

FILED
11-29-2021
CLERK OF WISCONSIN
SUPREME COURT

Nos. 2020AP2081-AC & 2020AP2103-AC

In the Supreme Court of Wisconsin

WISCONSIN MANUFACTURERS AND COMMERCE, ET AL.,
PLAINTIFFS-RESPONDENTS-PETITIONERS

v.

TONY EVERS, ET AL.,
DEFENDANTS,

AND

MILWAUKEE JOURNAL SENTINEL
INTERVENOR-APPELLANT.

WISCONSIN MANUFACTURERS AND COMMERCE, ET AL.,
PLAINTIFFS-RESPONDENTS-PETITIONERS

v.

TONY EVERS, ET AL.,
DEFENDANTS-APPELLANTS,

AND

MILWAUKEE JOURNAL SENTINEL
INTERVENOR

**BRIEF OF *AMICI CURIAE* NATIONAL FEDERATION OF INDEPENDENT
BUSINESS SMALL BUSINESS LEGAL CENTER, WISCONSIN RESTAURANT
ASSOCIATION, RESTAURANT LAW CENTER, OSHKOSH CHAMBER OF
COMMERCE, RACINE AREA MANUFACTURERS AND COMMERCE, WISCONSIN
DAIRY ALLIANCE, WISCONSIN BUILDERS ASSOCIATION, GREATER WAUSAU
CHAMBER OF COMMERCE, WAUKESHA COUNTY BUSINESS ALLIANCE,
ASSOCIATED BUILDERS AND CONTRACTORS OF WISCONSIN, EAU CLAIRE
AREA CHAMBER OF COMMERCE, WISCONSIN GROCERS ASSOCIATION, AND
WISCONSIN PAPER COUNCIL
IN SUPPORT OF PETITIONERS**

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INTEREST OF AMICI CURIAE¹

The National Federation of Independent Business Small Business Legal Center (NFIB SBLC) is a nonprofit, public interest law firm, established to provide legal resources and be the voice for small businesses in the nation's courts. NFIB is the nation's leading small business association, representing members in Washington D.C. and all fifty state capitals. NFIB's mission is to promote and protect the right of its members to own, operate, and grow their businesses. To fulfill its role as the voice for small business, the NFIB SBLC frequently files amicus briefs in cases that affect small businesses.

The Wisconsin Restaurant Association (WRA) is one of the largest trade associations in the state with over 7,000 member locations throughout Wisconsin. The WRA's mission is dedicated to the success of the Foodservice and Hospitality Industry. The Association advocates on behalf of the restaurant industry, including filing amicus briefs such as this one, to

¹ Counsel for *amici* certifies that this brief was not authored in whole or in part by counsel for any party and that no person or entity other than *amici*, their members, and their counsel has made a monetary contribution intended to fund the preparation or submission of this brief.

provide a voice for the Wisconsin restaurant industry in the courts and highlight the real-world implications of important cases on the industry. WRA membership includes a wide range of foodservice businesses representing virtually every size and style of restaurant in the state.

The Restaurant Law Center is a public policy organization affiliated with the National Restaurant Association. The restaurant and foodservice industry employs approximately 10 percent of the U.S. workforce. The Restaurant Law Center's goal is to protect and advance the restaurant industry and to ensure the views of America's restaurants are taken into consideration by giving them a voice in the courtroom. Through regular participation in amicus briefs, such as this one, the Restaurant Law Center provides courts with the industry's perspective on legal issues in pending cases that have industry-wide implications.

The Oshkosh Chamber of Commerce (OCC) is a private nonprofit, non-governmental organization devoted to enhancing the strength of the business community and working for an excellent quality of life, providing continuous leadership toward economic and community

development. OCC is a member-driven and supported organization where business comes together as a unified voice in the economic, political, educational, and organizational areas for the betterment of the community. OCC is the area's leading business association, actively engaging our members and community to be the driving force for community progress.

Racine Area Manufacturers and Commerce (RAMAC) is Racine's Business Champion serving as a voice representing the common interests of our members. We offer a variety of pro-business and pro-community programs and initiatives that aim to improve the business climate and vitality of the greater Racine area.

The Wisconsin Dairy Alliance (WDA) represents modern regulated dairy farms in Wisconsin and works diligently to preserve Wisconsin's heritage as the Dairy State. WDA is a non-profit organization that advocates for the truth by contesting unnecessary regulations not proven by science and seeks truthful and accountable coverage of legitimate agricultural and environmental issues. WDA provides a platform that unites dairy farm families, processors, environmental experts, and affiliated industries so that real conversation, collaboration, and

scientifically sound, sustainably focused solutions can be attained.

The Wisconsin Builders Association (WBA) is a professional trade association comprised of 21 local associations dedicated to helping members build communities around the state. Established in 1947, WBA has been protecting the American dream for over 70 years. As a professional trade association, the WBA advances the housing industry through government involvement, education, and promotion.

The Greater Wausau Chamber of Commerce (WCC) is strongly committed to the confidentiality of names of businesses that have had to deal with impacts of COVID-19 as to the business and number of personnel impacted. While businesses have worked hard to protect their employees in these times, employees' contact with others and possible exposure to COVID-19 outside the workplace is not constrained by the business.

The Waukesha County Business Alliance (WCBA) has been the voice of Waukesha business since 1918. As a private, member-driven organization, WCBA is the countywide chamber of commerce for Waukesha County. Its membership represents both sole proprietorships and the region's largest employers, in

a variety of industries. WCBA's 1,200 member organizations represent more than 75,000 employees. The organization works to strengthen the county's economy by advocating on behalf of the business community, developing organizations and their employees, facilitating networking opportunities to build strong business relationships, and promoting member businesses.

The Associated Builders and Contractors of Wisconsin (ABC) actively promotes merit—or performance-based—construction. ABC members believe in free enterprise for contractors, while valuing personal and corporate integrity. These beliefs translate into a healthy, productive, competitive, and professional climate. ABC members represent all specialties within the construction industry and perform work in the commercial, residential, and industrial sectors. Member services include an apprenticeship program with 1,800 apprentices in 12 trades, legislative representation, policy advocacy, construction education, safety training, management education, group buying programs, business development, and networking.

The Eau Claire Area Chamber of Commerce (ECC) represents nearly 1200 businesses and organizations who

employ over 35,000 people in its region. ECC has undertaken a key role in facilitating cooperative efforts among the public and private sectors across the community to respond to the pandemic. Working in concert with local governments, healthcare organizations, public health agencies, and each business sector, these efforts have been largely successful in helping to protect public health while making it possible for businesses to remain open. ECC believes the release of this confidential health information would be counterproductive to existing efforts and detrimental to business and public health interests.

The Wisconsin Grocers Association (WGA) is the only statewide trade association and service organization representing the grocery retail food industry. Founded in 1900, it is among the oldest food trade associations in the nation. WGA membership includes retail food stores, from the small independent owners and operators to major supermarket chains, food warehouse distribution companies which supply retailers with food products, wholesalers, convenience stores, food brokers, and over 200 food processing, service, and food-related businesses serving the Wisconsin grocery industry.

WGA advocates on behalf of the grocery industry and the industry supply chain on legislative, regulatory, and legal issues in multiple venues.

The Wisconsin Paper Council (WPC) has served as the voice of Wisconsin's pulp and paper industry since 1968. WPC is a non-profit statewide organization representing 14 pulp and paper mills located in Wisconsin, along with 71 associate members employing over 30,000 manufacturing workers in Wisconsin. The output of paper manufactured products is estimated to be over \$18 billion annually. WPC advocates for and represents its members on public policy matters concerning the industry.

Amici are thirteen business organizations, including national and state groups, concerned about the grave danger to Wisconsin's business community from the Governor's plan and court of appeals opinion. Together, *amici* represent nearly every category of industry and type of business in Wisconsin.

SUMMARY OF ARGUMENT

Governor Evers plans to publish the names of businesses that have had employees test positive for COVID-19 and the number of employees who have tested positive. This will not stop the spread of the virus or ensure workplace safety. Instead, it instills fear in consumers and job applicants, causing them to forego patronizing establishments with a link to COVID-19, however remote.

The circuit court correctly concluded this plan will irreversibly harm Wisconsin's small business community, but the court of appeals erroneously held Plaintiffs lacked standing. Plaintiffs and their members have taxpayer standing based on the use of state personnel to respond to these requests and standing based on the stigma, reputational, and financial harm to their establishments. Also, the lower court disputed irrefutable facts about small businesses, applied the wrong standard of review on a motion to dismiss, and eliminated the protection of patient health information. Finally, Wisconsin's business community faces a significant labor shortage, which the Governor's plan will only intensify.

Therefore, *amici* urge this Court to reverse the court of appeals.

ARGUMENT

I. The court of appeals’ opinion is replete with mistakes impacting restaurants and small businesses.

Amici do not seek to reiterate already briefed arguments. However, the court of appeals’ opinion contains errors affecting restaurants and small businesses, which this Court should correct.

A. The Court of Appeals Wrongfully Concluded Plaintiffs Lacked Standing.

The most egregious mistake by the court of appeals was its telling Plaintiffs that financial and reputational harms are insufficient to enter the courthouse door.

In painting a broad stroke against standing, the court of appeals declared “doctrines that can confer standing on a party cannot be substituted for a statutory or constitutional provision that creates a legally protectable interest[.]”

Wisconsin Manufacturers and Commerce v. Evers, 2021 WI App 35, ¶27, __ Wis. __, 960 N.W.2d 442 [hereinafter “WMC”]. But just this year, this Court said the “*expenditure of taxpayer*

funds gives [the Plaintiff] a legally protected interest” which is a “requirement often voiced in terms of standing.” *Fabick v. Evers*, 2021 WI 28, ¶11, 396 Wis. 2d 231, 956 N.W.2d 856 (emphasis added; citations omitted). In *Fabick*, this Court did not require the plaintiff to identify a “statutory or constitutional provision that creates a legally protectable interest”, *WMC*, __ Wis. 2d __, ¶27, as the “alleg[ation] that the complaining taxpayer and taxpayers as a class have sustained, or will sustain, some pecuniary loss” was enough. *Fabick*, 396 Wis. 2d 231, ¶11 (citation omitted).² Plaintiffs allege taxpayer standing based on state employees collecting and responding to public records requests while on the job receiving a salary provided by the taxpayer. If the deployment of National Guard forces, entirely funded by the federal government, “is sufficient to confer taxpayer standing” based on “[t]he imminent threat of unreimbursed costs”, *id.*, ¶11 n.5, then so too is the “real and immediate” threat of pecuniary loss

² The court of appeals distinguished *Fabick* by arguing the expenditures in this case were legal, erroneously quoting *Fabick*’s claim of right discussion. *Wisconsin Manufacturers and Commerce v. Evers*, 2021 WI App 35, ¶30, __ Wis. __, 960 N.W.2d 442 [hereinafter “WMC”]. This places the merits analysis before the justiciability analysis, defying the logic and purpose of justiciability doctrines. Instead, the allegation of an illegal expenditure of funds should be enough. *See Fabick v. Evers*, 2021 WI 28, ¶¶10–12, 396 Wis. 2d 231, 956 N.W.2d 856 (concluding *Fabick* had taxpayer standing *before* reviewing the merits).

from state employees spending time responding to these record requests. *See id.*, ¶101 (Bradley A.W., dissenting) (distinguishing *Warden* based on the “real and immediate” threat of injury).³

Additionally, the court of appeals gave little credence to the resulting reputational harm from a COVID-19 scarlet letter. This Court has consistently recognized a “legally protected interest” in one’s good reputation. *See Armada Broadcasting, Inc. v. Stirn*, 183 Wis. 2d 463, 472-74, 516 N.W.2d 357 (1994) (concluding the party had a “legally protected interest” due to possible reputational harm from release of a report in an open records case); *see also Wisconsin Newspress, Inc v. School Dist. of Sheboygan Falls*, 199 Wis. 2d 768, 787-89, 546 N.W.2d 143 (1996) (recognizing possible reputational harm from release of records without a prior investigation); *Denny v. Mertz*, 106 Wis. 2d 636, 658, 318 N.W.2d 141 (1982) (recognizing a “legally protected interest” in “maintaining [one’s] good name”). Releasing this information will cause the community to improperly label the named businesses as uncompliant, unsafe,

³ The threat is “real and immediate” here because the State will release this information upon this Court’s approval.

or likelier to transmit COVID-19. The stigma recognized by the circuit court is not speculative, as even the CDC acknowledged the strength of COVID-19-related stigmas and ensuing harm:

Stigma is associated with a lack of knowledge about how COVID-19 spreads, a *need to blame someone* . . . Fear and anxiety about a disease can lead to social stigma, which is negative attitudes and beliefs towards people, *places*, or things. Stigma can lead to labeling, stereotyping, discrimination, and *other negative behaviors* towards others. For example, stigma and discrimination can occur when *people link a disease, such as COVID-19, with a population, community, or nationality*. . . . Stigma hurts everyone by creating more fear or anger toward ordinary people instead of focusing on the disease that is causing the problem. . . . **Community leaders and public health officials can prevent stigma by:** Maintaining the privacy and confidentiality of . . . those who may be part of any contact investigation.⁴

Just last term, the Supreme Court confirmed reputational harm can provide standing. *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2200 (2021). “Various intangible harms . . . are . . . recognized as providing a basis for lawsuits in American courts. Those include, for example, *reputational harms*,” *Id.* at 2204 (emphasis

⁴ *Reducing Stigma*, CTRS. FOR DISEASE CONTROL AND PREVENTION (July 22, 2021), <https://www.cdc.gov/mentalhealth/stress-coping/reduce-stigma/index.html> (some emphasis added).

added; citations omitted). The key difference between those plaintiffs with standing in *TransUnion* and those without, was the release of information to third-parties labeling the former something they were not—causing possible harm to their reputation. *Id.* at 2208, 2212-13. Wisconsin’s restaurants and small businesses have the same concrete harm, and standing, from being labeled something they are not—COVID-19 hotspots.

The court of appeals erred. Plaintiffs have both taxpayer standing and standing based on stigma and reputational harm.

B. The Court of Appeals Ignored Irrefutable Facts About Small Business.

The court of appeals characterized Plaintiffs’ “premise” that each business contains a “relatively small number of employees[,]” allowing for identification of patients, as “speculative.” *See WMC*, __ Wis. 2d __, ¶¶37-38. Ignoring this improper challenge to Plaintiffs’ factual contention on a motion to dismiss review, *amici* are troubled at the court of appeals dismissing the substantial number of extremely small businesses. In 2020, almost 500,000 of Wisconsin’s 1.3 million

small business employees were in facilities with less than 20 employees. U.S. SMALL BUS. ADMIN. OFF. OF ADVOC., WISCONSIN SMALL BUSINESS PROFILE (2020), <https://cdn.advocacy.sba.gov/wp-content/uploads/2020/06/04144242/2020-Small-Business-Economic-Profile-WI.pdf>. Just a few years ago, microbusinesses—employers with 9 or fewer employees—made up almost 75% of all private-sector employers nationwide. U.S. SMALL BUS. ADMIN. OFF. OF ADVOC., SMALL BUSINESS FACTS: THE ROLE OF MICROBUSINESS EMPLOYERS IN THE ECONOMY (2017), <https://cdn.advocacy.sba.gov/wp-content/uploads/2019/06/06120136/508FINALAug17Microbusiness.pdf>.

Amici respectfully ask this Court to remain cognizant of how many extremely small businesses are impacted by its decision.

C. The Court of Appeals Altered the Twombly Standard, Rendering it More Difficult for Businesses to Receive Their Day in Court.

Small business and restaurant owners need predictability in the law. *Twombly* has been the federal pleading standard for over 10 years. *Bell Atlantic Corp. v.*

Twombly, 550 U.S. 544 (2007). For 41 years this Court has made clear that “pleadings are to be liberally construed” and “facts pleaded and all reasonable inferences . . . are admitted to be true[.]” *Ollerman v. O’Rourke Co.*, 94 Wis. 2d 17, 24, 288 N.W.2d 95 (1980). Pleadings must “plausibly suggest a violation of applicable law.” *Data Key Partners v. Permira Advisers LLC*, 2014 WI 86, ¶21, 356 Wis. 2d 665, 849 N.W.2d 693.

The court of appeals instead reviewed whether the facts themselves were plausible. *See WMC*, __ Wis. 2d __, ¶35 (“Associations do not allege plausible facts . . .”). The lower court disputed Plaintiff’s pleaded factual allegation that there were a “relatively small number of employees at any given facility[.]” *See id.*, ¶37. Shifting this standard of review from whether factual allegations raise plausible legal claims, to whether factual allegations themselves are plausible, hurts the small business community.

This new pleading standard increases the asymmetrical litigation power between smaller businesses and the leviathans. Small businesses will be at increased risk of having justified legal claims thrown out on motions to dismiss.

Meanwhile, the State and big businesses can ensure their teams of attorneys meet the new heightened standard, or badger smaller firms with motions to dismiss debating the plausibility of factual allegations.

Amici urge this Court to restore proper order in Wisconsin's motion to dismiss standard of review.

D. The Court of Appeals Held Wisconsin Law Does Not Protect Sensitive Information Contained in Health Care Records.

In footnote nine of its opinion, the court of appeals placed Dumbo where only Jerry would fit. *See Whitman v. American Trucking Assocs. Inc.*, 531 U.S. 457, 468 (2001) (discussing the maxim that elephants are not hid in mouseholes). The court unequivocally claimed the “statutory definition [of patient health care records] does not encompass information that is merely derived from a record.” *WMC*, __ Wis. 2d __, ¶24 n. 9 (citation omitted). Like all Wisconsin residents, business owners have a privacy interest in their patient health information. The court of appeals' interpretation of Wis. Stat. § 146.82 is dangerous and ripe for abuse. With only the actual records protected and not the information therein, bad faith actors could seek the names of business owners or employees

who have engaged in protected behavior, such as having an abortion, or who have claimed a religious or medical exemption from vaccination requirements. These scenarios have multiple harms—the infringement of patients’ privacy interests, chilling of protected behavior, and an adverse effect on a business’s revenue if done for boycotting purposes.

This Court should not permit the weaponization of private patient health information, as the court of appeals’ interpretation makes possible.

II. The Governor’s plan will exacerbate the already-dire situation for Wisconsin’s restaurants and small businesses.

The circuit court rightfully recognized the harm to Wisconsin’s restaurants and small businesses resulting from the Governor’s planned actions. *See* Pl. Appellant App. 45-47.

Courts have recognized the significant harm from a loss in business revenue, or actual or threatened disruption of business operations. *See Am. Mut. Liability Ins. Co. v. Fisher*, 58 Wis. 2d 299, 306, 206 N.W.2d 152 (1973) (cited sources omitted); *Nemer Jeep-Eagle, Inc. v. Jeep-Eagle Sales Corp.*, 992 F.2d 430, 435 (2d Cir. 1993) (“Major disruption of a business can be as harmful as termination[.]”). In *John B. Hull, Inc. v. Waterbury Petroleum*

Prods. Inc., the Second Circuit held the loss of customers and threat to a business's existence constituted a significant harm. 588 F.2d 24, 28-29 (2d Cir. 1978). Similarly, the Seventh Circuit reversed the denial of a preliminary injunction where law enforcement actions negatively affected a business's financial health. *See Backpage.com, LLC v. Dart*, 807 F.3d 229, 230, 237-38 (7th Cir. 2015).

The business community supports the goal of mitigating the COVID-19 spread. But releasing the names of businesses with employees testing positive over twenty-eight days ago will not do so. *See* Alex Bell, *How Long Does it Take for Symptoms of COVID-19 to Appear?*, MED. NEWS TODAY (June 17, 2020), <https://www.medicalnewstoday.com/articles/how-long-does-it-take-for-covid-19-symptoms-to-appear> (listing the typical incubation period as between two and fourteen days, with a mean of five); *Quarantine & Isolation*, CDC (Oct. 4, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/end-home-isolation.html> (discussing the spreading period as ten days after symptoms appear for possible, mild, or asymptomatic cases, and typically less than twenty days for serious cases). Thus, the contagion period for most cases will pass before the

28-day period of non-release. Releasing old data will not only harm the business community, but also jeopardize effective public health response by disincentivizing public cooperation with contact tracing efforts.

Even if cases within the preceding 28-day window were included, important contextual information would be absent:

- (1) Where did the employee contract the virus;
- (2) If contracted outside the workplace, did the employee subsequently enter the workplace;
- (3) If the answer to (2) was “No”, did other staff have contact with the infected employee and return to the workplace; and
- (4) If the employee brought the virus into the workplace, was the employee unmasked or not social distancing while at work?

Without this information, members of the public cannot know whether the business was exposed to the virus, they were exposed, or they would become exposed if visiting the business. As the circuit court noted, the Governor’s plan leads to an improper “logical conclusion,” and there is “no logical

connection” between a COVID-positive employee and that business. *See* Pl. Appellant App. 47-48.

Wisconsin’s restaurants and small businesses continue to struggle from the effects of COVID-19. The NFIB Research Center collects information from small businesses about their struggles from COVID-19 and ensuing government restrictions. In a recent survey, 50% of respondents claimed their community would not return to pre-COVID economic activity until the second half of 2022. NFIB Research Center, *COVID-19 Small Business Survey (19) 5* (Sept. 2021), <https://assets.nfib.com/nfibcom/Covid-19-19-Questionnaire.pdf>.

Moreover, 66% have a staffing shortage, while 27% have a significant shortage. *Id.* at 6. Staffing shortages led to lost sales opportunities for 82% of businesses, including significant or moderate lost sales for 52%. *Id.* at 6-7. This is so even though four out of five businesses increased their starting wages. *Id.* at 7.

The outlook for Wisconsin’s restaurants is similarly uncertain. According to a September survey, 63% of restaurants experienced lower sales volume in August 2021 compared to August 2019. National Restaurant Association, *COVID-19*

Restaurant Impact Survey VIII (1) (Sept. 2021), <https://restaurant.org/downloads/pdfs/business/covid-19-restaurant-impact-survey-september-2021>. Restaurants do not envision a return to normal soon, as 67% expect business conditions to continue lagging for the next 7 months. *Id.* at 2-3. Restaurants also face significant staffing shortages: almost 80% lack enough employees to meet customer demand, while nearly 40% of those understaffed restaurants are more than 20% below needed staffing levels. *Id.* at 3.

The Wall Street Journal also revealed that the September 2021 labor force was almost two percent lower than February 2020 levels—a reduction of nearly 4.3 million workers. Josh Mitchell et al., *4.3 Million Workers Are Missing, Where Did They Go?*, WALL ST. J. (Oct. 14, 2021, 11:57AM), <https://www.wsj.com/articles/labor-shortage-missing-workers-jobs-pay-raises-economy-11634224519>. “Workers are quitting at or near the highest rates on record[.]” *Id.* Restaurants and bars were especially hard hit, losing over 930,000 jobs since February 2020, even while increasing hourly wages by over 10%. *Id.*

Painting the door of Wisconsin’s businesses with a scarlet COVID-19 only worsens these problems. Potential employees

will cease applying for open positions at businesses named on the Governor's list. Recent Census surveys substantiate the fear job applicants have of COVID-19. At the end of September, more than 3 million people listed "concern[] about getting or spreading the coronavirus" as their reason for not working. *Educational Attainment for Adults Not Working at Time of Survey, by Main Reason for Not Working and Source Used to Meet Spending Needs: United States, U.S. Census Bureau Household Pulse Survey, Week 38* tbl. 3 (2021), <https://www.census.gov/data/tables/2021/demo/hhp/hhp38.html> ("Table 3" under "Employment Tables"). Nearly 80,000 Wisconsinites said the same. *Id.* Wisconsin's restaurants and small businesses do not need the government giving those individuals not working additional reason to continue doing so.

Overall, branding Wisconsin's business community with a COVID-19 label will only exacerbate their suffering. Consumers will forego visiting listed businesses and applicants will refrain from applying out of fear of contracting COVID-19. These unintended consequences will lead to lost revenue and a disruption in business operations.

CONCLUSION

Amici curiae respectfully request that this Court reverse the court of appeals.

DATED this 29th day of November
2021.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "L. R.", is written above a horizontal line.

FORM AND LENGTH CERTIFICATION

I hereby certify that this brief conforms to the rules contained in Wis. Stat. §§ 809.19(8)(b) and (c) as to form and length for an amicus brief produced with a proportional serif font. The length of this brief, including footnotes, is 2,678 words.

Dated this 29th day of November 2021.

A handwritten signature in black ink, appearing to be "L. R.", is written above a horizontal line.

CERTIFICATION REGARDING ELECTRONIC BRIEF

I hereby certify that I have submitted an electronic copy of this brief which complies with the requirements of Wis. Stat. § 809.19(12).

I further certify that the text of the electronic copy of the brief is identical to the text of the paper copy of the brief filed as of this date.

A copy of this certificate has been served with the paper copies of this brief filed with the court and served on all opposing parties.

Dated this 29th day of November 2021.

A handwritten signature in black ink, appearing to be "L. R.", is written above a horizontal line.

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of November 2021, I caused a copy of this brief to be served upon each of the following persons via U.S. Mail, First Class:

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