

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
(Green Bay Division)**

STEVEN A. AVERY

Plaintiff,

-vs-

Case No: 04-C-986

MANITOWOC COUNTY,
THOMAS H. KOCOUREK, individually
and in his official capacity as Sheriff
Sheriff of Manitowoc County,

-and-

DENNIS R. VOGEL, individually with
respect only to his executive, administrative
and advice and counsel functions and in his
official capacity as District Attorney of
Manitowoc County

Defendants.

DECLARATION OF JEFF SCOTT OLSON

I, Jeff Scott Olson, under penalty of perjury pursuant to 28 U.S.C. §
1746, do declare as follows:

A. Experience, Reputation and Ability of Counsel

1. Jeff Scott Olson. I am an attorney at law admitted to practice
before the Supreme Court of the United States, the Supreme Court of Wisconsin,
the United States Courts of Appeals for the Seventh and Eighth Circuits, and the
United States District Courts for the Western and Eastern Districts of Wisconsin

and the District of Arizona. I have been in solo practice since January 1, 1994. Prior to that I was the second most senior attorney in the law firm of Julian, Olson & Lasker, S.C., in Madison, Wisconsin. I was first employed as an attorney with this firm, which was then called Julian & Associates, S.C., on August 1, 1976.

2. In 1972 I received the degree of Bachelor of Arts with honors from the University of Wisconsin at Madison, where my major field of study was sociology, which included substantial training in statistical analysis. After graduation from the University of Wisconsin, I studied sociology as a graduate student at Yale University in New Haven, Connecticut, for one year prior to entering law school at the University of Wisconsin. I received the degree of Juris Doctor from the University of Wisconsin Law School in 1976.

3. Throughout my entire career, my practice consisted primarily of civil rights litigation.

4. I have appeared as chief or lead counsel in a large number of published civil rights cases brought under fee-shifting statutes. Many of these are listed in the curriculum vitae, which is attached hereto, denominated Exhibit A, and made a part hereof by reference.

5. I have developed a statewide reputation as an expert in the area of civil rights litigation and a national reputation as an expert in the recovery of attorneys' fees in civil rights cases. I have been invited to make presentations for the purpose of continuing legal education to lawyers, as well as public presentations, on employment discrimination and attorneys' fees awards topics on

a large number of occasions, which are listed in my curriculum vitae, Exhibit A. Most recently, I was invited to speak on awards of attorneys' fees in civil rights cases to the National Organization of Attorneys for Education Associations at their meeting in Anchorage, Alaska, in May of 2002, and to the National Employment Lawyers Association at their meeting in Orlando, Florida, in June of 2002.

6. I have not infrequently undertaken to represent other attorneys who have successfully litigated civil rights cases in connection with their applications for attorneys' fees. For example, I was chief counsel for the plaintiffs in *Thomas, et al. v. Fiedler, et al.*, 700 F. Supp. 1527 (E.D. Wis. 1988), on their appeal to the United States Court of Appeals for the Seventh Circuit from the district court's award of attorneys' fees in that case. I also represented the plaintiffs in the fee-application phase of *Hartman v. Winnebago County*, 216 Wis.2d 418, 574 N.W.2d 222 (1998). I represented attorney Amy Scarr of Madison in the fee application phase of *Adams v. Universal Presentation Concepts, Inc.*, Case No. 97 CV 2341 in the Circuit Court for Dane County, Wisconsin. Before the Wisconsin Supreme Court, I was one of the amicus curiae for the plaintiff in *Kolupar v. Wilde Pontiac Cadillac, Inc.*, 2004 WI 112, ¶ 22, 275 Wis.2d 1, 683 N.W.2d 58.

7. In connection with these cases and my own cases in which I regularly make applications for awards of attorneys' fees, I have within the last several years reviewed twenty to thirty affidavits of Wisconsin lawyers who practice in the area of civil rights and other complex federal litigation, concerning their hourly rates and billing practices, and I have collected information in various

fashions concerning the hourly rates and billing practices of many more attorneys who practice in Wisconsin courts including the United States District Court for the Western District of Wisconsin. I have reviewed a dozen or so affidavits from attorneys outside the Madison area who handle civil rights litigation throughout the State of Wisconsin, and over 100 affidavits from other attorneys around the country concerning their hourly rates and billing practices in civil rights and other complex federal litigation. Based on my knowledge of prevailing rates in the community of attorneys who regularly handle civil rights and other complex federal litigation in this court, the hourly rates I have charged are, and at all times reported herein have been, within the range of rates charged to clients who pay by the hour for legal services rendered by attorneys of similar skill, reputation and experience in this legal community.

B. Billing Rates and Rate Setting

8. My hourly billing rate and the rates charged for the time of associates, law clerks and investigators are fixed by me in relation to those rates charged by attorneys of similar skill, reputation and experience in this legal community, and are revised from time to time. These rates are uniformly charged to and paid by my firm's paying clients with the single exception of a legal malpractice defense case which I was prepared to accept on a pro bono basis and in fact accepted the hourly rate the lawyer's professional liability carrier was willing to pay.

9. My billing rate and the billing rates of the attorneys, clerks and investigators employed by my firm have been adjusted periodically to account for: (a) the increasing skill, reputation, experience and ability of the personnel involved, and (b) the increasing market rates charged in the community for the services of similarly qualified personnel.

10. Since January 1, 2006, my standard hourly billing rate has been three hundred eighty dollars per hour. Before that and from January 1, 2005, my standard hourly billing rate was three hundred sixty-five dollars per hour. Before that and from January 1, 2004, my standard hourly billing rate was three hundred fifty dollars per hour. Before that and from July 1, 2002, my standard hourly billing rate was three hundred forty dollars per hour. Before that and from July 1, 2001, my standard hourly billing rate was three hundred twenty dollars per hour. Before that and from July 1, 1999, my standard hourly billing rate was three hundred dollars per hour. Immediately prior to that it was two hundred eighty-five dollars per hour. My current standard hourly charge for the time of law clerks and paralegals is \$95.00 per hour and has been at this level January 1, 2006. Before that and since May 1, 2005 it was \$85.00 for law clerks and \$75.00 for my paralegal. Before that and since January 1, 2005, it was \$85.00 for law clerks and \$60.00 for my paralegal. Before that and since January 1, 2004, it was \$75.00 for law clerks and \$55.00 for my paralegal. Before that and since July 1, 2002, it was \$65.00 for law clerks - I had no paralegal until some time after January 1, 2003. My current standard hourly charge for the services of Sarah Furey Crandall, an attorney who

retired from the practice of law but now works full time for me performing legal research, analysis and writing, is \$280.00 per hour. Ms. Crandall is an expert in First Amendment jurisprudence, and has written the first drafts of many briefs that have resulted in successful results for my firm's clients. I routinely employ these rates in charging paying clients for the services of my staff and myself, and they routinely pay them without complaint. My current standard hourly charge for the services of Amy S. Dixon, an attorney who works full time for me, is \$270.00 per hour.

11. One principal benchmark I use to determine the reasonableness of the above hourly billing rates consists in awards of attorneys fees actually made to attorneys of similar skill, reputation and experience in the courts in which I practice. For example, a previous increase to \$260.00 per hour was more or less consciously based on the decision of this Court to award similar rates to counsel for the plaintiff in *Alvey v. Ray-O-Vac Corp.*, Case No. 95-C-0081-C. I, in turn, was awarded \$260 per hour by Judge Shabaz in *Mueller v. Dept. of the Army*, Case No. 96 C 1005 S, in the fall of 1997. I was awarded \$285 per hour by Judge Shabaz in *Beyer v. Town of Lyndon*, Case No. 99 C 394 S for work done in June and July of 1999. I was awarded \$300.00 per hour in *Adams v. Universal Presentation Concepts, Inc.*, Case No. 97 CV 2341 in the Circuit Court for Dane County, Wisconsin, in the spring of 2000. Crawford County voluntarily paid \$300.00 per hour for my services on appeal in *Crawford County v. Masel*, 2000 WI App 172, 238 Wis. 2d 380, in order to avoid litigating the issue. I was awarded \$300 per hour in

E. B. C., Inc. v. City of Juneau, Case No. 00 CV 303 in the Circuit Court for Dodge County, Wisconsin, on August 8, 2001, based on an application filed before I raised my rate from \$300 per hour to \$320 per hour. In 2003 I was awarded fees computed at the rate of \$340.00 per hour for my services and \$80.00 per hour for the services of law clerks and paralegals by an Administrative Law Judge of the United States Equal Employment Opportunities Commission in *Kmiecik v. Veneman*, EEOC Case # 260-A2-8009X for representing a federal employee in administrative procedures relating to his discrimination claim under Title VII. In 2004, the State of Wisconsin voluntarily paid attorneys' fees to me for the services of me and my firm's law clerks in *Tadisich v. Wilda*, Case No. 01-C-1179 in the United States court for the Eastern District of Wisconsin after judgment was entered on a verdict under 42 U.S.C. § 1983. The State of Wisconsin also voluntarily paid attorneys fees at the rates of \$350 per hour for my services, \$260 per hour for 123.1 hours of the services of Sarah Furey Crandall, and \$80 per hour for the services of my firm's law clerks, in *Allen v. Guerrero*, 2004 WI App 188, 276 Wis.2d 679, 688 N.W.2d 673, in a settlement of all damages and attorneys' fees claims after the Court of Appeals decision came down.

12. I have one standard billing rate at a given time for me and one for each other individual in my firm, and they are the rates I use in charging all of my paying clients. Since I opened my solo practice in 1994 a large proportion of my income has come from paying clients paying for my services at my regular hourly rates. Some of these clients have included or currently include the Ho-Chunk

Nation, Capitol Warehousing Corporation, Discount Video Liquidators, Inc., and several other corporations.

C. Qualifications of Plaintiff's Counsel in This Case

13. I am personally familiar with the qualifications of Plaintiff's counsel Walter F. Kelly, having participated with him as co-counsel in Continuing Legal Education programs at which we were both presenters and having been an enrollee at other Continuing Legal Education programs at which he was a presenter, where I have seen Mr. Kelly speak on many occasions. I have employed his services as an expert witnesses concerning civil rights litigation. I have also reviewed pleadings, briefs, and other documents he has drafted in a variety of types of cases. In my opinion Mr. Kelly is one of our state's two leading practitioners of plaintiff's civil rights litigation. He brings excellent judgment, encyclopedic and historical knowledge of precedent, congenial temperament, cogent analysis, and visionary idealism tempered with refreshing realism to every case in which he is involved. He is irreplaceable.

14. I have known Stephen M. Glynn for thirty years. I have worked with Mr. Glynn in the past and am personally familiar with his skill, reputation and ability as a criminal defense lawyer. His track record for success in high-stakes cases is excellent.

D. Hourly Rates

15. Based on my extensive study of the hourly rates charged by attorneys who litigate civil rights and other complex federal litigation in this

court, it is my opinion that the rates sought by plaintiff's counsel in this case are well within the range of hourly rates charged to paying clients by attorneys of similar skill, reputation and ability in this community.

16. In particular, it is my opinion that the hourly rate of \$300.00 per hour is well within the range of rates charged by attorneys in this litigation community of similar skill, reputation and ability to that of Walter F. Kelly. In my opinion, Mr. Kelly is in the realm of Wisconsin civil rights litigators populated by Attorney Michael R. Fox, Attorney Walter F. Kelly, and no more than one or two others, and his rate is at the low end of rates charged by attorneys in this realm.

17. It is my opinion that the hourly rate of \$350.00 per hour is well inside the range of rates charged by attorneys in this litigation community of similar skill, reputation and ability to that of Stephen M. Glynn. He is one of two or three of Wisconsin's premier criminal defense lawyers.

18. It is my opinion that the hourly rates associated with other personnel in this case are reasonable given their respective levels of skill, reputation and experience.

E. Reasonable Hours

19. I have reviewed the time records maintained by plaintiff's counsel in this case and in my opinion the number of hours devoted by them has been reasonable. They, indeed, have seemed to work with a high degree of efficiency in this case. I attribute the relatively small number of hours plaintiff's

counsel have been required to devote to this case to their broad expertise in the area of civil rights and criminal law.

F. Reasonableness of Contingent Fee.

20. In my opinion the one-third contingent fee charged by plaintiff's counsel in this case given the nature of the case, the difficulty of the issues, and the extraordinary result achieved under the circumstances. My own standard contingent-fee agreement, which has been the subject of several published articles including Jeff Scott Olson, "A Model Retainer Agreement for Twenty-First Century Civil Rights Lawyers," 19 Civil Rights Litigation and Attorneys' Fees Annual Handbook, (Saltzman, ed., West, 2003) and which is available online at <http://www.scofflaw.com/retainr.html>, charges a 40% fee under the same circumstances, as do the agreements of many other lawyers. The one-third contingent fee is well within the range of fees charged by attorneys of similar skill, reputation and experience in Wisconsin and the nation.

CERTIFICATION

I, Jeff Scott Olson, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing statements are true and correct.

I have executed this Declaration on March 10th, 2006.

/s/ Jeff Scott Olson

Jeff Scott Olson

CURRICULUM VITAE

JEFF SCOTT OLSON

Address: The Jeff Scott Olson Law Firm, S. C.
131 West Wilson Street, Suite 1200
Madison, WI 53703-3245

Telephone: (608) 283-6001
FAX: (608) 283 0945
E-mail: jsolson@scofflaw.com
Website: <http://www.scofflaw.com>

EMPLOYMENT HISTORY

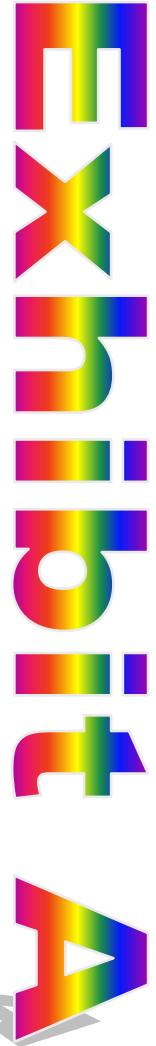
Professional Employment History:

1999-present	The Jeff Scott Olson Law Firm, S. C.
1994-1999	Solo Practitioner
1987-1994:	Member, Julian, Olson & Lasker, S.C. 330 E. Wilson St. P.O. Box 2206 Madison, WI 53701-2206 (608) 255-6400
1980-1987:	Member, Julian & Olson, S.C.
1979-1980:	Member, Julian, Olson & Crandall, S.C.
1976-1979:	Associate, Julian & Associates, S.C.

Preprofessional Employment History:

Law Clerk, Julian & Associates, 330 E. Wilson St., Madison, WI 53703, part-time
1975-1976

Law Clerk, Garvey, O'Brien, Anderson and Kelly, 204 E. Grand Ave., Eau Claire,
WI 54701, Summer, 1975



Law School Project Assistant to Professor Stuart G. Gullickson, 1973-1974,
Summer, 1974, 1974-1975

Private Banjo Instructor, 1975-1976

Banjo Instructor, "Pickin' and Grinnin'" Workshops, 1974-1984
Private Guitar Instructor 1973-1975

Madison YMCA's Guitar Instructor, 1973-1974

Machine Operator, Bush Bros. Cannery, Augusta, WI Summers of 1970, 1971,
1972

Part-time Worker, U.W. Hospitals Food Service, 1971-1972

Editor, The Augusta Free Press, Summer, 1970

Computer Program Documenter, Casa Lee, San Juan, Puerto Rico, Summer, 1969

Other Part-time or Short-term Work: Printer's Devil, Swimming Instructor, Farm
Worker, Performing Musician

EDUCATION

Legal Education: University of Wisconsin, 1973-1976

Degree: J.D. 1976

Activities: Founding Member, Madison Folk Music Society,
1974-1976

Chairman of the Board of Governors, Warren
Gamaliel Harding Memorial Foundation, Inc. (a historical and
social organization and a Wisconsin non-profit corporation),
1969-1976

Member, "The Backwoods Revival" (a semi-
professional bluegrass and old-time stringband) 1973-1976

Assistant to the Program Chairman, Dane
County Bar Association, 1974-1975

Graduate Education: Yale University, 1972-1973

Major: Sociology

Activities: Member: New Haven Folk Music Society

Member: "The Overnight String Band"

Undergraduate Education: University of Wisconsin at Madison, 1968-1972

Degree: B.A. with Honors, 1972

Major: Sociology

Activities: U.W. Fencing Squad, 1968

U.W. Percussion Ensemble, 1969-1971

President, U.W. Folk Arts Society, 1972

High School Education: Augusta High School, 1964-1968

Activities: Almost all, including forensics, music,
journalism, and athletics; several offices.

Honors and
Awards: National Merit Scholar, 1968

United States Presidential Scholar, 1968

Others

BAR ADMISSIONS

Federal Courts of Last Resort

Supreme Court of the United States, 1979

Federal Courts of Appeals

United States Court of Appeals for the Seventh Circuit, 1977

United States Court of Appeals for the Eighth Circuit, 1977

Federal District Courts

United States District Court for the Northern District of Illinois, 2000

United States District Court for the District of Arizona, 1990

United States District Court for the Eastern District of Wisconsin, 1977

United States District Court for the Western District of Wisconsin, 1976

State Courts of Last Resort

Supreme Court of the State of Wisconsin, 1976

ACTIVITIES AND MEMBERSHIPS

Honors and Awards:

1986: "Volunteer Attorney of the Year -- 1986," ACLU of Wisconsin Foundation

1988: "Fair Housing Advocate Award" [with Percy L. Julian, Jr.], Fair Housing Council of Dane County

1994: "Best Civil Rights Lawyer in Madison" [tie with Michael R. Fox], Madison Magazine

Offices:

1990-91 Chair, State Bar of Wisconsin Individual Rights Section

1986-92 Editor, "RIGHTS," the State Bar of Wisconsin Individual Rights Section Newsletter

1985-
Present: Member, Governing Council, State Bar of Wisconsin Individual Rights Section

1989-95 Managing Attorney; 1985-1989 Director of Recruiting and Training, Unemployment Compensation Appeals Clinic, Madison, Wisconsin

Activities:

- 1977-89 Coordinator (for Monona Grove High School) Wisconsin Bar Foundation's "Project Inquiry" (provides attorney-speakers for high school classes)
- 1977-90 Supervising Attorney, University of Wisconsin Law School Community Law Office (volunteer law student legal aid)
- 1991 Member, Wisconsin Bicentennial Committee on the Constitution
- 1991 Member, State Bar Bill of Rights Committee

Biographical Listings:

1986-Present Who's Who in American Law

1989-Present The Best Lawyers in America

Biographical Articles:

Doug Moe, "Jeff Olson, A Courtroom Tiger but a Nice One," 31 Madison Magazine, No. 8, 13 (August, 1989).

Chuck Nowlen, "Michael Fox and Jeff Scott Olson," in "Top Lawyers: Dane County Attorneys Pick the Best of Their Peers," 36 Madison Magazine, No. 1, 28 (January, 1994).

Sheridan Glen, "Ode to Papa," Madison Magazine (December, 2002).

Current Professional Memberships:

American Bar Association; Bar Association of the Seventh Circuit; State Bar of Wisconsin; Dane County Bar Association; National Association of Criminal Defense Lawyers; American Trial Lawyers Association; First Amendment Lawyers Association, Wisconsin Academy of Trial Lawyers, Dane County Criminal Defense Lawyers Association; Wisconsin Employment Lawyers Association

PUBLICATIONS

Professional Publications:

"Permanent Disability Evaluation under the Wisconsin Worker's Compensation Law," 53 Wis. Bar Bull. 14 (October, 1980)

"Effective Use of Expert Testimony in the Defense of Drunk Driving Cases," 54 Wis. Bar Bull. 17 (December, 1981)

"Truth in Billing," 69 ABA Journal 1344 (October, 1983)

"Protection, Persuasion and Proof: Toward a Model Civil Rights Retainer Agreement for the 90's," in 3 Civil Rights Litigation and Attorneys' Fees Annual Handbook (Lobel and Wolvovitz, eds., Clark Boardman, 1987)

"Contingency Enhancements of Attorneys' Fee Awards: the Lower Courts Respond to Delaware Valley II," in 5 Civil Rights Litigation and Attorneys' Fees Annual Handbook (Wolvovitz, Ed., Clark Boardman, 1989)

"The New Orthodoxy in the Law of Attorneys' Fees Awards," in 6 Civil Rights Litigation and Attorneys' Fees Annual Handbook (Wolvovitz, ed., Clark Boardman, 1990)

"A New Model Retainer Agreement for Civil Rights Cases: Nailing Things Down on Settled Ground," in 7 Civil Rights Litigation and Attorneys' Fees Annual Handbook (Wolvovitz, ed., Clark Boardman Callaghan, 1991)

Margaret Coullard and Jeff Scott Olson, A Comparative Study of the Procedural Effectiveness of State Employment Discrimination Laws and the Relationship Between Strong Employment Discrimination Laws and Strong State Economies (State Bar of Wisconsin Individual Rights and Responsibilities Section, 1991)

"Seeing No Evil: The Metastases of Qualified Immunity 1991-1992," in 8 Civil Rights Litigation and Attorneys' Fees Annual Handbook (Wolvovitz, ed., Clark Boardman Callaghan, 1992)

"A Step Toward Procedural Equality for Civil Rights Claimants: The Supremes Nix "Heightened Pleading" in Monell Cases," in 9 Civil Rights Litigation and Attorneys' Fees Annual Handbook, (Saltzman and Wolvovitz, eds., Clark Boardman Callaghan, 1993)

"Trial of Employment Discrimination Cases" in Employment Discrimination 18-1 (Merrick Rossein, author and editor, 1993)

"Model Retainer Agreement" in Employment Discrimination, App. Q-1 (Merrick Rossein, author and editor, 1993)

"Bunglers at the Gates: A Fractured Court Fumbles the Right to be Free from Criminal Prosecution Absent Probable Cause," in 10 Civil Rights Litigation and Attorneys' Fees Annual Handbook, (Saltzman and Wolvovitz, eds., Clark Boardman Callaghan, 1994)

"A Simpler Model Retainer Agreement for Civil Rights Cases," in 11 Civil Rights Litigation and Attorneys' Fees Annual Handbook, (Lobel and Saltzman, eds., Clark Boardman Callaghan, 1995)

"How Do You Mend a Broken Heart? Damages for Emotional Injuries in Civil Rights Actions," in 14 Civil Rights Litigation and Attorneys' Fees Annual Handbook, (Saltzman, ed., West Group, 1999)

"A Model Retainer Agreement for Twenty-First Century Civil Rights Lawyers," in 19 Civil Rights Litigation and Attorneys' Fees Annual Handbook, (Saltzman, ed., West, 2003)

Other Publications:

"Why There's No Justice in America," 7 Isthmus No. 35, 29 (August 27, 1982) [review of The Best Defense by Alan M. Dershowitz]

"Drinking and Driving - A Defense Lawyer Tells an Unpopular Story," 9 Isthmus No. 28, 1 (July 13, 1984), excerpts also published as "Why Go to Court for a Drinking Driver?", Cleveland Plain Dealer (August 1, 1984), and "A Matter of Defense," The Cincinnati Inquirer (August 11, 1984)

"Crandall for the Defense -- A Look Back at the Beginning of a Brilliant Career," 23 Isthmus No. 41, 1 (October 7, 1988)

Published Photographs:

Photograph of Sarah Crandall in Moe, D., "Sarah Crandall -- One of Madison's Best Criminal Defense Lawyers," 29 Madison Magazine, No. 3, 77 (March, 1987)

Photograph of George Blair in "Beloved Bartender Blair Leaves Behind Memories," Wisconsin State Journal, Madison, Wisconsin, July 18, 1988

Photograph of John Simon in "Irish Bars of Madison," Madison Magazine (March, 1993)

Photographs of Chuck Nowlen in "Cheating Death in Omro," Madison Magazine (August, 1993)

Photograph of Willow Bacon in "Under the Needle," Madison Magazine (March, 1994)

In Progress:

Starting Out Right on the Banjo -- Frailing from Scratch

LEGISLATIVE TESTIMONY

- December 8, 1987 Testimony on behalf of the Individual Rights Section of the State Bar of Wisconsin before the Wisconsin Assembly Judiciary Committee on AB 175 (obscenity).
- November 15, 1989 Testimony on behalf of the Individual Rights Section of the State Bar of Wisconsin before the Wisconsin Assembly Colleges and Universities Committee, Small Business Employment and Training Committee, and State Affairs Committee on Sex Harassment
- November 20, 1989 Testimony before the Wisconsin Assembly Judiciary Committee on 1989 Assembly Bill 637 (Civil Rights)
- February 19, 1990 Testimony before the Wisconsin Senate Committee on Aging, Banking, Commercial Credit and Taxation on Resuscitation in Nursing Homes
- May 7, 1991 Testimony on behalf of the State Bar of Wisconsin Individual Rights Section before the Wisconsin Senate Judiciary Committee and the Wisconsin Assembly Elections and Constitutional Law Committee on 1991 Senate Bill 1 and 1991 Assembly Bill 192 (Private Right of Action for Civil Rights Violations)

EXPERT TESTIMONY

- June 11, 1990 Testimony for the defense in Acharya v. Carroll, Case No. 86-CV-6941, in the Circuit Court for Dane County, Wisconsin, legal malpractice, verdict for defense.

SPEECHES, PRESENTATIONS AND APPEARANCES

- March, 1979 Radio Panelist, "Housing Discrimination in Madison", an hour-long informational call-in show broadcast live on WHA Radio, Madison
- September, 1979 Speaker, "Permanent Disability Evaluations in Worker's Compensation Law," A combined program for University of Wisconsin Medical School, Department of Rehabilitation Medicine, and the University of Wisconsin Hospitals' Vocational Evaluation and Counseling Service
- November 14, 1980 Speaker, "Wage Discrimination in Employment Under Title VII of the Civil Rights Act of 1964 as Amended -- A Discussion of Pay Inequity," United States Equal Employment Opportunity Commission Fifteenth Anniversary Program, Milwaukee, Wisconsin
- November 14, 1980 Television Panelist, "For the Record, In Brief -- Equal Opportunity Day," WMVF-TV, Milwaukee, Wisconsin
- December 18, 1980 Speaker, "Law as a Career," Guidance Institute for Talented Students, School of Education University of Wisconsin at Madison
- June 9-10, 1981 Lecturer, "Defending Speeding and Drunk Driving Cases," State Bar of Wisconsin Advanced Training Seminar - Continuing Legal Education, Madison, Milwaukee, Wisconsin
- March 1, 1982 Radio Panelist, "Wisconsin Issues Forum- Pornography and Civil Rights," WHA Radio, Madison, Wisconsin
- November 15, 1982 Television Panelist, "Innervations -- The Experience of Filing a Racial Discrimination Complaint," Cable 4 Television, Madison, Wisconsin

February 17, 1983	Speaker, "Public Interest Law and the Private Market," a conference sponsored by the University of Wisconsin Law School Placement Office and the Public Interest Law Students Association, Madison, Wisconsin
June 15, 1983, September 15, 1983	Trainer, Equal Opportunity Advocates, University of Wisconsin Law School, Madison, Wisconsin
January 17, 1984	Lecturer, "Wisconsin Labor and Employment Law Update," National Business Institute, Appleton, Wisconsin
March 23, 1984	Lecturer, "Blowing Them Out with Your Expert" in "Winning Wisconsin Drunk Driving Cases -- Beating Big Brother in 1984", National Legal Seminars, Inc., Madison, Wisconsin
January 24, 1985	Lecturer, "Mr. Green Comes Home -- Awards of Attorneys' Fees in Civil Rights Cases After <u>Thompson</u> , <u>Watkins</u> , <u>Henry</u> , <u>Hensley</u> and <u>Blum</u> ," State Bar of Wisconsin Individual Rights Section, Milwaukee, Wisconsin
February 20, 1985	Lecturer, "Improving Your Hearing Strategy: A Mock U.C.Hearing," Unemployment Compensation Appeal Clinic, Madison, Wisconsin
April 20, 1985	Lecturer, "Trial of Free Speech Cases Under the Wisconsin Constitution," at the 1985 WCLUF Litigation Conference, Wisconsin Civil Liberties Union Foundation, Milwaukee, Wisconsin

- November 8, 1985 Lecturer, "The Ten Commandments of Compensation: How to Ensure Adequate Attorneys' Fees Awards in Civil Rights Cases," at the Civil Pro Bono Seminar, United States District Court for the Eastern District of Wisconsin, Milwaukee, Wisconsin
- June 26, 1986 Lecturer, "Mr. Green Goes to the Hospital -- Nascent Developments in Attorneys' Fees Jurisprudence," State Bar of Wisconsin Individual Rights Section, Fontana, Wisconsin
- November 1, 1986 Lecturer, "Protection, Persuasion and Proof: Toward A Model Retainer Agreement for the '90s," NAACP Legal Defense and Educational Fund, Inc., Lawyers' Institute, Airlie, Virginia
- November 6-7, 1986 Lecturer, "Suing and Defending the Government," CES Education Services, Madison and Milwaukee, Wisconsin
- June 10, 1987 Lecturer, "Understanding Mr. Green: A Litigator's Approach to Attorneys' Fees Jurisprudence," National Association of Protection and Advocacy Systems, Washington, D.C., Annual Conference
- December 9, 1987 Lecturer, "Section 1983 in 1988: What Criminal Lawyers Will Need to Know," Dane County Criminal Defense Lawyers Association, Madison, Wisconsin
- October 11, 1988 Lecturer, "Equal Employment Opportunity and Cultural Diversity Awareness Management Training Program," Odom & Associates, Inc., for the Milwaukee Metropolitan Sewerage District, Milwaukee, Wisconsin
- October 21, 1988 Lecturer, "Contingency Enhancements of Attorneys' Fees Awards: Mr. Green is Alive and Well and Living in Delaware Valley II," Civil Rights Advocacy in the Post-Reagan Era, Wisconsin ACLU and State Bar of Wisconsin Individual Rights Section, Milwaukee, Wisconsin
- November 14, 1988 Panelist, "Racism and the Law: Rights, Wrongs and Remedies," National Lawyers' Guild and Wisconsin Black Lawyers' Association, Madison, Wisconsin

November 30, 1990 Lecturer, "Hot Potatoes Today: Problem Recognition in the Employment Discrimination Arena," Wisconsin Academy of Trial Lawyers 1990 Winter Seminar and Annual Meeting, Milwaukee, Wisconsin

March 14, 1991 Luncheon Speaker: "Right to Privacy v. Freedom of Information," Women in Communications, Inc., Madison, Wisconsin

May 4, 1991 Panelist, "A Public Forum on the Proposed Civil Rights Act of 1991," Madison Branch, National Association for the Advancement of Colored People, Madison, Wisconsin

September 27, 1991 Lecturer, "Section 1983 in State Court: A Start to Finish Demonstration," American Civil Liberties Union of Wisconsin, Individual Rights and Responsibilities Section, State Bar of Wisconsin, and Wisconsin Association of Minority Attorneys, Milwaukee, Wisconsin

June 24, 1992 Lecturer, "Plaintiffs' Counsel's Perspective on Handicap Discrimination Litigation: Choice of Law and Choice of Forum" in The Americans With Disabilities Act in Wisconsin, Professional Education Systems, Inc., Madison, Wisconsin

September 25, 1992 Lecturer, "Litigation Under the Civil Rights Act of 1991 and the Americans With Disabilities Act: A Start to Finish Demonstration," The Individual Rights and Responsibilities Section of the State Bar of Wisconsin, The American Civil Liberties Union of Wisconsin Foundation, The Wisconsin Association of Minority Attorneys, and The Wisconsin Employment Lawyers Association, Milwaukee, Wisconsin

October 2, 1992 Lecturer, "Personnel Law Update 1992," Council on Education in Management, Madison, Wisconsin

October 10, 1993 Lecturer, "Personnel Law Update 1993," Council on Education in Management, Madison, Wisconsin

January 27, 1994 Lecturer, "Practical Implications of the New Civil Rights Act--Winning Maximum Results," State Bar of

Wisconsin Midwinter Convention, Milwaukee, Wisconsin

- February 25, 1994 Lecturer, "The Law of Damages in Civil Rights Cases," Individual Rights and Responsibilities Section of the State Bar of Wisconsin, The American Civil Liberties Union of Wisconsin Foundation, and The Wisconsin Employment Lawyers Association, Milwaukee, Wisconsin
- September 29-30, 1994 Lecturer, "Analysis and Implications of the Recent Supreme Court Case, Lindas v. Cady, 183 Wis. 2d 547 (1994), State Bar of Wisconsin, Labor and Employment Law Section CLE Luncheon Meeting, Milwaukee and Madison, Wisconsin
- November 15, 1994 Lecturer, "How to Assess Damages under the Civil Rights Act of 1991," ABA/EEOC Liaison Committee, Milwaukee, Wisconsin
- November 29, 1994 Lecturer, "Litigating in the Administrative Forum: Pitfalls for the Unwary Practitioner," Dane County Bar Association, Madison, Wisconsin
- September 19, 1996 Lecturer, "Dancing with Mr. Green: How to Streamline the Judicial Role in Attorneys' Fees Disputes by Getting the Lawyers to do Their Jobs," Supreme Court of Wisconsin Director of State Courts 1996 Civil Law Seminar for Wisconsin Judges, Appleton, Wisconsin
- January 25, 1996 Lecturer, "The Cow that Ate the Courthouse -- Worker's Compensation Exclusivity's Limits as Seen Through A New Lentz," State Bar of Wisconsin Mid-Winter Convention, Milwaukee, Wisconsin
- March 7, 1997 Lecturer, "Issue and Claim Preclusion," State Bar of Wisconsin Individual Rights and Responsibilities Section, American Civil Liberties Union Foundation of Wisconsin, and Wisconsin Employment Lawyers Association Annual Civil Rights Seminar: *All Rise for the Jury*, Madison, Wisconsin

December 4, 1997 Moderator/Panelist, "Effective Use of A Private Investigator in a Litigation Practice," National Legal Seminars, Inc., Madison, Wisconsin

February 10, 1998 Lecturer, "How to Select Cases You Won't Live to Regret," Legal Association for Women, Madison, Wisconsin

June 25, 1998 Lecturer, "'That's Mint Green to You': Dancing into the Twenty-First Century with the Perennial Millennial Mr. Green -- Bedrock Principles of Fee Eligibility and Fee Computation," State Bar of Wisconsin Public Interest Law Committee, Lake Geneva, Wisconsin

May 18, 1999 Speaker, "Current Issues Affecting Local Government Officials -- Adult Entertainment", University of Wisconsin Extension, Madison, Wisconsin

June 8, 2000 Lecturer, "Structuring Retainer Agreements and Settlement Agreements to Achieve Tax Savings for Both Sides", Western District of Wisconsin Bar Association Continuing Legal Education Program, Madison, Wisconsin.

April 10, 2001 Speaker, "Why We Love Clients Who Don't Listen to Us," Madison Area Business Consultants, Madison, Wisconsin.

March 8, 2002 Lecturer, "Private Investigation and Protecting Work Product," Wisconsin Academy of Trial Lawyers, Green Bay, Wisconsin.

May 31, 2002 Lecturer, "Bedrock Principles of Fee Eligibility and Fee Computation," National Organization of Lawyers for Education Associations, Anchorage, Alaska.

June 29, 2002 Lecturer, "Problematic Case Scenarios After Buckhannon Board & Care Home v. West Va. D.H.H.R., 532 U.S. 598 (2001)," (with Percy L. Julian, Jr.) National Employment Lawyers Association, Orlando, Florida.

- August 10, 2002 Lecturer, "Say Goodnight, Gracie: "Bawdyhouse Nuisance Actions against Adult Businesses," First Amendment Lawyers Association, Denver, Colorado.
- May 9, 2003 Lecturer, "Ten Things You Should Know About Suing the Government," State Bar of Wisconsin, Annual Convention, Milwaukee, Wisconsin.
- June 13, 2003 Lecturer, "Pitfalls to Avoid in Regulating Adult Businesses," Wisconsin League of Municipalities, Municipal Attorneys' Institute, Green Lake, Wisconsin.
- December 17, 2003 Lecturer, "Qualified Immunity," and "Prosecuting Police Misconduct Cases," Lorman Education Systems, Madison, Wisconsin.
- April 1, 2005 Lecturer, "Use of Experts to Overcome the Qualified Immunity Defense," State Bar of Wisconsin Individual Rights Section, *et al.*, Madison, Wisconsin.
- September 13, 2005 Lecturer, "What Criminal Defense Lawyers Should Know About Civil Damages Recoveries For Clients Whose Constitutional Rights have been Violated by the Police," Dane County Criminal Defense Lawyers Association, Madison, Wisconsin

SELECTED REPORTED CASES

Chief Counsel for the Plaintiff

Sherkow v. Wisconsin Department of Public Instruction, 17 E.P.D. (CCH) Par. 8553, 17 FEP Cases (BNA) 1627 (W.D. Wis. 1978) (employment discrimination/sex under Title VII), *aff'd.* Sherkow v. State of Wisconsin Department of Public Instruction, 630 F.2d 498 (7th Cir. 1980).

A. O. Smith Corp. v. Wisconsin Labor and Industry Review Commission, 25 E.P.D. (CCH) Sec. 31, 780 (Wis. Cir. Ct., Mil. Co. 1981) (employment discrimination/race case under Wisconsin Fair Employment Act)

Briggs & Stratton Corp. v. Wisconsin Labor and Industry Review Commission, 28 E.P.D. (CCH) Sec. 32, 542 (Wis. Cir. Ct., Mil. Co. 1981) (employment discrimination/race case under Wisconsin Fair Employment Act)

Carpenter v. Board of Regents of the University of Wisconsin System, 529 F. Supp. 525 (W.D. Wis. 1982) (charge filing deadlines under Title VII)

State of Wisconsin ex rel. Adams v. City of Madison Equal Opportunities Commission, 33 E.P.D. (CCH) para. 34,183 (Cir. Ct. Dane County, Wisconsin, 1983) (due process in judicial review)

Carpenter v. Board of Regents of the University of Wisconsin System, 728 F.2d 911 (7th Cir. 1984) (employment discrimination/race/disparate impact under Title VII)

Reichenberger v. Pritchard, 660 F.2d 280 (7th Cir. 1982) (Ku Klux Klan Act conspiracy)

Wakeen v. Hoffman House, Inc., 724 F.2d 1238 (7th Cir. 1983) (employment discrimination/sex/class action under Title VII)

Stearns v. Consolidated Management, Inc., 747 F.2d 1105 (7th Cir. 1984) (employment discrimination/age and sex under Title VII and the ADEA)

Caviale v. State of Wisconsin Department of Health and Social Services, 744 F.2d 1289 (7th Cir. 1984) (employment discrimination/sex/disparate impact under Title VII)

Watkins v. LIRC, 117 Wis. 2d 753, 345 N.W. 2d 482 (1984) (established right to award of attorneys' fees for prevailing employment discrimination claimants under Wisconsin Fair Employment Act)

Gilbert v. State of Wisconsin Medical Examining Board, 119 Wis. 2d 168, 349 N.W. 2d 68 (1984) (due process in the context of professional license revocation)

Meyett v. Coleman, 613 F.Supp. 39 (W.D. Wis. 1985) (employment discrimination/sex/Sec. 1983)

Jacobs v. Major and Nu Parable, 132 Wis. 2d 82, 390 N.W. 2d 86 (Ct. App. 1986), rev'd., 139 Wis. 2d 492, 407 N.W.2d 832 (1988) (free speech in shopping malls)

Thompson v. County of Rock, 648 F.Supp. 861 (W.D. Wis. 1986) (class action based on invalid search and arrest warrants)

County of Milwaukee v. LIRC, 142 Wis. 2d 307, 418 N.W.2d 35 (Ct. App. 1987) (affirming dismissal of petition for review of LIRC decision holding that seniority-based layoffs having a disparate impact on minority employees violate the Wisconsin Fair Employment Act)

Hussein v. Oshkosh Motor Truck Co., 816 F.2d 348 (7th Cir. 1987) (employment discrimination/race/Title VII and 42 U.S. C. Sec. 1981)

Lindas v. Cady, 142 Wis. 2d 857, 419 N.W.2d 345 (Ct. App. 1987), reversed, 150 Wis. 2d 421, 441 N.W.2d 705 (1989) (sovereign immunity of state agencies under sec. 1983 and Title VII)

Johnson v. General Motors Corp., 692 F.Supp. 1003 (W.D. Wis. 1987) (racial harassment)

City News & Novelty, Inc. v. City of Waukesha, 170 Wis. 2d 14, 487 N.W.2d 316 (1992) (challenging adult bookstore regulations)

Lindas v. Cady, 175 Wis. 2d 270, 494 N.W.2d 692 (Ct. App. 1993) (administrative preclusion in the context of public sector sex discrimination claims)

Santiago v. Leik, 179 Wis. 2d 786, 508 N.W.2d 456 (Ct. App. 1993) (reversing summary judgment for defendants based on qualified immunity in the context of a disabled prisoner's Eighth Amendment claims under § 1983)

Supreme Video v. Schauz, 808 F.Supp. 1380 (E.D. Wis. 1992) (issues of probable cause and misrepresentation in connection with search warrant raid of adult bookstore)

Supreme Video v. Schauz, 15 F.3d 1345 (7th Cir. 1994) (issues of probable cause and misrepresentation in connection with search warrant raid of adult bookstore)

Donovan v. City of Milwaukee, 17 F. 3d 944 (7th Cir. 1994)(Chase/roadblock as Fourth Amendment “seizure”)

Burrus v. Goodrich, 194 Wis. 2d 654, 535 N.W.2d 85 (Ct. App. 1995) (ex post facto clause challenge to new mandatory minimum time periods for certain offenders to remain in certain security classifications)

Humphrey v. Tharaldson Enterprises, Inc., 95 F. 3d 624(7th Cir. 1996)(Preclusion in the context of a public accommodations discrimination case)

Tee & Bee, Inc. v. City of West Allis, 214 Wis. 2d 194, ___ N.W.2d ___ (Ct. App. 1997) (challenge to procedures employed in revocation of adult-oriented establishment license)

Harrington v. Rice Lake Weighing Systems, Inc., 122 F. 3d 456 (7th Cir. 1997)(ADA claim)

Hartman v. Winnebago County, 216 Wis. 2d 418, 574 N.W.2d 222 (1998) (attorneys' fees issues: timeliness of petition)

Special Souvenirs, Inc. v. Town of Wayne, 56 F. Supp. 2d 1062 (W. D. Wis. 1999) (successful First Amendment challenge to adult-use zoning scheme)

City News & Novelty, Inc. v. City of Waukesha, 231 Wis. 2d 93, 604 N.W.2d 870 (Ct. App. 1999) (challenging adult bookstore licensing scheme)

Wollin v. Gondert, 192 F. 3d 616 (7th Cir. 1999)(Fourth Amendment false arrest claim)

Crawford County v. Masel, 2000 WI App 172, 238 Wis. 2d 380, 617 N.W.2d 188 (Market rates in civil rights attorneys' fees awards).

City News & Novelty, Inc. v. City of Waukesha, 531 U.S. 278 (2001)(Adult bookstore licensing).

Wil-Kar, Inc., d/b/a Video Update v. Village of Germantown, 153 F. Supp. 2d 982 (E. D. Wis., 2001)(Definition of adult business in licensing ordinance unconstitutionally overbroad).

Wisconsin Vendors, Inc., v. Lake County, Illinois, 152 F. Supp. 2d 1087 (N. D. Ill., 2001)(Definition of adult business in licensing ordinance unconstitutionally vague).

Hicks v. Nunnery, 2002 WI App 87, 253 Wis.2d 721, 643 N.W.2d 809 (Ct. App. 2002)(Failure to order DNA testing as professional negligence).

Clarkson v. Town of Florence, 198 F.Supp. 2d 997 (E.D. Wis. 2002)(First Amendment overbreadth of anti-nudity ordinance).

Peters v. City of Mauston, 311 F. 3d 835 (7th Cir. 2002)(Failure to accommodate disability).

Doe v. Gustavus, 294 F. Supp. 2d 1003 (2003)(Eighth Amendment challenge to birth in prison).

MDK, Inc., v. Village of Grafton, 277 F. Supp 2d 943 (E.D. Wis. 2003)(Severability of unconstitutional ordinance provisions).

Allen v. Guerrero, 2004 WI App 188, 276 Wis.2d 679, 688 N.W.2d 673 (Damages action for incarceration beyond the expiration of a sentence under the Eighth Amendment).

Kraimer v. City of Schofield, 342 F.Supp. 2d 807, 814 (W.D.Wis. 2004)(Declaring ordinances restricting burlesque club unconstitutional).

MDK, Inc. v. Village of Grafton, 345 F. Supp. 2d 952 (E.D. Wis. 2004)(Declaring ordinance restricting burlesque club unconstitutional).

Bell v. Duperrault, 367 F.3d 703 (7th Cir. 2004) (Class-of-one Equal Protection).

Foelker v. Outagamie County, 394 F.3d 510 (7th Cir. 2005)(Eighth Amendment damages action for failure to take inmate for treatment during psychotic episode).

Eggert Group, LLC v. Town of Harrison, 372 F.Supp.2d 1123 (E.D.Wis., 2005)(First Amendment action challenging burlesque club ordinance).

Jones v. Wilhelm, 425 F.3d 455 (7th Cir. 2005)(Fourth Amendment damages action for unlawful home invasion by police).

Chief Counsel for the Defense

State of Wisconsin v. Jean L. Crandall, 133 Wis. 2d 251, 394 N.W.2d 905 (1986) (state constitution due process)

Frank L. MacDougall v. Gary McCaughtry, 951 F.2d 822 (7th Cir. 1992) (first degree murder federal habeas corpus)

Town of Wayne v. Bishop, 210 Wis. 2d 219, 565 N.W.2d 201 (Ct. App. 1997) (successful First Amendment challenge to adult-use zoning scheme)

United States v. Bennett A. Masel, 54 F. Supp. 2d 903 (W. D. Wis., 1999)(First Amendment Challenge to National Forest assembly permit requirement)

State v. Tee & Bee, Inc., 229 Wis. 2d 446 (Ct. App. 1999)(Obscenity prosecution).

Sauk County v. Gumz, 2003 WI App 165, 66 Wis. 2d 758, 669 N.W.2d 509 (First Amendment challenge to Open-Air Assembly Ordinance).

Chief Counsel for Amici Curiae

Horn v. Stone, 126 Wis. 2d 447, 377 N.W.2d 176 (Ct. App. 1985) (state constitution free speech on private property) (chief counsel for amicus curiae Wisconsin Civil Liberties Union Foundation, Inc.)

Felder v. Casey, 150 Wis. 2d 458, 441 N.W.2d 725 (1989) (police misconduct § 1983 statute of limitations) (chief counsel for amicus curiae ACLU of Wisconsin Foundation, Inc.)

State of Wisconsin ex rel. Harlan Richards v. C. William Foust, 165 Wis. 2d 429, 477 N.W.2d 608 (1991) (Wisconsin Public Records Act) (chief counsel for amicus curiae State Bar of Wisconsin Individual Rights Section, by invitation of the Court)

Hutchison v. Amateur Electronics Corp., 42 F.3d 1037 (7th Cir. 1994) (civil rights attorneys' fees) (chief counsel for amicus curiae Wisconsin Employment Lawyers Association and ACLU of Wisconsin Foundation, Inc.)

Shaw v. Leatherberry, ___ Wis. 2d ___, ___ N. W. 2d ___ (standard of proof in § 1983 actions)(chief counsel for amicus curiae Wisconsin Academy of Trial Lawyers and Wisconsin Employment Lawyers Association).

MISCELLANEOUS

Hobbies and Interests:

Folk Music: I play the banjo and guitar, have performed regularly and promoted concerts featuring both local and nationally-known artists

Photography

Born: March 20, 1950

Health: Excellent

Religion: Christian (Baptist)

Marital Status: Single