

No. 25AP2859-CRLV

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**IN THE SUPREME COURT OF WISCONSIN**

STATE OF WISCONSIN,

*Plaintiff-Respondent,*

v.

JAMES R. TROUPIS,

*Defendant-Petitioner.*

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**NON-PARTY BRIEF OF *AMICUS CURIAE*  
PUBLIC INTEREST LEGAL FOUNDATION  
IN SUPPORT OF GRANTING THE PETITION**

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## INTEREST OF *AMICUS CURIAE*

The Public Interest Legal Foundation, Inc. (“Foundation”) is a non-partisan, public-interest, 501(c)(3) organization that exists to protect the fundamental right to vote. As part of its mission, the Foundation litigates matters in state and federal court that impact voting rights and the integrity of American elections. The Foundation believes that every litigant and his advocate, whatever their political views, deserve to have their cases heard fully, transparently, and impartially. This Foundation is interested in this case because it is concerns both voting rights and the role of the judiciary in protecting those rights.

## ARGUMENT

It may stay 2020 forever. The calendar never turns, and the pain and fury of a long past Presidential election seems never to subside.

Here, the thorniest of thorny questions confront this Court: whether judges should recuse themselves for unrecoverable bias.

Thornier still is any *amicus* treading into this question. As such, *amicus* begs the indulgence of this Court in considering *amicus*’ arguments. *Amicus* is earnest, and does not leap into this dispute lightly, but only after national attention to this state dispute. Moreover, the issue lurking here, maintaining the robust consent of the governed after contentious elections, is

at the heart of the *amicus*' eleemosynary purpose. It is conceded that *amicus* is right of center, no doubt. But preserving ordered liberty and the consent of the governed is not a right or left issue. Maintaining steadfast faith in our electoral system has no partisan purpose.

*Amicus* litigates election matters nationwide—from protecting constitutional rights and the secret ballot, to advancing civil rights actions for racial discrimination, to ensuring that redistricting is done with constitutional faithfulness. Indeed, *amicus* has brought a measure of compliance with Wisconsin statutes regarding state elections. When *amicus* discovered that municipal election officials were not following Wisconsin law, *amicus* brought actions to enforce state statutory requirements. *See In re Hogan*, EL 24-35 (Nov. 1, 2024); *In re Public Interest Legal Foundation*, No. 2024cv003175 (Dane Cnty. Cir. Ct. Oct. 17, 2024).

One thing is certain, open ideological hostility towards a litigant has no place in the adversarial system of justice. Litigants rely on fairness. Litigants presume courts act fairly, and judges recuse themselves if they cannot act fairly. Our system of justice, and more importantly broad public acceptance of outcomes, requires this fairness.

Important election cases brought by *amicus* may engender the same sort of burning hostility in some ideological camps. That does not mean

these cases are not entitled to a fair and impartial hearing. *Amicus* secured victories in cases in courts across the land without suffering, it seems, from ideological hostility from judges with very different personal ideological perspectives from *amicus*. See, e.g., *Public Interest Legal Foundation v. North Carolina State Board of Elections*, 65 F.4th 101 (4th Cir. 2023); *Public Interest Legal Foundation v. Bellows*, 92 F.4th 36 (1st Cir. 2024); *Pettaway v. Galveston County*, 92 F.4th 350 (5th Cir. 2024). That is how the system works, or at least is supposed to work.

In the instant case, counsel Troupis deserves an extraordinary degree of impartiality. *Amicus* would submit even more so given the context here. A very sizeable portion of the electorate remains convinced that sufficient statutory and procedural rules were abandoned in 2020 to render the results in that election, at best, subject to question. While *amicus*' position on that point is not at issue here, the longevity of these doubts is unhealthy for civil society broadly and for litigants who in good faith turn to courts for the impartial resolution of disputes touching on election law. These broad doubts not only linger but linger with intensity.

On the other side, there seems to be a lust for vengeance where political circumstances allow vengeance. Election deniers must be held accountable, we hear. Wisconsin seems one such space, as the political

institutions appear to provide a path for the most virulent and passionate attacks on anyone associated with representing the President of the United States in the days after the 2020 election.

This is a toxic mix, and one where impartiality is in high demand. Simply, mere impartiality may be insufficient here. Circumstances may demand something more. When one side demands convictions, and the other thinks the system is rigged,<sup>1</sup> our civil institutions might consider something more than *tut tutting* that all is well and there is nothing to see here so move along. Circumstances may demand actions over and above what might suffice in a normal dispute.

Extraordinary and universally accepted impartiality may be the standard to ensure all factions think the system produces a fair result.

That is why *amicus* urges this Court to ponder the broader national picture. Is the answer more gasoline on a fire? Should all levers of political power be activated to inflict consequences on those who tried “to steal an election?” Or should ordinary Americans add to their growing list of grievances about the state of America in 2026 that even a President’s

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<sup>1</sup> Editorial Board, Wall Street Journal, *Wisconsin Lawfare Turns Ugly*, Feb. 20, 2026, <https://www.wsj.com/opinion/wisconsin-lawfare-jim-troupis-john-hyland-frank-remington-josh-kaul-dane-county-b74ed305> (last accessed March 3, 2026).

attorney is subject to unfair criminal prosecution in front of tribunals that have already opined extensively on the subject?

*Amicus* agrees with the words of President Ford. This indeed “is an American tragedy in which we all have played a part. It could go on and on and on, or someone must write the end to it.”<sup>2</sup> Like the dilemma faced by Ford, *amicus* submit that “the credibility of our free institutions of government would again be challenged at home and abroad” when defendants are subjected to such a degree of potential unfairness that it reaches the pages of one of the most esteemed opinion pages in the land.<sup>3</sup>

In disputes touching on our national fabric and our shared journey as Americans, it is especially important that all institutions perform at their most noble. Our system placed the power to assess the fairness and impartiality of the judiciary with the judiciary itself. *Amicus* urges this Court to ponder the broader national implications of the movant’s request. Impartiality is an ancient value, shared by nearly all Americans, and gives vitality and respect to whatever decision is eventually rendered in a case.

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<sup>2</sup> President Gerald R. Ford’s Remarks on Signing a Proclamation Granting Pardon to Richard Nixon, Sept. 8, 1974, Gerald R. Ford Presidential Library & Museum, <https://www.fordlibrarymuseum.gov/the-fords/gerald-r-ford/key-speeches-and-writings-gerald-r-ford> (last accessed March 3, 2026).

<sup>3</sup> Editorial Board, Wall Street Journal, *Wisconsin Lawfare Turns Ugly*, Feb. 20, 2026, <https://www.wsj.com/opinion/wisconsin-lawfare-jim-troupis-john-hyland-frank-remington-josh-kaul-dane-county-b74ed305> (last accessed March 3, 2026).

## **CONCLUSION**

For the reasons given above, we ask that this Court grant the petition for review.

Respectfully submitted,

*/s/ Noel H. Johnson*

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served this day on all counsel via the Court's electronic service system.

Dated: March 3, 2026.

/s/ Noel H. Johnson

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