

**STATE OF WISCONSIN
SUPREME COURT**

JERÉ FABICK AND LARRY CHAPMAN,
Petitioners,

v.

ANDREA PALM, JULIE WILLEMS VAN DIJK, NICOLE SAFAR, IN THEIR OFFICIAL CAPACITIES AS EXECUTIVES OF WISCONSIN DEPARTMENT OF HEALTH SERVICES; JOSH KAUL, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL OF WISCONSIN; DAVID ERWIN, IN HIS OFFICIAL CAPACITY AS CHIEF OF THE WISCONSIN STATE CAPITOL POLICE; DAVID MAHONEY, IN HIS OFFICIAL CAPACITY AS SHERIFF OF DANE COUNTY, WISCONSIN; ISMAEL OZANNE, IN HIS OFFICIAL CAPACITY AS DISTRICT ATTORNEY OF DANE COUNTY, WISCONSIN; ERIC SEVERSON, IN HIS OFFICIAL CAPACITY AS SHERIFF OF WAUKESHA COUNTY, WISCONSIN; SUSAN OPPER, IN HER OFFICIAL CAPACITY AS THE DISTRICT ATTORNEY OF WAUKESHA COUNTY, WISCONSIN; KURT PICKNELL, IN HIS OFFICIAL CAPACITY AS SHERIFF OF WALWORTH COUNTY; AND ZEKE WIEDENFELD, IN HIS OFFICIAL CAPACITY AS DISTRICT ATTORNEY OF WALWORTH COUNTY, WISCONSIN.

Respondents.

MOTION OF THE FREEDOM FROM RELIGION FOUNDATION FOR
LEAVE TO FILE NON-PARTY BRIEF AS *AMICUS CURIAE*

The Freedom From Religion Foundation, through undersigned counsel, hereby respectfully requests to be given leave to submit the attached non-party brief as *amicus curiae* in support of Respondents. This motion is brought pursuant to Wis. Stat. §§ 809.14(1) and 809.19(7)(a), along with this Court's Order entered May 5, 2020, which states that all motions for leave to file non-party briefs and the accompanying briefs shall be filed in this court no later than 4:00 pm on May 8, 2020. In support of this motion, *amicus* submits the following:

1. *Amicus* is a non-profit organization whose primary purpose includes protecting the principle of separation between state and church. FFRF has been a litigant in over 70 cases involving either the First Amendment or similar provisions in state constitutions, including Wisconsin's Article 1, Section 18. FFRF has a professional interest in promoting a sound understanding of the principle of separation between state and church, including the proper application of that principle in the unusual context of a public health crisis.

2. *Amicus* has specialized knowledge and experience on issues of critical importance in evaluating whether to grant or deny the motion for an

injunction. In particular, based on FFRF's experience litigating matters related to the separation of state and church, FFRF explains how this principle applies in the context of government action taken in response to a public health crisis. FFRF believes this information sheds light on the propriety of the government's actions in response to the crisis.

3. This motion for leave to file and the accompanying brief are submitted in a timely fashion pursuant to this Court's Order dated May 5, 2020.

WHEREFORE, movant hereby respectfully request that this Court grant this motion and give leave to file the accompanying *amicus* brief.

DATE: May 8, 2020

Respectfully submitted,



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CERTIFICICATE OF SERVICE

I hereby certify that on this date I caused an electronic copy of this motion and the proposed brief to be sent by email to clerk@wicourts.gov. In addition, I caused a paper original and one copy of the motion, and ten copies of the brief, to be sent today by U.S. Mail to the Clerk of the Supreme Court of Wisconsin, 110 East Main Street, Suite 215, P.O. Box 1688, Madison, WI 53701-1688. I also caused a copy of the motion and three copies of the proposed brief to be sent to the counsel of record for the parties by U.S. Mail to the counsel of record at the addresses listed below.

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DATE: May 8, 2020



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