across Wisconsin, families are concerned about affordable health care. I understand that concern that is why I have sponsored tax-free Health Savings Accounts and why I also support making private health insurance 100% tax deductible."



Green: Doyle's Opposition to Curbing Frivolous Lawsuits Threatens State's Economy

Class-Action Suit Against Madison Taverns is an Example of what Wisconsin Businesses can Expect under Jim Doyle

Republican Candidate for Governor Congressman Mark Green said the recent litigation against downtown Madison tavern owners by a Minneapolis firm is an example of what Wisconsin businesses are going to be facing in the years ahead if "action isn't taken to discourage these kind of frivolous lawsuits."

The Minneapolis firm, Lommen, Nelson, Cole and Stageberg, has filed both state and federal suits against downtown Madison tavern owners for their efforts to reduce alcohol-related problems by discontinuing weekend drink specials. The suits ask for millions of dollars in damages – much of which would end up in attorneys' pockets – to compensate "injured" parties for allegedly overpaying on the alcohol purchases.

"These attorneys from Minnesota have invented a conspiracy theory Oliver Stone would be envious of," said Green. "The sad fact is the recent state Supreme Court decisions, combined with Governor Jim Doyle's opposition to any efforts at lawsuit reform, could make Wisconsin the top target of trial lawyers from around the country."

Doyle has opposed past efforts to put controls on lawsuits, including vetoing legislation that would have prevented suits against restaurants by overweight individuals. Trial lawyers have been significant contributors to Doyle's campaign.

In recent months, the Wisconsin Supreme Court has ruled that businesses can be sued without any proof their product caused an injury. The court also overturned Green-authored limits on "pain and suffering" damages in medical malpractice cases and reduced the standard for another Green-authored provision that controlled punitive damage awards.

"Wisconsin employers and the jobs they provide are at risk of being choked to death by frivolous lawsuits," said Green. "Even when the suits are dismissed, these businesses have to spend lots of time and money to defend themselves – further raising the cost of doing business in our state."

"If I were Governor today, I would have already called a special session of the Legislature to pass legislation that will let trial lawyers know that Wisconsin is America's Dairyland – not the land of lawsuit opportunity."



Unanswered Questions Remain With Unpaid Gaming Compacts Kaufert Asks the Ho-Chunk Nation to Pay Its Bill Plus Interest

As the state legislature struggles to find the money to undo the damage Governor Doyle's vetoes did to Wisconsin's nursing homes and pharmacies, Representative Dean Kaufert (R-Neenah) expressed his deep concern today with the fact that the state has yet to see any part of the \$60 million owed by the Ho-Chunk Nation—money that was earmarked for these Medical Assistance Programs.

"Although the Potawatomi Tribe struck a sweetheart deal with Governor Doyle earlier this week, it has been three months since the tribes' payments were due, and the interest earnings on the \$106.6 million in back payments has totaled \$1.5 million since June 30th," said Kaufert. "My bank would not allow me to use its money for three months without **(Kaufert continued on pg 12)**"

(Kaufert continued from pg 11)

having to pay a dime of interest. Why should we make an exception for the Potawatomi?"

The Governor has allowed the Potawatomi Tribe to settle without having paid any interest on the \$46.6 million it withheld since June 30th.

"Beyond the situation with the Potawatomi, there are still no assurances that the Ho-Chunk's money is in fact being held in escrow," said Kaufert. "There are too many unanswered questions, and I want to send a message loud and clear to the Ho-Chunk Nation that we have not forgotten about this outstanding debt."

Kaufert had previously requested that Governor Doyle obtain copies of the certification that the Ho-Chunk's \$60 million payment is in escrow, and that he demand that any interest earned on the accounts go directly to the state.

"With three months having gone by and still no verification that this money is actually being held in good faith, I am urging the Ho-Chunk Nation to make good on the \$60 million it owes, as well as its share of the \$1.5 million in interest the withheld payments have earned since June 30th," said Kaufert.



Supreme Court's Summer of Discontent

by Carl Soderberg

The summer of 2005 was a terrible season for justice in Wisconsin. A new liberal and activist majority evolved out of a previously split to conservative Supreme Court, and this activist majority rewrote Wisconsin law to suit its own needs. It handed down four highly activist decisions on July 14th alone, overturning decades-old precedent-setting cases, inventing entirely new standards and criteria for evaluating and analyzing legal arguments, and turning previous traditions

totally on their head.

In the case of Thomas v. Mallet et al, the Supreme Court allowed a Milwaukee teen to sue paint makers, even though he doesn't know whose paint injured him. In Matthew Ferdon v. Wisconsin Patients Compensation Fund, the Supreme Court threw out the cap limiting non-economic damages to \$350,000 in medical malpractice lawsuits. In Wisconsin v. Knapp, the court did an end run around the US Supreme Court's limitations on the "Miranda Warning," giving Wisconsin criminals more protection than afforded by the US Supreme Court. In Wisconsin v. Tyrone L. Dubose, the Court accepted disputed social science research to prohibit the use of "show-up" identifications.

In the first two cases, the Court has single-handedly reversed twenty years of hard work to improve the business climate in Wisconsin and add badly needed jobs to Wisconsin's economy. Previous legislative efforts to reduce both individual and corporate taxes, reform the regulatory environment, reduce bureaucratic paperwork, and speed up permit approval, have all been rendered irrelevant as the Supreme Court leads the state into a new war on business.

In the later two cases, the Court is showing its blatant, bald-faced activist turn, trying to revive the good old days when liberalism ruled the nation, embracing the pro-criminal "defendant's rights" movement of the 1960's and 1970's that led to skyrocketing crime rates across the country.

Suing Lead Paint Makers

In the most shocking decision of the summer of 2005, the Wisconsin Supreme Court overturned US Circuit Court and unanimous Court of Appeals decisions, allowing a Milwaukee teenager's trial against manufacturers of a lead paint ingredient to proceed. Steven Thomas is a mildly retarded, neurologically damaged teen claiming that paint containing "white lead carbonate" coloring pigment, which he ate as a child, caused his mental ailments. (Eating flaked-off paint chips and inhaling eroded paint dust is a common way children are poisoned by lead.) In the 1990's, Thomas lived in two Milwaukee houses, built in 1900 and 1905 which contained numerous layers of paint, some of which contained lead and some of which did not.

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As a result, Thomas could not identify which paint layer or layers, in which house or houses, caused his neurological damage. His experts could not identify which variety of white lead carbonate he ate, which exact product he ate, or which company manufactured the paint and/or pigment in the paint. And, his experts can't prove his injuries were caused by ingesting paint -- the defense filings point out at least six other possible causes of his injuries. All he can definitely prove is that he is injured, and that he lived in houses with lead paint.

Wisconsin Supreme Court to the Rescue

The Wisconsin Supreme Court wasn't deterred by all this lack of evidence. In their decision announced July 14th, the Court's response was to haul out of cold storage a "novel and innovative" (translation: hotly contested and highly disputed) legal theory called "Risk-Contribution Theory" (RCT). This theory, only used once before, holds that if you can't prove which manufacturer made a product that caused injury, everyone and anyone who manufactured that same product can be collectively held responsible for the injuries claimed. RCT was invented by another activist Wisconsin Supreme Court in 1984, to hold all makers of a cancer-causing medicine responsible when the plaintiff suing couldn't determine which company made the drug she received. Several different companies manufactured the exact same version of the drug taken.

Although several states' Supreme Courts have rejected using RCT as a framework for suing the paint industry, Wisconsin's Supreme Court had no such qualms.

Using this theory, the plaintiff only has to prove which companies made and sold the injury-causing product. Then the burden of proof shifts from the plaintiff to the defendants, who must prove they didn't make the product during the time it was used, or in the location it was acquired. Defendants who can't prove their non-involvement become a "pool" of defendants collectively responsible for the injury, and the jury apportions blame among them, assigning a percentage of blame to each individual defendant based on their share of the market at the time (or times) of the injury.

The truly frightening aspect of this case is that it turns the entire notion of tort law upside down. Traditionally, tort law is the method used to punish wrong-doers for their acts or products that harm

someone, and provide a remedy (in the form of money) to the person harmed. But using RCT violates two principles which our justice system has held sacred for centuries.

First, plaintiffs no longer have to prove "causation"-- that is, prove that the defendant's act or product caused the injury claimed. This is an essential burden plaintiffs have previously always had to prove to win their case. Now all plaintiffs have to show is that a defendant may have, or could have, caused their claimed injury. A plaintiff can now be punished for injuries they may or may not have caused, or injuries caused by someone else. Second, the Supreme Court is reversing the centuries-old legal principle of guilty until proven innocent. Just manufacturing paint or lead pigment proves one's guilt.

Not only does the Court's analysis switch the burden of proof to the defense, it makes it much harder to meet that burden. Because the plaintiff can't prove which layer of paint caused his harm, the defendants have no way to prove they didn't cause the harm. Instead, they must prove that there is no possible way they could have caused the harm -- a much higher burden of proof than simply proving they didn't cause the harm.

In this case, to prove its innocence, a paint company would have provide records, going back to 1900, showing that every can of paint they made was not sold in Wisconsin. Pigment companies would have to show records proving that every gram of pigment they produced was put in paint not sold in Wisconsin since 1900. And prove that none of the pigment they sold was ever resold to a third party making and selling paint in Wisconsin. Does any company keep these kinds of records? Even after nine decades of paint companies closing and opening, not to mention buying, selling, and merging with each other and other non-paint companies?

Usurping the Legislature -Making Social Policy

Justice Wilcox expressed in his dissent that allowing this case to proceed is textbook example of extreme judicial activism at its worst. The Court usurped the role of the State Legislature to make social policy, instead of applying the law.

The four-member liberal activist bloc on the Court decided in their minds what social policy should be

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paint and pigment makers are responsible for lead poisoning, and therefore must pay, and then changed the law to “require” their preferred solution. That Wisconsin’s laws and Constitution don’t say so is irrelevant. Instead, they change the rules of law to reverse the burden of proof, so that their chosen “solution” can’t lose, regardless of its non-Constitutionality.

Justice Louis Butler admits as much in his written decision. He writes that the Court is obligated to provide remedy for Steven Thomas. Even if this means that innocent defendants will be punished, that is less worse than not providing Thomas a remedy. He admits “the procedure is not perfect and could result in drawing in some defendants who are actually innocent.” “We accept this as the price the defendants, and perhaps society, must pay to provide the plaintiff an adequate remedy under the law.” After all, the paint and pigment companies have deep pockets, can insure against such losses, and can pass the cost on to the consumer. Why should the consumers have to pay? What wrong did they commit? What harm to Steven Thomas did they cause?

There is one fatal flaw in this line of reasoning. Thomas has already received a remedy. He won settlements of \$325,000 from the landlords of the two houses involved. So what Butler is really arguing is: The Court must grant Thomas multiple remedies. Why stop at two remedies? Why not sue the transport firms that delivered the paint? Or the painters who applied the paint? How about the house builders? (If there was no house, there wouldn’t be any lead paint injury.) Why not the city that allowed lead paint to be used? If two remedies are better than one, than six remedies must be even better. Clearly the Court is looking for multiple remedies because it even allowed Thomas to sue the paint industry’s trade association.

This reminds me of the “Salvation Fuzz” sketch from *Monty Python’s Flying Circus*. After the killer confesses to murdering the Bishop of Leicester, the Church Police, in their compassion, agree that “society is to blame,” and arrest everyone within reach.

Imagine a locked room with five people in it. The lights go out. When the lights come back on after a moment, one of the five is dead. But forensics can’t tell which of the four survivors committed the murder.

One of them must have done it. Why not just prosecute all four survivors? After their conviction, all four could be given one-quarter of a life term in jail. Simple justice, Wisconsin style.

Why is it that when liberal activist judges change the law’s legal procedures and practices, they always raise the burden of proof and make it harder to convict criminals, and always lower the burden of proof and make it easier to sue corporations? And why does the public always end up paying the price of their legal maneuvering?

Conclusion

Apparently, Butler thinks there is no problem that someone else can’t be blamed for. But wait a minute - the landlords owning the paint-containing houses already lost settlements to Thomas amounting to \$325,000. Aren’t the landlords really the ones responsible for Thomas’ injuries? If they had maintained their properties properly, there would have been no flakes and chips to eat, and no dust to inhale. Isn’t that why they were punished? If lead-pigmented paint is used as it is intended (properly maintained so it doesn’t decay into chips and dust), it is perfectly safe. Let’s face it: the landlords were improperly using the product.

Why is it that our lawsuit-happy legal system can’t understand the simple fact that manufacturers aren’t responsible for people using their product improperly? Is there no room for simple common sense in law? Until our lawsuit-happy legal system recognizes this simple fact, it will never regain the respect of the public it claims to protect. No one will ever respect a legal system that holds third parties responsible for damage they did not cause. Justice can only result from a fair application of the written law to all parties. Changing the law to help the Court’s preferred “victims” can only result in injustice.

Next Month: Medical Malpractice Caps

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