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08-07-2026
CIRCUIT COURT
DANE COUNTY, WI
2024CF001295

No. 2024CF001295

IN THE DANE COUNTY CIRCUIT COURT

STATE OF WISCONSIN,

Plaintiff,

v.

JAMES R. TROUPIS,

Defendant.

**NON-PARTY BRIEF OF *AMICUS CURIAE*
PUBLIC INTEREST LEGAL FOUNDATION
OPPOSING THE MOTION FOR PROTECTIVE ORDER**

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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. It exists to protect the fundamental right to vote. As a part of its mission, the Foundation litigates matters in state and federal courts that impact voting rights and has a history of defending free speech in court. The Foundation also acts as an educator by publishing reports to the public and testifying to members of the legislature. The Foundation believes the First Amendment freedom of speech and press is embedded in the foundations of the United States and serves an essential role in the functions of elections. The Foundation is interested in this case because it concerns the freedom of speech and how the judiciary can protect that right.

INTRODUCTION

The State seeks to gag Mr. Troupis. With its protective order, it seeks to strip his right to speak in his own defense about important public issues. Much of what the State would silence is already in the public domain. News outlets have reported the information. YouTube hosts it.¹ The State is not asking the Court to keep a secret. It is asking the Court to stop only one man from discussing what everyone else can discuss, and what many already have.

Not only would the Court strip Mr. Troupis’ ability to speak, but it would also deprive the public and press of the ability to hear about important public issues.

¹ *Mike Gallgher Interviews Judge Troupis* <https://www.youtube.com/watch?v=q8LFv6SzTVM>, Dec.12, 2025, (last accessed Aug. 7, 2026).

The issue is not whether the public already knows the allegations, it is whether the public will continue to hear directly from one of the most important participants as this case progresses. Suppressing Mr. Troupis would result in only one side being accessible to the public in a highly followed and divisive trial.

Prior restraint should not attach here. If somehow Mr. Troupis says something that implicates a just process, other remedies exist.

The Constitution should not allow the State to prosecute a man in public and at the same time silence him about important public issues. That is why *amicus* respectfully urges this Court to deny the State's motion for a protective order.

ARGUMENT

I. The Protective Order Violates Both Mr. Troupis' Right to Speak and the Public's Right to Listen.

The State's request is a violation of Mr. Troupis' First Amendment rights.

Any prior restraint on speech comes to a court bearing a heavy presumption *against* its constitutional validity. *Bantam Books v. Sullivan*, 372 U.S. 58, 70 (1963). The State's request reaches beyond an ordinary protective order. It singles out one topic—the subpoena and the records it seeks—for suppression, and it singles out one man to suppress.

The State seems more interested in who the information is coming from. Rather than limiting the disclosure of confidential discovery or sensitive information, it would prohibit the discussion of an entire topic regardless of what information is already available to the public.

The First Amendment requires specificity.

The State's generalized worry about pretrial publicity is not enough to restrict one man's speech about his own defense. Courts restrict a party's out-of-court speech only where there is a substantial likelihood of material prejudice to the proceeding. *See Gentile v. State Bar of Nev.*, 501 U.S. 1030, 1075 (1991).

The presumption runs against the State here, not Mr. Troupis. The Court can craft a narrower remedy than prior restraint if there is a substantial likelihood of material prejudice.

There is prejudice against Mr. Troupis. He has been publicly pilloried by those who disagree with him. The Mayor of Madison has publicly criticized him.² Grassroots organizations have openly campaigned against him.³ If there is genuine concern that public opinion could affect the proceedings, that concern cuts against Mr. Troupis. Yet the State is not asking this Court to quiet those voices, nor should it. The First Amendment presumes the free flow of ideas.

Indeed, additional speech serves as a remedy rather than a threat. The correct response to widespread public criticism is not enforced silence, but the opportunity to answer it. Restricting one side of that conversation leaves the public with an incomplete picture of the controversy and undermines the transparency of judicial proceedings the First Amendment seeks to protect.

² Anya van Wagendonk, *Jim Troupis Says he Can't Get Fair Trial in Madison*, Urban Milwaukee, Jun. 10, 2026, <https://urbanmilwaukee.com/2026/06/10/jim-troupis-says-he-cant-get-fair-trial-in-madison/> (last accessed Aug. 7, 2026).

³ Denise Lockwood, *Jim Troupis Suspended from Wisconsin Supreme Court Job Amid Electoral Fraud Charges*, Racine County Eye, Jun. 11, 2024, <https://racinecountye.com/2024/06/11/jim-troupis-suspended-electoral-fraud-charges/> (last accessed Aug. 7, 2026).

Courts have consistently held that there is a First Amendment interest in defendants' ability to speak on their own cases. *See generally Chase v. Robson*, 435 F.2d 1059 (7th Cir. 1970); *Chicago Council of Lawyers v. Bauer*, 522 F.2d 242 (7th Cir. 1975). Barring Mr. Troupis from speaking about his case impedes the media from gathering the best information possible. This would leave Mr. Troupis, the press, and the public at a great disadvantage.

This presumption makes sense, especially when the full force of the government, and a zealous statewide prosecutor seems committed to grinding a citizen down through the criminal process. If anything, the zeal of the prosecution here warrants more speech about the process, not less.

The First Amendment provides the presumption of openness in judicial proceedings for both the press and the public. *See Richmond Newspapers, Inc. v. Va.*, 448 U.S. 555, 580 (1980). This presumption is for the purpose of public scrutiny and the dissemination of information. *See Grove Fresh Distribs., Inc. v. Everfresh Juice Co.*, 24 F.3d 893, 897 (7th Cir. 1994). It is important for the public and press to have access to a trial, especially one that involves elections.

When speech concerning judicial proceedings is suppressed, the loss is not restricted to the speaker. It also undermines the public perception of fairness and transparency—the things that the judicial system seeks to uphold. The First Amendment protects that transparency because informed public debate, not government managed silence, is what preserves confidence in the judiciary.

The State's request also reveals what this motion is and what it clearly is not. It is not an effort to stop information from reaching the public. If it were, the State would have sought to restrict access to court records and proceedings at the onset. Instead, the State singles out Mr. Troupis while everyone else remains free to speak. The State has no legitimate interest in confidentiality. It only ensures that one of the central voices in this case goes unheard.

Silencing Mr. Troupis would leave the public with only one part of the story. The courtroom can be full of surprises—lawyers may mention information previously not known to the public; discovery may present a completely different argument. But most importantly, if Mr. Troupis is not allowed to speak on any of it, the public and the press are left without information that can change the course of public opinion.

Public trust of the judiciary depends on informed scrutiny rather than blind acceptance. The First Amendment not only protects the right to speak, but also the right to listen. *See First Nat'l Bank v. Bellotti*, 435 U.S. 765, 783 (1978). Silencing Mr. Troupis would deprive the public of one of the voices closest to this litigation while doing little to prevent dissemination of this information already out to the public. That result is incompatible with the Constitution's presumption against prior restraint and a long tradition of openness in judicial proceedings.

II. The State did not Carry its Burden in Showing Good Cause to Grant the Protective Order.

Protective orders restricting speech are to be used in only extreme circumstances. *See Near v. Minn.*, 283 U.S. 697, 716 (1931). They silence a

fundamental constitutional right before it can be exercised. The law requires the state to make specific showings of good cause. *New York Times Co. v. United States*, 403 U.S. 713, 714 (1971). But the State’s request for a protective order is lacking.

This Court faces a number of relevant elements here. Who are the alleged victims for his speech? What is the injury? What is the reason why this order has been brought forward?

The State has no answer.

Instead of identifying a concrete injury, the State’s motion relies on broad assertions. The Court is left only to speculate about what information the State intends to protect, who specifically would be injured, and how that injury would occur. This is exactly what the good cause requirement aims to prevent.

Courts have consistently stated that protective orders restricting speech are the most extreme remedy, and “the [g]overnment ‘thus carries a heavy burden of showing justification for the imposition of such a restraint.’” *New York Times Co. v. United States*, 403 U.S. at 714 (citation omitted). Wisconsin Statutes also lay this out: “[u]pon motion by a party or by the person from whom discovery is sought, *and for good cause shown*, the court may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.” Wis. Stat. §804.01(3)(a) (emphasis added).

The good-cause requirement serves an important constitutional function. High-profile cases draw in controversy, criticism, and media coverage. Those alone cannot stand to justify restricting constitutional freedom.

The State's request for a protective order encompasses hypothetical and speculative injuries and does not satisfy its burden. The broad conclusory statements it includes are insufficient to determine good cause. *Jordan v. Oddsen*, No. 13-cv-640, 2016 U.S. Dist. LEXIS 14996 at *2 (E.D. Wis. Feb. 8, 2016). The State alleges only that there are victims and that there is national and public attention to this matter. Rather than help the Court determine good cause, it leaves the Court with barely any information to make its final decision.

The State is not attempting to protect private discovery information either. Most, if not all this information, is public. Interviews with Mr. Troupis have circulated across the internet, and there are articles that have listed the names of all alleged "fake electors" in Wisconsin.⁴

The State therefore has nothing *to* protect. It wants to prevent any public perception that their case is a malignant effort to destroy Mr. Troupis and jail him for representing the President of the United States.

Because the information the State seeks to restrict is already accessible through public reporting and interviews, the protective order would serve not as a shield for sensitive information, but as a suppression of protected speech by an American facing the full weight of the government. The long tradition of English rights and American Constitutional protections provide example after example why,

⁴ Ewan Palmer, *Full List of Trump Fake Electors in Each State and the Charges Against Them*, Jun. 19, 2023, <https://www.newsweek.com/trump-fake-electors-each-state-2020-election-1814076> (last accessed Aug. 7, 2026).

first the Crown, and then the government should not enjoy protection from the exchange of ideas when the life or liberty of a man hangs in the balance.

CONCLUSION

For the foregoing reasons, *amicus* respectfully urges this Court to deny the State's motion for a protective order.

Dated: August 7, 2026.

Respectfully submitted,

/s/ Noel H. Johnson

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CERTIFICATE OF SERVICE

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

Dated: August 7, 2026.

/s/ Noel H. Johnson

Noel H. Johnson

Wis. Bar No. 1068004