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CLERK OF SUPREME COURT
OF WISCONSIN

STATE SUPREME COURT
STATE OF WISCONSIN

JOHN McADAMS,

Plaintiff-Appellant,

Appeal No. 2017AP001240

vs.

MARQUETTE UNIVERSITY,

Defendant-Respondent.

Appeal from a Final Judgment of the Circuit Court for
Milwaukee County, The Honorable David A. Hansher, Presiding.
Circuit Court Case No. 2016CV003396

**NATIONAL ASSOCIATION OF MANUFACTURERS' MOTION
TO ENLARGE TIME AND FOR LEAVE TO FILE THE
ACCOMPANYING AMICUS CURIAE BRIEF**

The National Association of Manufacturers, by its attorneys, Godfrey & Kahn, S.C., moves this Court for permission to file the accompanying non-party brief pursuant to Wis. Stat. § 809.19(7). In support of its motion, the National Association of Manufacturers states as follows:

1. The National Association of Manufacturers is the largest manufacturing association in the United States, representing small and large manufacturers in every industrial sector and in all 50 states. Manufacturing employs more than 12 million men and women, contributes \$2.25 trillion to the United States economy annually, has the largest economic impact of any major sector, and accounts for more than three-quarters of all private-sector research and

development in the nation. The National Association of Manufacturers is the voice of the manufacturing community and the leading advocate for a policy agenda that helps manufacturers compete in the global economy and create jobs across the United States.

2. The National Association of Manufacturers wishes to file a brief that adopts the arguments made by the Metropolitan Milwaukee Association of Commerce (“MMAC”) in its March 5, 2018 *amicus curiae* brief in this appeal. The concerns identified and positions taken by the MMAC are not unique to Wisconsin and its business community. Because a decision in this appeal will be persuasive authority for courts around the country, the National Association of Manufacturers requests leave to state its support for the position of Marquette University and to endorse the MMAC’s brief exploring both the similarities and differences between an institution of higher learning such as Marquette University and commercial employers such as most of the National Association of Manufacturers’ members.

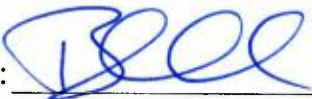
3. The National Association of Manufacturers, like MMAC, believes that any rule announced by the Court in this case should take into consideration (among other things) the goals and purposes of the organization employing the individual who claims his speech was infringed, by whom those goals and purposes of the organization are properly defined, the degree to which extramural speech that affects those purposes may be regulated, and the reasonable expectations of the owners, managers, and employees of the organization.

4. Given that the Wisconsin Rules of Appellate Procedure do not appear to specify timing rules for non-party briefs in cases before this Court on bypass and in which the parties have not submitted new briefs, the National Association of Manufacturers requests that the Court enlarge the time for the filing of this motion and that the Court accept the accompanying *amicus curiae* brief.

WHEREFORE, the National Association of Manufacturers requests that the Court grant this motion to extend the time in which to move for leave to file an *amicus curiae* brief and grant the National Association of Manufacturers leave to file the accompanying *amicus curiae* brief in support of the position of Marquette University.

Dated this 21st day of March, 2018.

GODFREY & KAHN, S.C.

By: 
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CERTIFICATE OF SERVICE

I hereby certify that on March 21, 2018, the National Association of
Manufacturers' Motion To Enlarge Time And For Leave To File The
Accompanying Non-Party Brief was sent via U.S. Mail to:

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BRIEF OF AMICUS CURIAE
NATIONAL ASSOCIATION OF MANUFACTURERS

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INTEREST OF AMICUS CURIAE

The National Association of Manufacturers is the largest manufacturing association in the United States, representing small and large manufacturers in every industrial sector and in all 50 states. Manufacturing employs more than 12 million men and women, contributes \$2.25 trillion to the United States economy annually, has the largest economic impact of any major sector, and accounts for more than three-quarters of all private-sector research and development in the nation. The National Association of Manufacturers is the voice of the manufacturing community and the leading advocate for a policy agenda that helps manufacturers compete in the global economy and create jobs across the United States.

INTRODUCTION

The National Association of Manufacturers files this brief to support the position of Marquette University and to

adopt the arguments made by the Metropolitan Milwaukee Association of Commerce (“MMAC”) in its March 5, 2018 *amicus curiae* brief in this appeal.


The MMAC’s brief identifies the interests of private and, in particular, commercial employers in responding to employees’ extramural speech. Private employers should remain free to discipline an employee for conduct or speech that disrupts or adversely affects the particular purpose of the enterprise. And where an employment contract establishes a process to resolve disciplinary disputes, judicial review should be limited to whether the procedures promised were substantially followed. These interests and positions taken by the MMAC are not unique to Wisconsin and its business community—they are shared by the members of the National Association of Manufacturers. Accordingly, the National Association of Manufacturers joins the MMAC’s arguments and incorporates them by reference.

CONCLUSION

For all the reasons stated in the Metropolitan Milwaukee Association of Commerce's *amicus curiae* brief, this Court should make clear that where, as here, a private employment contract provides a reasonable process for resolving disputes about an employee's rights and responsibilities, a court's review should be limited to whether the process was substantially fulfilled consistent with the contract. Deeper review or the creation of any extraordinary speech right that supersedes the provisions of the private employer-employee contract would interfere with the employer's right to define its mission, sets its priorities, and assess the impact of the alleged infraction on the overall health of the enterprise.

Dated this 21st day of March, 2018.

GODFREY & KAHN, S.C.

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**RULE 809.19(8)(D) FORM AND LENGTH
CERTIFICATION**

I hereby certify that this brief conforms to the rule
contained in Wis. Stat. § 809.19(8)(b) for a brief produced
with a proportional serif font. The length of those portions of

this brief referred to in s. 809.19(1)(d), (e), and (f) is 364
words.

Dated: March 21, 2018.

A handwritten signature in blue ink, appearing to be 'Bryan J. Cahill', written over a horizontal line.

Bryan J. Cahill

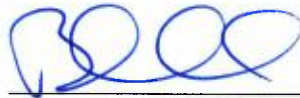
**CERTIFICATION OF COMPLIANCE
WITH RULE 809.19(12)**

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 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 parties.

Dated: March 21, 2018.



Bryan J. Cahill