

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STEVEN ALAN MAGRITZ,

Plaintiff,

v.

Case No. 12CV806 EGS

OZAUKEE COUNTY, et al.,

Defendants.

MOTION OF DEFENDANTS GEROL, WILLIAMS, AND GONRING
TO EXTEND TIME FOR FILING OPPOSITION TO PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT UNTIL AFTER
THE COURT RULES ON THEIR MOTION TO DISMISS

Defendants Adam Y. Gerol, Sandy A. Williams, and Andrew T. Gonring, by Wisconsin Attorney General J.B. Van Hollen and Assistant Attorney General David C. Rice, move the court to extend the time for them to file their opposition to plaintiff Steven Magritz's motion for partial summary judgment until after the court rules on their motion to dismiss this action against them.

On July 6, 2012, Defendants Gerol, Williams and Gonring filed a motion to dismiss this action against them on the grounds of improper venue, statute of limitations, Eleventh Amendment immunity, prosecutorial immunity, and judicial immunity, together with a memorandum in support of the motion. On July 23, 2012, Magritz filed a motion to strike the three defendants' motion to dismiss. On July 25, 2012, treating Magritz's

motion to strike as an opposition response to their motion to dismiss, the three defendants filed a reply memorandum in support of the motion to dismiss.

On July 24, 2012, Magritz submitted a motion for partial summary judgment, based largely upon his complaint and a lengthy affidavit filed along with his complaint. Magritz seeks judgment (1) compelling Ozaukee County and the Ozaukee County Sheriff's Department to return his land and other property forthwith, (2) compelling all individual defendants to pay him fifteen million dollars in damages, and (3) removing the individual defendants from office by way of *quo warranto*.¹

On July 26, 2012, the court entered an order denying Magritz's motion to strike the three defendants' motion to dismiss, and directing Magritz to file an opposition response to the motion to dismiss not later than August 24, 2012.

Since Defendants Gerol, Williams, and Gonring have a substantial likelihood of succeeding on their motion to dismiss this action against them, for the reasons set forth in their memoranda, they respectfully submit that they should not be put to the burden and expense of preparing and submitting their opposition to Magritz's motion for partial summary judgment.

¹ In Wisconsin, *quo warranto* generally may be used to test a public officer's right to hold office, see *Lask v. The United States*, 1 Pin. 77 (Wis. 1839), and while *quo warranto* may be used when a public officer commits an act which "by the provisions of law, shall work a forfeiture of office," see Wis. Stat. § 784.04(1)(b), removal of a judge or a district attorney generally must follow the procedures prescribed by Wis. Stat. §§ 17.06 and 17.16.

Consequently, they respectfully request that the court grant their motion and extend the time for them to file their opposition to Magritz's motion for partial summary judgment until after the court rules on their motion to dismiss this action against them.

Dated at Madison, Wisconsin, this 27th day of July, 2012.

s/ David C. Rice
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