

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

Case no. 06-CR-20 (RTR)

GEORGIA THOMPSON,

Defendant.

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**MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF  
SUPPORTING DEFENDANT'S MOTION TO DISMISS INDICTMENT  
ON BEHALF OF AFT-WISCONSIN;  
WISCONSIN PROFESSIONAL EMPLOYEES COUNCIL,  
AFT-WISCONSIN LOCAL 4848, AFL-CIO;  
WISCONSIN PHYSICIAN & DENTIST ASSOCIATION, LOCAL 4893;  
PROFESSIONAL EMPLOYEES IN RESEARCH, STATISTICS & ANALYSIS,  
LOCAL 4999;  
WISCONSIN SCIENCE PROFESSIONALS, LOCAL 3732 WFT, AFT, AFL-CIO;  
AND WISCONSIN STATE  
PUBLIC DEFENDERS ASSOCIATION, LOCAL 4822**

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March 13, 2006

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AFT-Wisconsin; Wisconsin Professional Employees Council, AFT-Wisconsin Local 4848, AFL-CIO; Wisconsin Physician & Dentist Association, Local 4893; Professional Employees in Research, Statistics & Analysis, Local 4999; Wisconsin Science Professionals, Local 3732, WFT, AFT, AFL-CIO and Wisconsin State Public Defenders Association, Local 4822, AFT, AFL-CIO, by their attorneys, Hawks Quindel Ehlke & Perry, S.C., hereby move this Court for leave to file an *amici curiae* brief in the above-captioned matter. As demonstrated below and attested to by the affiant, Arthur E. Foeste, the interests of the proposed *amici* in supporting defendant Georgia Thompson's motion to dismiss the indictment under 18 U.S.C. §§ 2, 666(a)(1)(A), 1341, and 1346 are broad and compelling.

1. The proposed *amici* are all Wisconsin affiliates of the American Federation of Teachers, AFL-CIO, and are the named collective bargaining representatives of approximately 6,500 members who are employees of the State of Wisconsin. (Foeste Aff. ¶2)
2. Members include real estate specialists in the Department of Transportation (DOT) who make property value assessments of real property to be acquired and condemned by the state. (Foeste Aff. ¶5)
3. Members of *amici* are also procurement specialists and purchasing agents employed by numerous state agencies, including the Department of Administration, who exercise discretion and judgment in recommending contract awards. (Foeste Aff. ¶6)

4. Other members are science professionals who routinely prepare environmental impact statements that are important factors in the granting of state permits for construction and development on state lands and waterways. (Foeste Aff. ¶7)
5. *Amici* include members employed as waste management specialists in the Department of Natural Resources (DNR), DOT and Department of Agriculture, Trade and Consumer Protection. In three-person committees, they award consultant contracts, valued up to \$25,000, for environmental repairs of contaminated lands. (Foeste Aff. ¶8)
6. Members of *amici* are employed as DNR chemists and are responsible for laboratory certification or registration, which effectively issues business license. (Foeste Aff. ¶9)
7. *Amici* also have members employed as revenue field auditors who assess taxes owed by entities and have exercise discretion to decide certain tax liabilities for amounts up to \$50,000 per issue. (Foeste Aff. ¶10)
8. Insurance financial examiners are members of *amici* who audit insurance company records and who make decisions whether capital ratios, reserves and liquidity are sufficient to ensure insurers' solvency. (Foeste Aff. ¶11)
9. The Department of Financial Institutions (DFI) employs members of *amici* as financial examiners. (Foeste Aff. ¶12) They exercise professional judgment to audit state licensed banks and credit unions to ensure the proper reporting of

losses and uncollected credits and that banks maintain a proper ratio between capital savings and capital borrowed. (Foeste Aff. ¶12)

10. Members employed by the DFI also are consumer credit examiners who process licenses, conduct examinations and handle consumer complaints of licensed financial services companies. (Foeste Aff. ¶13)
11. Members employed as public defenders negotiate plea deals for indigent clients who may have some relation, familial or otherwise, with political donors. (Foeste Aff. ¶14)
12. These and other state employee classifications who are represented by proposed *amici* exercise independent judgment and discretion in their employment which have substantial economic impact on the citizens and entities involved in various activities within the State of Wisconsin.

Proposed *amici* hereby move for leave to brief the court in support of defendant Georgia Thompson's motion to dismiss the indictment. Proposed *amici* have grave concerns about federal prosecutorial overreaching in cases alleging "honest services" mail fraud (18 U.S.C. ¶1346) and "intentional misapplication" bribery (18 U.S.C. ¶666(a)(1)(A)). *Amici* are concerned that, because of such theories underlying the Thompson indictment and insufficiencies in the indictment, the routine, lawful performance of their jobs may put them potentially at risk for similar criminal prosecution.

Respectfully submitted,

March 14, 2006

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