

RECEIVED

OCT 13 2020

CLERK OF SUPREME COURT
OF WISCONSIN

STATE OF WISCONSIN SUPREME COURT

Case Nos. 2020AP1420-OA, 2020AP001446-OA, 20201419-OA

WISCONSIN COUNCIL OF RELIGIONS AND INDEPENDENT
SCHOOLS, SCHOOL CHOICE WISCONSIN ACTION,
ABUNDANT LIFE CHRISTIAN SCHOOL, HIGH POINT
CHRISTIAN SCHOOL, LIGHTHOUSE CHRISTIAN
SCHOOL, PEACE LUTHERAN SCHOOL, WESTSIDE CHRISTIAN
SCHOOL, CRAIG BARRETT, SARAH BARRETT, ERIN
HAROLDSON, KENT HAROLDSON, KIMBERLY HARRISON,
SHERI HOLZMAN, ANDREW HOLZMAN, MYRIAH MEDINA,
LAURA STEINHAUER, ALAN STEINHAUER, JENNIFER
STEMPSKI, BRYANT STEMPSKI, CHRISTOPHER TRUITT AND
HOLLY TRUITT,

Petitioners,

v.

JANEL HEINRICH, IN HER OFFICIAL CAPACITY AS PUBLIC
HEALTH OFFICER AND DIRECTOR OF PUBLIC HEALTH OF
MADISON AND DANE COUNTY, AND PUBLIC HEALTH OF
MADISON AND DANE COUNTY,

Respondents.

ST. AMBROSE ACADEMY, INC., ANGELA HINELINE, JEFFERY
HELLER, ELIZABETH IDZI, JAMES CARRANO, LAURA
MCBAIN, SARAH GONNERING, ST. MARIA GORETTI
CONGREGATION, NORA STATSICK, ST. PETER'S
CONGREGATION, ANNE KRUCHTEN, BLESSED SACRAMENT
CONGREGATION, AMY CHILDS, BLESSED TRINITY
CONGREGATION, COLUMBIA/DANE COUNTY, WI INC.,
LORETTA HELLENBRAND, IMMACULATE HEART OF MARY
CONGREGATION, LORIANNE AUBUT, ST. FANCIS XAVIER'S
CONGREGATION, MARY SCOTT, SAINT DENNIS

CONGREGATION AND RUTH WEIGEL-STERR,
Petitioners,

v

JOSEPH T PARISI, IN HIS OFFICIAL CAPACITY AS COUNTY
EXECUTIVE OF DANE COUNTY AND JANEL HEINRICH, IN
HER OFFICIAL CAPACITY AS DIRECTOR, PUBLIC HEALTH,
MADISON & DANE COUNTY,
Respondents

SARA LINDSEY JAMES,
Petitioner,

v

JANEL HEINRICH, IN HER CAPACITY AS PUBLIC HEALTH
OFFICER OF MADISON AND DANE COUNTY,
Respondent

**NONPARTY BRIEF OF INSTITUTE FOR JUSTICE
IN SUPPORT OF PETITIONERS**

Lee U McGrath
Wis Bar No 1077218
INSTITUTE FOR JUSTICE
520 Nicollet Mall, Suite 550
Minneapolis MN 55402-2626
(612) 435-3451
lmcgrath@ij.org

Milad Emam*
Va Bar No 83861
INSTITUTE FOR JUSTICE
901 N Glebe Road, Suite 900
Arlington, VA 22203
(703) 682-9320
memam@ij.org

Attorneys for Nonparty Institute for Justice
**Pro hac vice admission pending*

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES .	iv
INTEREST OF NONPARTY	1
INTRODUCTION	2
ARGUMENT	4
A Wisconsin Courts Have Repeatedly Invalidated Protectionist Restrictions Under the Rational-Basis Test	5
B The School-Closure Order Is Unconstitutionally Protectionist	11
CONCLUSION	17

TABLE OF AUTHORITIES

	<u>Page</u>
Cases	
<i>Ariz Christian Sch Tuition Org v Winn</i> , 563 U S 125 (2011)	2
<i>Espinoza v Mont Dep't of Revenue</i> , 140 S Ct 2246 (2020)	2
<i>Ibrahim v City of Milwaukee</i> , No 11-CV-15178 (Mil Cnty Cir Ct, Apr 16, 2013)	1, 8, 10, 11
<i>Jackson v Benson</i> , 218 Wis 2d 835, 578 N W 2d 602 (1998)	2
<i>Kvovrist v Dep't of Agric, Trade & Consumer Prot</i> , No 16-CV-06 (Lafayette Cnty Cir Ct, May 31, 2017)	1, 8, 10
<i>Matter of Visitation of A.A L</i> , 2019 WI 57, 387 Wis 2d 1, 927 N W.2d 486	2, 3
<i>Pierce v Soc'y of Sisters</i> , 268 U S 510 (1925)	3
<i>State ex rel Grand Bazaar Liquors, Inc v City of Milwaukee</i> , 105 Wis 2d 203, 313 N W 2d 805 (1982)	<i>passim</i>
<i>State ex rel Week v Wis State Bd of Exam'rs in Chiropractic</i> , 252 Wis 32, 30 N W 2d 187 (1947)	4
<i>White Cottage Red Door, LLC v Town of Gibraltar</i> , No 18-CV-191 (Door Cnty Cir Ct, Sep 3, 2020)	1, 8, 9, 10

Wis Wine & Spirit Inst v Ley,
141 Wis 2d 958, 16 N W 2d 914 (Wis Ct App 1987) 8

Zelman v. Simmons-Harris,
536 U S 639 (2002) 2

EXECUTIVE ORDERS

Dane County Emergency Order #9 (as amended Sept 1, 2020),
§§ 4(a), 4(d), 6(d)-(f) . . . 15, 16

OTHER AUTHORITIES

Adam Rogan, *Will Gov Evers order schools to close statewide in fall? At least one Republican fears he will*, Kenosha News (Aug 4, 2020), https://www.kenoshanews.com/news/local/will-gov-evers-order-schools-to-close-statewide-in-fall-at-least-one-republican-fears/article_e784de6b-9a44-554e-a9f4-3a214a1410f9.html 13

Corey DeAngelis, *Cannibalizing private life*, Wash Examiner (Sep 3, 2020, 11:00 AM), <https://www.washingtonexaminer.com/opinion/cannibalizing-private-life>. . . . 13

Logan Wroge, *Madison teachers union demands fully virtual start to school year*, Wis St. J. (Jul 17, 2020), https://madison.com/wsj/news/local/education/local_schools/madison-teachers-union-demands-fully-virtual-start-to-school-year/article_51e70df9-e7bb-5624-b3be-805701a07dd9.html . 12

INTEREST OF NONPARTY

The Institute for Justice (“IJ”) is a nonprofit, public-interest law firm committed to securing the constitutional protections necessary for individual liberty. One of IJ’s primary missions is protecting the right to economic liberty, and IJ has litigated dozens of cases for this purpose. In Wisconsin, IJ has won challenges to a town’s bans on food trucks, the state’s ban on the sale of home-baked goods, and Milwaukee’s cap on taxi cabs. *White Cottage Red Door, LLC v. Town of Gibraltar*, No. 18-CV-191 (Door Cnty Cir Ct, Sep 3, 2020), *Kivirist v. Dep’t of Agric., Trade & Consumer Prot.*, No. 16-CV-06 (Lafayette Cnty Cir Ct, May 31, 2017), *Ibrahim v. City of Milwaukee*, No. 11-CV-15178 (Mil Cnty Cir Ct, Apr 16, 2013). That mission is implicated here because, as discussed more fully below, this case implicates this Court’s longstanding recognition that the Wisconsin Constitution will not countenance regulations or laws that seek to protect special interests from competition rather than protecting the general public.

One of IJ's other primary missions is defending educational choice. IJ has represented parents in more than 30 school-choice lawsuits in the past 30 years, including all three school-choice cases decided by the U.S. Supreme Court: *Espinoza v. Mont. Dep't of Revenue*, 140 S. Ct. 2246 (2020), *Ariz. Christian Sch. Tuition Org. v. Winn*, 563 U.S. 125 (2011), *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002). In this Court, IJ successfully defended Milwaukee's landmark school-choice program *Jackson v. Benson*, 218 Wis. 2d 835, 578 N.W.2d 602 (1998). That mission is implicated here because the order challenged here deprives parents of the ability to choose from diverse options in exercising their right (and, indeed, duty) to educate their children—and it does so in the context of a global pandemic that has made the need for these diverse options only more compelling.

INTRODUCTION

As this Court has recognized, parents have a "fundamental liberty" interest in "direct[ing] the upbringing and education of children under their control." *Matter of Visitation of A A L*, 2019 WI

57, ¶ 15, 387 Wis 2d 1, 927 N W 2d 486 (citing *Pierce v Soc’y of Sisters*, 268 U S 510, 534–35 (1925)) Dane County’s Emergency Order #9 (“School-Closure Order”)—as enacted on August 24, 2020 and amended on September 1, 2020—infringes this right Under the Order, parents cannot send their children in grades 3–12 to private schools for in-person instruction, even though they could send those same children to the same facilities for daycare or summer camps This discrimination cannot withstand constitutional scrutiny— Petitioners have persuasively argued that the School-Closure Order triggers (and fails) strict scrutiny ¹

As Amicus explains here, the Order would still be unconstitutional even if the rational-basis test applied That is because the Order is a purely protectionist measure, and protectionism is not a legitimate government interest under the Wisconsin Constitution Indeed, this Court has instructed that

¹ While Petitioners have asserted a Freedom of Conscience claim, the School-Closure Order independently triggers strict scrutiny because parents have a fundamental right to direct the education of their children *Matter of Visitation of A A L*, 2019 WI 57, ¶ 15

courts must regard public-welfare justifications for protectionist laws with "skepticism" Amicus requests that the Court reaffirm this precedent in finding the School-Closure Order unconstitutional

ARGUMENT

Protectionist governmental restrictions on Wisconsinites' rights are unconstitutional even where the state's rational-basis test applies That is because protecting one group from competition by another is not a "legitimate exercise of police power" *State ex rel Week v Wis State Bd of Exam'rs in Chiropractic*, 252 Wis 32, 36, 30 N W 2d 187 (1947) (invalidating a continuing education requirement for chiropractors when only one association could offer the educational program, as "the state was acting for the benefit of the association primarily")

In determining whether a challenged law is unconstitutionally protectionist, Wisconsin courts have applied a three-part framework First, courts consider evidence that protectionism is at play Second, if protectionism is at play, courts skeptically evaluate the government's alternative rationales for a law Third, with this

skepticism in mind, courts scrutinize record evidence to determine whether the law actually relates to a legitimate goal. As discussed below, this Court—and lower courts—have used this framework to invalidate protectionist laws under the rational-basis test.

Under this precedent, the School-Closure Order is unconstitutional. As the Order's history shows, there is evidence that Dane County banned private schools to protect a teachers' union from competition. This Court should consequently be skeptical that the Order relates instead to other justifications, like public health. Given that schools do not pose a bigger threat to public health than daycares or summer camps do, the Order's discrimination between shuttered schools and open facilities is irrational. Thus, the Order cannot satisfy the rational-basis test.

A. Wisconsin Courts Have Repeatedly Invalidated Protectionist Restrictions Under the Rational-Basis Test.

Wisconsin courts have consistently recognized that protectionist laws cannot pass constitutional muster. As Amicus has seen firsthand in its cases, these courts have used the rational-basis

test to invalidate anticompetitive restrictions on food trucks, home bakers, and taxicab drivers, among others

This Court's leading precedent on protectionism – *State ex rel Grand Bazaar Liquors, Inc v City of Milwaukee*, 105 Wis 2d 203, 313 N W 2d 805 (1982) – is illustrative. There, Milwaukee enacted an ordinance requiring that, to be eligible for liquor licenses, applicants would have to make half of their profits or more from on-the-premises liquor sales. *Id.* at 204. This meant that liquor stores could get a license, but grocery stores could not. *Id.* at 205

The Court struck down Milwaukee's ordinance in three steps. First, the Court flagged the ordinance's anticompetitive roots. It noted that "the ordinance was supported by special interest groups," *id.* at 209, including a trade association of liquor retailers, *id.* at 210 n 5, "as an anti-competitive measure to keep large retail stores out of the retail liquor business." *Id.* at 209–10

Second, the Court recognized that the government's asserted rationales for the ordinance were pretexts. When a grocery store challenged the ordinance, the City of Milwaukee predictably denied

that the law was protectionist *Id.* at 210 Counsel for the city imagined that if a license holder had more than half of its income at stake, it would be more likely to protect its license by diligently enforcing and obeying liquor laws *Id.* at 208 Counsel likewise speculated that the requirement would reduce the number of places where people could buy alcohol *Id.* at 210 Rather than taking these rationales at face value, the Court declared that it “should receive with some skepticism” city counsel’s two “post hoc hypotheses about legislative purpose” *Id.* at 211 (quotation marks and citations omitted)

Third, with this skepticism in mind, the Court examined the record in finding that the challenged ordinance did not “accomplish [its] articulated goals[]” *Id.* at 212 (finding “glaring absence in the record”) The challenged ordinance did not promote compliance with liquor laws, especially considering that some retailers ineligible for liquor licenses “appear[ed] equally, if not more” law-abiding than those eligible. *Id.* at 212-13 And the ordinance did not reduce the number of places where alcohol was available, as the ordinance

did not limit the number of liquor licensees *Id* at 212 The Court thus invalidated the ordinance as unconstitutionally protectionist under both substantive due process and equal protection *Id* at 218

Lower courts have repeatedly applied *Grand Bazaar Liquors* in invalidating protectionist laws *See, e g , Wis. Wine & Spirit Inst v Ley*, 141 Wis 2d 958, 966, 416 N W.2d 914 (Wis Ct. App 1987) (holding grandfather clause of liquor-license restriction was unconstitutional) In fact, circuit courts have applied *Grand Bazaar Liquors* – and its three-part framework – in three cases litigated by Amicus *White Cottage Red Door, LLC v Town of Gibraltar*, No 18-CV-191 (Door Cnty Cir Ct , Sep 3, 2020), *Kwirist v. Dep't of Agric , Trade & Consumer Prot* , No 16-CV-06 (Lafayette Cnty Cir Ct , May 31, 2017); *Ibrahim v City of Milwaukee*, No 11-CV-15178 (Mil Cnty Cir. Ct , Apr 16, 2013) (all included in this brief's appendix ("App"))

For example, in *White Cottage Red Door*, a court used this framework in striking down a pair of anticompetitive food-truck ordinances There, a town chaired by a restaurant owner banned food trucks after the plaintiffs opened one App at 7, 11-12 After

the plaintiffs sued, the town enacted a new ordinance prohibiting food trucks in its downtown area where brick-and-mortar restaurants were located. *Id.* at 7

The court declared these ordinances unconstitutional under *Grand Bazaar Liquors*. First, the court noted the town ordinances' protectionist history – restaurateurs, including two on the town's governing board, wanted food trucks banned "to eliminate competition with their businesses." *Id.* at 12. Second, where the government asserted traffic safety, town "character," and property-tax collection as bases for its ordinances, the court considered them "hypothesized post hoc rational[es]." *Id.* at 13. Third, the court scrutinized the record in finding that the ordinances did not actually further these rationales. Because food trucks did not "impact traffic or congestion any differently" than brick-and-mortar restaurants with outdoor operations did, the ordinances did not rationally relate to traffic safety. *Id.* at 14. Likewise, the town's "fact-free speculative justification" concerning town "character" failed. *Id.* And the town's tax rationale was unavailing given that "[p]rivate property

from which mobile food businesses or trucks might operate” was taxable *Id* at 14–15. The town’s vending ordinances thus violated substantive due process and equal protection.

Kivist similarly shows this three-part framework in action. Plaintiffs there challenged the state’s ban on selling home-baked goods *Id* at 19–20. In striking down the ban, the court first noted that the record was “replete” with evidence of protectionism, like lobbying by commercial bakeries and groceries *Id* at 27. Next, where the government claimed the ban was justified by food safety concerns, the court viewed these concerns with “skepticism” *Id* at 26–27. Finally, after examining the record, the court found that home-baked goods were as safe – or safer – than homemade foods already allowed for sale, like popcorn or syrup *Id* at 40–44. The court thus held that the ban was irrational and violated home bakers’ rights under both substantive due process and equal protection *Id* at 44.

This three-part framework also applied in *Ibrahim*. There, cab drivers challenged Milwaukee’s cap on taxicab permits *Id* at 55–58.

The court considered evidence showing that the cap's purpose was to enrich existing permit holders, who had lobbied for the cap to "cut[] off competing businesses from entering the field " *Id* at 66 Given this evidence, the court evaluated the city's stated objective— increasing professionalism among the tax1 industry— with a critical eye *See id* at 65–66 The court determined that this objective was supported by neither logic nor the record *Id* The law thus violated both substantive due process and equal protection

As these cases all show, protectionism is an illegitimate interest under the Wisconsin Constitution And where there is evidence that a law is protectionist, a court must be skeptical as to any asserted rationales and it must carefully probe the record to determine whether they hold water

B. The School-Closure Order Is Unconstitutionally Protectionist.

As demonstrated above, Wisconsin courts have not hesitated to protect people's right to sell (and choose to buy) food-truck meals

or home-baked cakes or rides from taxi companies, and they have not hesitated to hold that these rights may not be legislated away simply to protect one favored group from competition. The same should hold true for schools and parents, particularly as parents' need for more diverse educational options has only increased in light of the ongoing global pandemic. As discussed below, the Order fails the rational-basis test under the three-part framework from *Grand Bazaar Liquors*.

First, there is evidence that Dane County enacted the School-Closure Order to protect Madison public schools – and their teachers' union, Madison Teachers Inc – from private-school competition. Shortly before the Order, the union demanded that schools stop in-person education for at least the first quarter of the 2020–21 school year. Logan Wroge, *Madison teachers union demands fully virtual start to school year*, Wis St J (Jul 17, 2020), https://madison.com/wsj/news/local/education/local_schools/madison-teachers-union-demands-fully-virtual-start-to-school-year/article_51e70df9-e7bb-5624-b3be-805701a07dd9.html. Meanwhile,

the union was part of a group of unions that demanded a moratorium on charter schools and vouchers.² As a newspaper summarized one staffer's views, "leadership in Wisconsin's largest teachers unions fear they will look foolish if they aren't open and private schools have in-person classes."³ Given the union pressure behind the School-Closure Order, there is evidence of protectionism here.⁴ See *Grand Bazaar Liquors*, 105 Wis. 2d at 209 (holding law was protectionist in intent where it was "supported by special interest groups as an anticompetitive measure").

² Adam Rogan, *Will Gov Evers order schools to close statewide in fall? At least one Republican fears he will*, Kenosha News (Aug. 4, 2020), https://www.kenoshanews.com/news/local/will-gov-evers-order-schools-to-close-statewide-in-fall-at-least-one-republican-fears/article_e784de6b-9a44-554e-a9f4-3a214a1410f9.html

³ *Id.*

⁴ There is other evidence that school-closure orders turn on protectionism rather than public-health considerations. For example, in his review of 738 school districts' data on reopening schools, education researcher Corey DeAngelis found that reopening decisions were "statistically unrelated" to COVID-19 risk. Corey DeAngelis, *Cannibalizing private life*, Wash. Examiner (Sep. 3, 2020, 11:00 AM), <https://www.washingtonexaminer.com/opinion/cannibalizing-private-life>. In contrast, the relationship between union power and reopening decisions is significant—while "36% of school districts in right-to-work states have decided to offer full-time, in-person instruction this fall," only "10% of school districts in states that previously required union membership as a condition of employment made the same decision." *Id.*

Second, given this evidence, this Court “should receive with some skepticism” any alternative rationales Respondents assert for the law. *Id.* at 211. While Respondents will likely invoke “public health” as a basis for the School-Closure Order, that rationale is best understood as a “post hoc hypothes[is] about legislative purpose” here. *Id.*

Third, applying skepticism to the School-Closure Order, the Order fails the rational-basis test. That is because the Order’s arbitrary discrimination between schools and activities that are allowed – like daycare and educational camps – does not actually advance public health.

As the Court’s *Grand Bazaar Liquors* decision shows, the government cannot justify a discriminatory restriction on one group or activity unless it poses a unique concern. *See id.* at 212–13. In defending Milwaukee’s limitation of liquor licenses to retailers who made at least half their profits from liquor, the city’s counsel posited that these retailers were more law abiding than others. *Id.* at 204, 208. But the Court rejected this argument because retailers without

liquor licenses “appear[ed] equally, if not more” law abiding than licensees and that there was no evidence to the contrary *Id.* at 212-13. Because both types of retailers had a similar interest in complying with the law, the government’s discriminatory restrictions against one of these groups had no rational basis.

The holding of *Grand Bazaar Liquors* rings just as true here given that in-person schooling is virtually identical to what Dane County allows, like in-person daycare or educational camps.⁵ After all, the same children who cannot attend in-person school together can congregate in other ways. While the School-Closure Order categorically bans in-person schooling for children in grades 3 through 12, the Order allows in-person “[c]hild care settings and youth settings” for groups of up to 15 children.⁶ In fact, those

⁵ As Petitioners have pointed out, the School-Closure Order also allows scores of other businesses to conduct in-person operations, including salons, barber shops, gyms, fitness centers, water parks, pools, bowling alleys, and movie theaters, subject to various capacity limitations and social-distancing guidelines. See School-Closure Order, § 6(d)-(f).

⁶ See School-Closure Order, § 4(a) (defining “[c]hild care settings and youth settings” to “include all licensed, recreational, and educational camps, licensed and certified childcare providers, unregulated youth programs, [and] licensed-exempt public school programs”).

children can even assemble at the *same spaces* where school is prohibited, so long as they are there for “child care and youth settings”⁷ This disparity holds even at schools that have taken extensive precautions like outdoor classes, social distancing, removal of high-contact items, installation of disinfectant machines and plexiglass, and upgrades to filtration and exhaust systems It strains credulity to believe that children pose more of a public-health risk when attending these spaces for schooling than when attending these spaces for “child care and youth settings” Thus, the School-Closure Order’s discrimination against in-person schooling is not rationally related to public health

The School-Closure Order’s disconnection from a legitimate interest in public health is unsurprising That is because the Order is

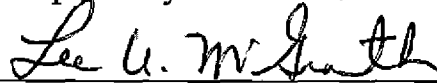
⁷ See School-Closure Order, § 4(d) (“Public and private kindergarten through twelfth grade schools may be used for food distribution, health care services, as child care and youth settings, for pickup of student materials, and for government functions”)

really related to an illegitimate interest protectionism As such, the Order is unconstitutional

CONCLUSION

The School-Closure Order is unconstitutional under any applicable standard of review While the Order infringes fundamental rights, like parents' right to direct their children's education, the Order fails the rational-basis test too

Respectfully submitted,



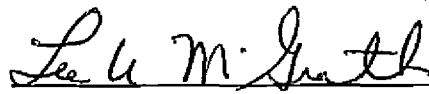
Lee U. McGrath (WI Bar No 1077218)
INSTITUTE FOR JUSTICE
520 Nicollet Mall, Suite 550
Minneapolis, Minnesota 55402-2626
(612) 435-3451 Telephone
(612) 435-5875 Facsimile
lmcgrath@ij.org

Milad Emam* (VA Bar No 83861)
INSTITUTE FOR JUSTICE
901 N Glebe Road, Suite 900
Arlington, VA 22203
(703) 682-9320 Telephone
(703) 682-9321 Facsimile
memam@ij.org

Attorneys for Nonparty Institute for Justice
**Pro hac vice admission pending*

CERTIFICATION OF BRIEF FORM AND LENGTH

I hereby certify that this brief conforms to the rules contained in Sec 809 19(8)(b) and (c) for a brief produced with a proportional font. The length of this brief is 2,825 words.



Lee U. McGrath (Wis Bar No 1077218)

CERTIFICATION REGARDING ELECTRONIC BRIEF

I hereby certify that I have submitted an electronic copy of this brief, excluding the appendix, if any, which complies with the requirements of 809.19(12)

I further certify that this electronic brief is identical in content and format to the printed form 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



Lee U McGrath (Wis Bar No 1077218)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Nonparty Brief of Institute for Justice in Support of Petitioners* was served via commercial carrier (next-day delivery), postage prepaid, on this 12th day of October, 2020 on each of the following

Attorneys for WCRIS, et al

RICHARD M ESENBERG
(WI Bar No 1005622)

ANTHONY LOCOCO
(WI Bar No 1101773)

LUCAS VEBBER
(WI Bar No 1067543)

LUKEN BERG
(WI Bar No 1095644)

ELISABETH SOBIC
(WI Bar No. 1103379)

WISCONSIN INSTITUTE FOR
LAW & LIBERTY, INC
330 East Kilbourn Avenue,
Suite 725
Milwaukee, WI 53202-3141
Phone (414) 727-9455
Facsimile (414) 727-6385
Rick@will-law.org

*Attorneys for Joseph T Parisi
and Janel Heinrich*

MUNICIPAL LAW &
LITIGATION GROUP, S C

REMZY D BITAR
State Bar No 1038340

SADIE R ZURFLUH
State Bar No 1115432 730

North Grand Avenue
Waukesha, WI 53186
O (262) 548-1340
F (262) 548-9211
E rbitar@ammr.net
szurfluh@ammr.net

Respondents

ALoCoco@will-law.org
Lucas@will-law.org
Luke@will-law.org
Libby@will-law.org

*Attorneys for St Ambrose Academy,
Inc, et al*

MISHA TSEYTLIN
(WI Bar No 1102199)

KEVIN M LEROY
(WI Bar No 1105053)

TROUTMAN PEPPER
HAMILTON SANDERS LLP
227 W Monroe St, Suite 3900
Chicago, IL 60606
Phone (608) 999-1240
Facsimile (312) 759-1939
misha.tseytlin@troutman.com
kevin.leroy@troutman.com

ANDREW M BATH
THOMAS MORE SOCIETY
309 W Washington St
Suite 1250
Chicago, IL 60606
Phone (312) 782-1680
Facsimile (312) 782-1887
abath@thomasmoresociety.org

ERICK KAARDAL
MOHRMAN, KAARDAL &
ERICKSON, P A

150 South Fifth Street,
Suite 3100
Minneapolis, MN 55402
Phone (612) 341-1074
Facsimile (612) 341-1076
kaardal@mklaw.com


Attorneys for Sara Lindsey James

JOSEPH W VOILAND
(WI Bar No 1041512)
VETERANS LIBERTY LAW
519 Green Bay Road
Cedarburg, WI 53012
Phone (262) 343-5397
jwvoiland@yahoo.com

BRENT EISBERNER
(WI Bar No 1098038)
LEVINE EISBERNER LLC
14 West Mifflin Street, Suite 206
Madison, WI 53703
Phone (888) 367-8198
brent@leattys.com

BERNARDO CUETO
(WI Bar No 1076013)
PO Box 68
Onalaska, WI 54650
Phone (608) 797-8123
bernardo@wislawyer.com

Petitioners



Lee U McGrath, Wis Bar No 1077218

APPENDIX

TABLE OF CONTENTS

	Page
Decision (Motion for Summary Judgment), <i>White Cottage Red Door, LLC, et al, v Town of Gibraltar</i> , State of Wisconsin Circuit Court for Door County, Case No 18-CV-191	App 2
Oral Ruling Transcript, <i>Kivirsit et al, v Wisconsin Dept of Agriculture</i> , State of Wisconsin Circuit Court for Lafayette County, Case No. 16-CV-06 . . .	App 16
Motion Hearing Transcript, <i>Ibrahim et al, v City of Milwaukee</i> , State of Wisconsin Circuit Court for Milwaukee County, Case No 11-CV-15178, . . .	App 52