
As Wisconsin Governor Walker Makes Move Onto National Stage, Michael Best Toils in the Wings The American Lawyer (Online) This article also appears in the following ALM publications: *AmLaw Daily* *TAL Am Law Daily Breaking News* April 18, 2013 Thursday

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HEADLINE: As Wisconsin Governor Walker Makes Move Onto National Stage, Michael Best Toils in the Wings

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BODY:

In a sign he may be eyeing a presidential run in 2016, Governor Scott Walker of Wisconsin is at work on a book likely to touch on such subjects as his family life, his rise to Badger State prominence, and the legislative achievement that has boosted his national political profile: a state law that restricts the collective bargaining rights of public employees.

Given how frequently the first-term Republican and his allies have turned to its lawyers, [Michael Best & Friedrich](#) may merit its own chapter in the Walker saga.

During Walker's often tumultuous first two years in office, the Milwaukee-based firm has defended the governor in a bevy of lawsuits related to the collective bargaining law, which is known as Act 10; advised him in connection with an ultimately unsuccessful recall effort last year; acted as counsel to GOP lawmakers amid a legislative redistricting fight; and represented a Republican state judge caught up in an ethics inquiry.

Most recently, when the governor disclosed last month that entities affiliated with him had paid lawyers a total of \$650,000 in connection with a grand jury probe targeting current and former Walker staffers, records showed the firm getting \$200,000 of that sum.

Milwaukee County district attorney John Chisholm announced on March 1 that he was ending that investigation—which focused on, among other things, allegations that Walker cohorts had engaged in illegal fund-raising and had embezzled funds earmarked for veterans—[without bringing charges against the governor](#). Known locally as a "John Doe probe," the inquiry ultimately resulted in [six people, including Walker's former deputy chief of staff](#)—who was sentenced to two years in prison after pleading guilty to stealing more than \$21,000 from a fund meant to honor veterans—being charged criminally.

In the wake of Chisholm's announcement, Walker shut down the legal defense fund he set up last year to deal with the inquiry after making final payments of \$248,554 to [Sidley Austin](#) ▼partner John Gallo and \$3,560 to Kate Lind, a name partner at Wisconsin firm Lind Weininger. All told, the defense fund paid \$378,554 to Sidley, \$29,861 to Lind Weininger, and \$29,200 to another Wisconsin firm, Terschan & Steinle, according to documents filed with the Internal Revenue Service. ([Michael Best's fees were paid directly by the Friends of Scott Walker campaign committee](#)—which also covered all of the defense fund's costs—for its work on "compliance issues." Kate Lind is the campaign committee's treasurer.)

Michael Best's supporting part in the Doe probe may be surprising given the central role its lawyers have played in most Walker-related matters. What's unclear is whether it is a harbinger of things to come now that two of those lawyers have left the firm.

One of the departed, [former Michael Best partner Steven Biskupic, was hired by](#) the Walker campaign in 2011 to work on the Doe probe. A former U.S. attorney for the Eastern District of Wisconsin during the administration of President George W. Bush, Biskupic left the firm as of January 1 with fellow partner Michelle Jacobs, who had succeeded him at the U.S. attorney's office, to [form Biskupic & Jacobs](#).

While Biskupic declined to comment on the precise nature of his role in the Doe probe when contacted by The Am Law Daily in mid-April, he said during a January interview that he

planned to continue representing Walker, though he declined to say in what context. Biskupic also said he parted with Michael Best of his own accord and that he left the firm in order to focus on government investigations and regulatory matters for clients seeking a more flexible cost structure. "[Michael Best & Friedrich](#) treated me extremely well, and I would have been happy to stay there," he said at the time.

Biskupic's departure came some six months after another Michael Best lawyer with ties to Walker, election and political law litigation partner Eric McLeod, [left the firm to launch his own practice](#). McLeod had taken the lead defending the collective bargaining law in court after various labor unions sued to have it enjoined. [Though the U.S. Court of Appeals for the Seventh Circuit ruled in January that the law is constitutional](#), other Act 10 litigation continues. The active suits include one now on appeal following a September 2012 state court decision blocking the law from being applied to municipal and school district workers, [another filed in November in Dane County circuit court by state law enforcement officers](#), and [a federal suit filed last July in U.S. district court in Madison](#) by unions representing public works employees.

Six months before McLeod left Michael Best, a Milwaukee federal district court judge sanctioned him and fellow firm partners Joseph Louis Olson and Aaron Kastens for violating discovery rules and failing to turn over documents while representing state Republicans in the redistricting dispute. Separately, a special three-judge panel overseeing the legislative-line-drawing process excoriated McLeod, Olson, and Kastens for their "sandbagging, hide-the-ball trial tactics." (According to an independent forensic examiner's report filed with the court, [the Michael Best lawyers held onto 34 emails](#) sought by the plaintiffs in the case despite three court orders directing that the emails be turned over.)

[Michael Best hired Schiff Hardin in September](#) to conduct an internal investigation of the firm's role in the redistricting row. That investigation continues, and next month the plaintiffs in the case are scheduled to file a final report detailing all the discovery material they believe Michael Best withheld. ([McLeod also made headlines for providing free legal service for Republican Wisconsin Supreme Court justice Michael Gableman](#) in an ethics probe, despite the firm appearing before him in numerous cases.) McLeod did not respond to The Am Law Daily's request for comment.

While the two departures may wind up altering Michael Best's relationship with the Walker regime, they certainly haven't ended it. The firm continues to represent the governor in all but one of the collective bargaining lawsuits, and, according to the Journal-Sentinel, had [been paid nearly \\$850,000](#) for its work on that litigation as of April 1. Olson is now taking the lead on the Act 10 matters, as well as the redistricting case. (He also represented Walker in the governor's

ultimately unsuccessful effort to quash last year's recall election. Walker went on to win the June 5, 2012, recall vote by a comfortable margin.)

Another indication that Michael Best's pipeline to the Walker administration remains sturdy was [last month's announcement that the firm had hired Nicholas Boerke](#) as an associate in its transactional practice group. Boerke, who served as a legal intern in Walker's office until December 2011, is the son of David Boerke, the owner and founder of leading Wisconsin real estate company The Boerke Company Inc. The Boerke Company made headlines in December 2011 when one of its principals, Andrew Jensen Jr., [was the first person arrested in the Doe probe](#) (Jensen ultimately [was not charged](#).) According to this [professional profile](#), Jensen lists [Michael Best & Friedrich](#) as his biggest client.

Wisconsin Democrats, of course, have had go-to firms of their own over the years. The relationship between Walker's predecessor, Democrat Jim Doyle, and Foley & Lardner was also cozy. According to the Wisconsin State Journal, Doyle [used Foley & Lardner as outside counsel more than any other firm during his final two years in office](#). Doyle, who is currently a counsel at Foley, declined The Am Law Daily's interview request.

Michael Best managing partner David Krutz did not respond to a recent Am Law Daily request for comment. In a previous email, Krutz said that politics did not figure into the assignments the firm received from the Walker administration and that Michael Best landed the work strictly because of its expertise in the relevant areas. He also noted Doyle's relationship with Foley. "We are a business law firm," Krutz wrote. "We provide legal services to those who seek our advice without regard to party affiliation."

Meanwhile, if Walker's book doesn't give him the boost he needs to realize his presidential ambitions, he might want to seek the help of another Michael Best partner who is particularly well positioned in the political firmament: Reince Priebus, who is currently on leave from the firm while serving as chairman of the Republican National Committee.