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FOR IMMEDIATE RELEASE – Monday, December 20, 2010, 2:00 p.m.

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ACLU of Iowa Submits Brief to Fight Lawsuit That Would Derail Judicial Appointments

The American Civil Liberties Union Foundation of Iowa today submitted a friend of court brief opposing an injunction sought by an out-of-state law firm that wants to alter the way Iowa judges are selected.

In a friend of court brief, filed in Federal District Court for the Southern District of Iowa, "The ACLU is asking the Court not to grant the emergency request of this divisive group that wants to derail future Iowa officials in selecting Iowa Supreme Court justices," said Randall Wilson, legal director for the ACLU of Iowa.

On December 9, the Bopp law firm of Indiana filed a lawsuit in U.S. District Court on behalf of four Iowa residents, arguing that Iowa's current "Missouri Plan" method of selecting judges is unconstitutional because citizens are not allowed to directly vote for the judges.

The Bopp firm lost similar other lawsuits in Kansas and Alaska.

"The ACLU of Iowa is getting involved at an early stage in this case because there is too much at stake to sit on the sidelines. This highly questionable lawsuit is part of a coordinated effort by extremists in this country to weaken and ultimately destroy the concept of independent courts in America," said ACLU of Iowa Executive Director Ben Stone.

The ACLU supports the Missouri Plan--used in 33 states--because it's a sound system of checks and balances. The Missouri Plan also prevents judges from campaigning and from soliciting funding from special interests. "If you want to look at justice for sale, just study the circus that occurs in states that elect their judges," says Wilson.

Other individuals and groups also publicly endorsing the current system in Iowa include The American Bar Association, the American Judicature Society, various state and local human and civil rights commissions, the Iowa League of Women Voters, former Republican Lieutenant Governor Joy Corning, former Democratic Lieutenant Governor Sally Pederson, and former Republican Governor Robert Ray. Nationally, retired U. S. Supreme Court Justice Sandra Day O'Connor has also spoken out.

In Iowa, under the Missouri Plan, a commission--composed partly of lawyer-elected commissioners and partly of governor-appointed commissioners--creates a list of nominees from which the Governor selects. The approved judges come up for voter approval every six to eight years, giving voters say on whether judges should remain on the bench. In fact, in November, voters removed the three Iowa Supreme Court justices up for re-election.

The ACLU amicus brief asserts that altering the selection process at this time "would leave the Iowa Supreme court seriously understaffed," says Wilson. "It would also eliminate the knowledge and expertise gleaned from the more than 5,000 Iowa lawyers" who vote for some of the commissioners formulate the list of nominees.

The ACLU brief also holds that the Bopp attempt at altering the selection process is "untimely." The Missouri Plan has been in place since 1962. "They've had 48 years to challenge a system that has served Iowans very well in providing qualified, politically independent judges," says Wilson.

Stone said it's unfortunate that attempts to tear apart Iowa's current judicial system are often fueled by anti-gay fear and hatred, which has recently been sparked by the Iowa Supreme Court ruling recognizing same-sex marriage.

"Those filing this injunction have disdain for the legal equality courts provide political or religious minorities in a democracy, especially gay and lesbian Iowans. It's at least the third time such a lawsuit has been filed, and it's heartening to see that the others have failed. We at the ACLU of Iowa will do all we can to see that this injunction fails as well."

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