

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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THE JOHN K. MACIVER INSTITUTE FOR  
PUBLIC POLICY, INC.,

Plaintiff,

v.

ORDER

16-cv-539-wmc

FRANCIS SCHMITZ, *et al.*,

Defendants.

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A telephonic hearing on defendants' motions to preserve evidence (dkt. ## 32, 41) and motions for extension of time to file an answer (dkt. ##17, 21) was held today in the above-captioned matter, at which the parties appeared by counsel. This order memorializes the rulings the court made during that hearing.

ORDER

IT IS ORDERED THAT:

1. Defendants may have thirty days from the date of this order to file a motion to dismiss, addressing plaintiff's principal theory of liability in this case -- namely, (a) whether warrants were issued by a court of general criminal jurisdiction under the definition of the Stored Communications Act and (b) whether sovereign or absolute immunity applies as to all or some of the defendants. Defendants may also file a motion for change of venue to the U.S. District Court for the Eastern

District of Wisconsin by that same deadline. Plaintiff will have twenty-one days to file any response, with reply from defendants due ten days thereafter.

2. Within ten days from the date of this order, defendants shall file under seal all electronic discovery obtained under the John Doe warrants. This discovery will be maintained by the clerk of this court and remain sealed pending further order of this court or closure of this case, including any appeals, in which event the materials will be destroyed.
3. Defendants may also retain their own work product from the John Doe I and II proceedings for purposes of defending this case.

Entered this 1st day of November, 2016.

BY THE COURT:

/s/

WILLIAM M. CONLEY  
District Judge