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NEWS RELEASE

Wisconsin files amicus brief in case that could harm UW-Madison, Public Service Commission, and other state agencies

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MADISON- On March 21, 2016, Attorney General Schimel filed an amicus curiae brief in the United States Supreme Court on behalf of a bipartisan group of 11 States, calling on the Court to respect States' rights. The case, *PHEAA v. Lee*, is a sovereign immunity dispute concerning a Pennsylvania state agency that was sued in federal court in Virginia. The United States Constitution provides that the States may not be sued in federal courts, except in a few limited circumstances that do not apply here.

On appeal, the United States Court of Appeals for the Fourth Circuit allowed the case to proceed, holding that the Pennsylvania agency did not qualify for immunity because it was not truly a part of the Pennsylvania state government. If allowed to stand, this decision (and similar cases like it) could allow some state agencies and universities, including the University of Wisconsin-Madison, the Public Service Commission, or the Department of Employee Trust Funds, to be sued in far-flung federal courts around the country without any regard for States' rights and their sovereign immunity. Agencies and universities could therefore be subject to expensive and time-consuming discovery as well as money judgments, which could further strain agency and university budgets.

“While we many times focus on the encroaching power of Congress and the President, it is also important to protect Wisconsin from the growing power of the federal judicial branch,” remarked Attorney General Schimel. “I will continue to fight for Wisconsin’s rights under the Constitution and for a limited federal government.”

The amicus curiae brief asks the Court to grant review in the case of *Pennsylvania Higher Education Assistance Agency v. Lee Pele* (No. 15-1044). Wisconsin is joined by Arizona, Hawaii, Idaho, Indiana, Louisiana, Michigan, South Carolina, South Dakota, Utah, and West Virginia. The Court will decide whether to take the case in the coming months.

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