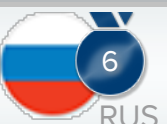


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# Wisconsin Punch Back

The targets of a secret political speech probe file a civil-rights suit.

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Feb. 10, 2014 7:41 p.m. ET

The Wisconsin prosecutors conducting a secret criminal probe of conservative political groups were warned last month that they were inviting a federal lawsuit. On Monday they got one, as two of their targets charged the prosecutors with violating their civil rights. Sometimes the only way to stop a bully is to punch back.

The lawsuit was filed in federal district court in Milwaukee by David Rivkin and the BakerHostetler law firm on behalf of the Wisconsin Club for Growth and its director Eric O'Keefe. The suit names four Milwaukee prosecutors and two others, including special prosecutor Francis Schmitz and Milwaukee District Attorney John Chisholm, who have conducted a secret grand jury-like investigation called a "John Doe" into Mr. O'Keefe, the Club for Growth and other conservative groups that are allies of Wisconsin Governor Scott Walker.



Getty Images

The suit charges that prosecutors have spent four years attempting to harass and silence groups whose politics they dislike. Much of the suit is redacted because Wisconsin's John Doe statute keeps the charges and the names of the targets under seal. But we've seen copies of the subpoenas, which include kitchen-sink demands for documents and communications. And we know that prosecutors and police conducted dawn

raids that ransacked homes of some targets.

We also know from the subpoenas and from a judge's secret ruling (which we've also seen) that the prosecutors are investigating these groups for illegal coordination with the Walker campaign. The suit charges that this is a violation of their Constitutional rights under the First and Fourteenth Amendments. The Supreme Court has long held that government probes that encroach on free speech must be carefully limited, which the Wisconsin John Doe certainly is not.

The suit also lays out the partisan motivation behind the John Doe. Mr. Chisholm is a Democrat elected with support from unions enraged by Mr. Walker's 2011 reform of public union collective-bargaining. Mr. Chisholm appeared in an ad supporting Milwaukee Mayor Tom Barrett in his bid to unseat Mr. Walker in the recall election, and the suit notes that "at least 43 (and possibly as many as 70) employees" in Mr. Chisholm's office signed the recall petition.

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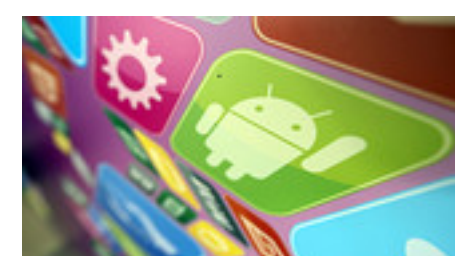
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The suit asks that the John Doe record be unsealed, and rightly so given how prosecutors appear to have leaked for their own political purposes. In April 2012, the suit notes, the Milwaukee Journal Sentinel's Daniel Bice reported that the John Doe probe was the "biggest question hanging over" the recall election and implying that further criminal charges might be filed before the June 5 vote.

No further charges were filed, but the leak was political fodder for Mr. Barrett, who used the John Doe as a campaign bludgeon, telling CNN's Candy Crowley on June 3, 2012 that Mr. Walker was "the only governor in this country who has a legal defense fund." Mr. Bice also disclosed the John Doe was looking into illegal campaign coordination in October 2013, days after Democrat Mary Burke announced her candidacy for Governor.

The suit charges that all of this is intended to silence Mr. Walker's allies during this year's election campaign, and that's precisely the effect it has had on Mr. O'Keefe. He and the Wisconsin Club for Growth have had to hire lawyers and have stayed on the political sidelines.

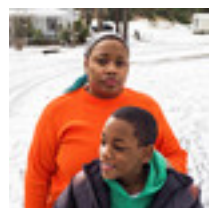
The suit means that prosecutors will now have to defend their legal tactics, as they are named in their personal and official capacities as allowed under federal civil-rights law. As a first act of legal hygiene the federal judge should unseal the John Doe record if state officials refuse. We doubt Wisconsin voters would like what they see.

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