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FOR IMMEDIATE RELEASE

July 21, 2017

**AG Schimel Reports End-Of-Term Results for the
Office of the Solicitor General**

MADISON, Wis. – Today, Attorney General Brad Schimel reported on the remarkable success of the Office of the Solicitor General at the conclusion of the terms of the U.S. Supreme Court (October 2016-June 2017) and the Wisconsin Supreme Court (September 2016-July 2017).

“The Solicitor General’s Office has played a critical role in upholding the rule of law and advancing the interests of the State of Wisconsin in the highest courts of the land,” said Attorney General Schimel. “Their success at the United States Supreme Court has been nothing short of amazing, and I look forward to many more wins in the future.”

At the U.S. Supreme Court during this term, the office successfully briefed and argued *Murr v. Wisconsin*, and obtained stays in the litigation over Wisconsin’s redistricting plan and the Unborn Child Protection Act. The office also filed an original action against the State of Delaware, over which the Court granted jurisdiction.

At the Wisconsin Supreme Court, the office was undefeated in criminal cases, 9-0, and prevailed in several civil cases as well.

In other courts, the office was similarly successful, obtaining a stay in the voter ID litigation in the U.S. Court of Appeals for the Seventh Circuit.

The Office of the Solicitor General was created by 2015 Wisconsin Act 55, and consists of five attorneys: the Solicitor General, the Chief Deputy Solicitor General, two Deputy Solicitors General, and the Assistant Solicitor General. The Office of the Solicitor General frequently works side-by-side with other units within the Division

of Legal Services to competently represent the State of Wisconsin and the State's interests.

Below are the highlights of the term.

U.S. Supreme Court:

Gill v. Whitford:

The Solicitor General's Office has appealed to the U.S. Supreme Court the decision that Wisconsin's voting districts are an unconstitutional partisan gerrymander. The Supreme Court agreed to accept the case for full briefing and to consider the office's arguments that the courts do not have jurisdiction over this case. The Court also granted a stay of the lower court's ruling.

Anderson, et al. v. Loertscher

The Solicitor General defended the Unborn Child Protection Act, which gives state actors the legal authority to assist substance-addicted, pregnant women with their addiction. The Supreme Court of the United States granted a stay of the lower court's ruling.

Murr v. Wisconsin:

The Solicitor General argued this property-rights case before the U.S. Supreme Court in March 2017. The court ultimately agreed with the Solicitor General that the plaintiffs' property should be considered one parcel, and that state property law should be an important factor in making that determination.

Delaware v. Pennsylvania and Wisconsin:

The office has filed a claim in the U.S. Supreme Court that Delaware has taken custody of millions of dollars of abandoned monetary instruments that federal law mandates be given to Wisconsin. The court has assigned a "Special Master" to gather factual evidence before deciding the case.

Wisconsin Supreme Court:

Wisconsin Carry v. Madison:

The Solicitor General's Office participated as an amicus, or friend of the court, in this case involving Madison's transit rule that prohibited firearms on its city buses. Because state law permits the carrying of certain firearms on vehicles, and prohibits municipalities from regulating firearms more stringently, the office argued, and the Wisconsin Supreme Court agreed, that state law preempted Madison's rule.

Democratic Party v. DOJ:

The Solicitor General's Office fought to keep police training videos regarding child sex predators from public release, in order to protect victims and to prevent disclosure of police techniques to potential child sex predators. The Wisconsin Supreme Court agreed and permitted DOJ to keep the training videos confidential.

State v. Denny:

The Wisconsin Supreme Court agreed with the position advocated by the Solicitor General's Office that convicted offenders may obtain post-conviction DNA testing of items related to the crime only if a court determines that they have made a credible showing that those items would support their case.

State v. Floyd:

The Solicitor General's Office argued that an officer's asking for consent to do a pat-down search for an officer's safety does not unlawfully extend a traffic stop. The Wisconsin Supreme Court agreed, and found that the officer's pat down search was reasonable, given that Floyd had agreed to the search after the officer asked.

State v. Mattox:

The Solicitor General's Office argued, and the Wisconsin Supreme Court agreed, that toxicology reports prepared by outside laboratories at the request of Wisconsin medical examiners are not "testimonial," and therefore prosecutors are not required to call the technicians of the outside laboratories as witnesses in order to present the reports as evidence in criminal prosecutions.

State v. Asboth:

The Wisconsin Supreme Court agreed with the Solicitor General's Office that police officers can impound a vehicle, regardless of whether their department has standard procedures, when the officers are reasonably exercising their function as caretakers of the community.

State v. Howes:

In this case of a drunk driver found unconscious on the side of the road after hitting a deer, the Solicitor General's Office argued that law enforcement permissibly drew the driver's blood to determine his blood alcohol content under Wisconsin's implied consent law. A divided Wisconsin Supreme Court upheld the blood draw, although on differing grounds, some agreeing with the office that the implied consent law provided justification for the search, others believing the unique circumstances of the case permitted the blood draw.

State v. Nieves:

In this case of a joint trial of two defendants charged in the shooting of two victims, the Solicitor General's Office argued that the prosecution could present the testimony of a jailhouse informant to whom one of the defendants had confessed. The Wisconsin

Supreme Court agreed that the statements made to the informant were not “testimonial” and therefore the informant could testify to them at trial.

State v. Pal:

The Solicitor General’s Office argued, and the Wisconsin Supreme Court agreed, that Wisconsin’s hit and run law does not violate the Double Jeopardy Clause when an accident involves more than one victim.

State v. Steinhardt:

A woman who brought her preteen daughter into a bedroom and then watched as she was sexually assaulted by the woman’s boyfriend challenged her convictions for aiding and abetting the assault and failing to stop the assault as duplicative, in violation of the Double Jeopardy Clause. The Solicitor General’s Office argued, and the Wisconsin Supreme Court agreed, that these charges were different enough to permit convictions on both without violating double jeopardy.

State v. Suriano:

The Solicitor General’s Office argued, and the Wisconsin Supreme Court agreed, that Suriano had forfeited his right to counsel through his disruptive and aggressive behavior towards his appointed attorneys.

U.S. Court Of Appeals For The Seventh Circuit:

Frank v. Walker and One Wisconsin v. Nichol:

The Solicitor General’s Office argued both of these cases, involving Wisconsin’s Voter ID law along with over a dozen other voting regulations, before the Seventh Circuit. The Seventh Circuit has not yet issued its decision in either case, but issued a stay of the *Frank v. Walker* injunction, thus permitting Wisconsin’s Voter ID law to remain in effect.

International Union v. Schimel

This case involves a challenge to the prohibition on forced union dues that went into effect when Wisconsin passed a Right-to-Work law. The Seventh Circuit recently upheld the lower court’s decision that prohibiting forced union dues is constitutional.

International Association of Machinists v. Allen:

This case involves a challenge to the limitation of so-called “dues check-off” provisions, whereby non-union members check a box agreeing to pay union dues, that is permitted under Wisconsin’s Right-to-Work law. The Solicitor General’s Office is currently defending this case before the Seventh Circuit.

Dassey v. Dittman:

After a panel of the Seventh Circuit granted the defendant's habeas petition, the Solicitor General's Office sought review of the decision by the entire court. The court has ordered Dassey to respond, and is expected to vote on whether to rehear the case in the coming weeks.

U.S. Court of Appeals for the District of Columbia Circuit:

Wisconsin v. EPA:

The Solicitor General's Office is leading a coalition of five states affected by the EPA's Cross State Air Pollution Rule, which requires the states to reduce their emissions beyond the level generally required by the EPA in order to assist downwind states with high pollution. The case is currently in briefing before the D.C. Circuit.

Wisconsin v. FCC:

The Solicitor General's Office led a coalition of 11 states and state agencies challenging the FCC's rule that took power away from the states to designate certain broadband providers serving low-income areas. The FCC chose to change its rule, and the parties voluntarily dismissed the case.

Central United v. Burwell

The Solicitor General's Office filed an *amicus curiae* brief in this case, which challenged the Obama Administration's "Fixed-Indemnity Rule." The rule, passed under the authority of ObamaCare, attempted to block Wisconsin's right to promote and regulate certain insurance products – fixed-indemnity insurance policies – sold within the State. The Court found the Rule unlawful and cited Solicitor General's Office's brief in its opinion.