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September 14, 2015

To:

Hon. Marc A. Hammer
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You are hereby notified that the Court has entered the following order:

No. 2013AP2686-CR State v. Salinas L.C.#2010CF542

A petition for review pursuant to Wis. Stat. § 808.10 having been filed on behalf of plaintiff-respondent-petitioner, State of Wisconsin, and considered by this court;

IT IS ORDERED that the petition for review is granted and that pursuant to Wis. Stat. § (Rule) 809.62(6), the plaintiff-respondent-petitioner may not raise or argue issues not set forth in the petition for review unless otherwise ordered by the court; and

IT IS FURTHER ORDERED that pursuant to Wis. Stat. §§ (Rules) 809.62(6) and 809.63, within 30 days after the date of this order the plaintiff-respondent-petitioner must file a brief in this court; that within 20 days of filing the defendant-appellant, Luis C. Salinas, must file either a brief or a statement that no brief will be filed; and that if a brief is filed by the defendant-appellant, within 10 days of filing the plaintiff-respondent-petitioner must file either a reply brief or a statement that no reply brief will be filed; and

IT IS FURTHER ORDERED that in any brief filed in this court the parties shall not incorporate by reference any portion of their court of appeals' brief or petition for review or response; instead, any material in these documents upon which there is reliance should be restated in the brief filed in this court; and

IT IS FURTHER ORDERED that the first brief filed in this court must contain, as part of the appendix, a copy of the decision of the court of appeals in this case; and

IT IS FURTHER ORDERED that within 30 days after the date of this order, each party must provide the clerk of this court with 10 copies of the brief previously filed on behalf of that party in the court of appeals; and

IT IS FURTHER ORDERED that the allowance of costs, if any, in connection with the granting of the petition will abide the decision of this court on review.

SHIRLEY S. ABRAHAMSON, J. Our November oral argument calendar has only one case scheduled. The possibility exists that no cases will be ready for the December oral argument calendar. At our September 9, 2015, closed conference dedicated to petitions for review, the court accepted more than 10 cases.

Several grants were for unpublished per curiam decisions of the court of appeals. The Wisconsin Court of Appeals Internal Operating Procedures explains that per curiam opinions do not involve "new or unsettled questions of general importance."

Other grants were for unpublished court of appeals opinions. According to Wis. Stat. § 809.23(1)(b)6., a court of appeals opinion shall not be published if it has "no significant value as precedent."

Only two grants were for published court of appeals opinions. The criteria for publication of court of appeals opinions appear in Wis. Stat. § 809.23(1) and can be summarized as follows: the opinion makes a significant contribution to an understanding of the law of the state.

I write to urge the court to keep in mind Attorney Michael S. Heffernan's cautionary comment at § 23.14 in his book entitled Appellate Practice and Procedure in Wisconsin (6th ed. 2014): "[There is] considerable discrepancy in the quality of the petitions [the court] grants. To control its calendar [in fear of being inundated] the court may deny arguably meritorious petitions and then may end up granting petitions for little apparent reason other than filling its calendar."

Diane M. Fremgen
Clerk of Supreme Court