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DISTRICT IV

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STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

Appeal No. 2019 AP 00318

CHRIS K. FELLER,

Defendant-Appellant.

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An Appeal From a Judgment of Conviction by the  
Honorable Guy D. Dutcher, Circuit Judge, Waushara  
County

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BRIEF OF PLAINTIFF-RESPONDENT

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### **STATEMENT OF THE ISSUES**

1. Was there clear, satisfactory and convincing evidence that the Defendant drove his motor vehicle above the posted speed limit?

Circuit Court Answer: Yes.

Plaintiff Answer: Yes

2. Is the legal justification defense available to the Defendant in a civil forfeiture traffic offense trial where the Defendant does not claim the traffic offense was caused by Law Enforcement.

Circuit Court Answer: Not directly answered by Circuit Court.

Plaintiff Answer: No.

**POSITION ON ORAL ARGUMENT AND**  
**PUBLICATION**

The Plaintiff-Respondent (“State”) submits that oral argument is unnecessary because the issues can be set forth fully in the briefs. Publication is not requested or recommended.

### **STATEMENT OF THE CASE**

On August 30, 2018, Defendant-Appellant, Chris K. Feller, was cited for Speeding in a 55 mph zone, 11 to 15 mph over the posted speed limit. R. 12 at 4-9. Feller entered a not guilty plea to the citation and a court trial was ultimately set before the Honorable Guy D. Dutcher.

On January 25, 2019, a trial before the court was conducted. *Id.* At the court trial, Trooper Henry Glick of the Wisconsin State Patrol testified as the State's only witness. *See Id.* On direct examination, Trooper Glick testified that he was traveling southbound on I-39 in the driving lane of a four lane freeway, in the Town of Hancock, County of Waushara, State of Wisconsin. *Id.* at 6. Trooper Glick testified that he was traveling at 70 miles per hour, the posted speed limit. *Id.* Trooper Glick testified that he observed a silver vehicle behind him maintaining its distance, leading Trooper Glick to believe the vehicle was traveling approximately 70 miles per hour as well. *Id.* Trooper Glick testified he then observed a dark colored Audi enter the passing lane from behind the silver vehicle at a fast rate of speed. *Id.* Trooper Glick testified that the dark Audi appeared to be traveling above the posted speed limit. *Id.* at 7. Trooper Glick testified he observed the vehicle

in the passing lane for approximately three to five seconds. *Id.* at 6. Trooper Glick testified that he then used his Stalker Dual DSR radar to obtain a speed of the dark colored Audi. *Id.* at 5, 7. Trooper Glick testified he obtained a reading of 81 miles per hour. *Id.* at 7. Trooper Glick ultimately conducted a traffic stop of the vehicle and made contact with the driver, Feller. *Id.* at 4. Trooper Glick issued a citation to Feller for speeding 11-15 mph over the speed limit. *See generally* R. 12.

On cross-examination, Trooper Glick was asked by defense counsel if he observed another vehicle quickly approaching Feller's vehicle. *Id.* at 12. Trooper Glick stated he did not observe another vehicle quickly approach Feller's vehicle but instead observed another vehicle "change lanes along maybe the same speed, approximately, maybe a little less, but I wouldn't say that it was too close for following distance." *Id.* Trooper Glick was again asked about another vehicle following closely behind Feller's vehicle. Trooper Glick responded, "From where I was at, there might have been a possibility that it was close, but from what I observed, it wasn't." *Id.*

Feller then testified and on direct examination stated that the silver vehicle that was in front of him was traveling

between 68 mph and 72 mph. *Id.* at 16. It was at that time Feller passed the silver vehicle. *Id.* Feller then testified that another vehicle rapidly approached his vehicle from behind and Feller believed that if he did not accelerate quickly that the other vehicle would strike him. *Id.* at 16-19. Feller testified that he did travel 81 mph but only as an evasive maneuver. *Id.* at 22.

On cross-examination, Feller was asked about the speed of the silver vehicle that was traveling in front of his vehicle. *Id.* at 26. Feller stated, “That car was probably going 67, 70, something like that . . .” Feller was then asked if he sped up to pass the silver car in front of him. Feller stated, “Yeah. Maybe – I was maybe going, like, 72.” *Id.*

After testimony was received, the Court rendered a verdict finding Feller guilty of speeding 11-15 mph. *Id.* at 32, 33. In its ruling the Court stated,

This comes down to credibility. And the version of events that you’ve described, Mr. Feller, don’t add up, as I look at them. First of all, the vehicle that you indicate you were passing was going the speed limit. That’s the officer’s testimony. It was not controverted. . . . You are passing a vehicle that’s going the speed limit.

*Id.* at 30-31. The Court continued,

Officer’s testimony was that the silver vehicle was going 70 miles an hour . . . . He observes your vehicle visually in excess of the speed limit,



then takes steps to conduct a radar analysis of it and gets a clear lock on you for three to five seconds; so we have the period that he observes you approaching from the rear, a period that you are next to the vehicle, a period that you are beyond it, and a confirmation of an 81-mile-per-hour radar lock. That evidence is uncontradicted in the sense that you don't dispute that you were going 81 miles per hour, and, really, there is nothing to be said when an officer has that solid of a radar lock on someone. And then suddenly the vehicle turns into the passing lane, because, frankly, as you look at this from an experienced driver's standpoint, you did a pass at a pretty good rate of speed, and then you saw an officer. That's what happened here.

*Id.* at 31-32. The Court then addressed Feller's testimony regarding an "emergency."

You are asking me to accept that you sped because of an emergency. . . . It's a little hard for me to embrace the fact that you were in an emergency situation, when you were passing a vehicle going the speed limit in the first place, and that you suddenly found yourself in a position where you needed to travel ten miles an hour over the speed limit in order to avoid someone who suddenly was on your rear. It just doesn't add up. . . . [Y]our explanation of what happened here just doesn't – it's not – it's plausible, and it's not credible. . . . [Feller] has not presented evidence which the Court finds credible as an explanation for an emergency, and I do not accept his explanation of what occurred.

*Id.* at 31-32. Feller now appeals the Trial Court's ruling.

## **ARGUMENT**

### **I. STANDARD OF REVIEW**

Feller claims the trial court erred by finding him guilty of operating a motor vehicle in excess of the speed limit because he was faced with an emergency where he was required to speed. “Findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses.” Wis. Stat. Sec. 805.17(2). A finding is not clearly erroneous if it is supported by any credible evidence in the record or any reasonable inferences from that evidence. *See Insurance Co. of N. Am. v. DEC Int'l, Inc.*, 220 Wis. 2d 840, 845, 586 N.W.2d 691 (Wis. Ct. App. 1998). Unless manifestly wrong, the conclusions of the trial judge, on questions of fact, should not be disturbed. *Davies v. Jeffris*, 108 Wis. 244, 84 N.W. 153, 154 (1900). A finding of fact which is supported by significant, but disputed, evidence, should not be modified. *Kehoe v. Burns*, 84 Wis. 372, 54 N.W. 731, 732 (1893).

Moreover, findings of fact by the trial court will not be upset on appeal unless they are against the great weight and clear preponderance of the evidence. *Peabody Seating Co. v. Jim Cullen, Inc.*, 56 Wis. 2d 119, 127, 201 N.W.2d 546, 551 (1972). “The evidence supporting the findings of the trial court need not in itself

constitute the great weight or clear preponderance of the evidence; nor is reversal required if there is evidence to support a contrary finding.” *In re Estate of Jones*, 74 Wis. 2d 607, 611, 247 N.W.2d 168 (1976). For reversal, “such evidence in support of a contrary finding must itself constitute the great weight and clear preponderance of the evidence.” *Id.*

In addition, in a trial to the court, where there is conflicting testimony, the trial judge, as the factfinder, is “the ultimate arbiter of the credibility of the witnesses.” *Gehr v. City of Sheboygan*, 81 Wis. 2d 117, 122, 260 N.W.2d 30 (1977). “When more than one reasonable inference can be drawn from the credible evidence, the reviewing court must accept the inference drawn by the trier of fact.” *Id.*

## **II. THE TRIAL COURT’S FINDINGS OF FACT WERE PROPER AND THE EVIDENCE PRESENTED SUPPORTS FELLER’S CONVICTION FOR SPEEDING IN EXCESS OF THE LEGAL LIMIT.**

This Court should affirm the Trial Court’s finding that Feller violated Wisconsin Statutes Section 346.57(4)(gm)(2). The Trial Court’s findings, as shown in his oral ruling, establish the overwhelming evidence showing Feller’s guilt by clear, satisfactory and convincing evidence.

Wisconsin Statutes Section 346.57(4)(gm)(2) states, “In addition to complying with the speed restrictions imposed by subs. (2) and

(3), no person shall drive a vehicle at a speed in excess of the following limits unless different limits are indicated by official traffic signs . . . Seventy miles per hour on any freeway . . .” Wis. Stat. Sec. 346.57(4)(gm)(2). Additionally, Wisconsin Statute Section 346.57(4)(gm)(2) is a “strict liability” civil offense. *See State v. Brown*, 107 Wis. 2d 44, 52, 318 N.W.2d 370, 375 (1982). Moreover, the burden of proof on a noncriminal traffic offense lies with the State and must be proven by clear satisfactory and convincing evidence. *City of Milwaukee v. Berry*, 44 Wis. 2d 321, 325, 171 N.W.2d 305, 306 (1969).

**A. Statement of Relevant Facts.**

On August 30, 2018, Trooper Glick of the Wisconsin State Patrol was driving his squad southbound in the “driving lane” of I-39, a four lane freeway, in Waushara County, Wisconsin, at approximately 70 mph in a 70 mph Speed Limit Zone. R. 12 at 6. While driving, he observed a vehicle behind him, maintaining its distance, leading Trooper Glick to believe the vehicle was traveling at approximately 70 mph. *Id.* While continuing to drive, Trooper Glick observed Feller’s vehicle enter the passing lane from behind the silver vehicle at a fast rate of speed. *Id.* Using his Stalker Dual radar equipment, Trooper Glick confirmed the speed of Feller’s vehicle at 81 mph for approximately 3-5 seconds. *Id.* 5, 6-7. Feller proceeded back into the

driving lane. *Id.* at 11. Trooper Glick ultimately slowed his vehicle, allowed Feller to pass and then conducted a traffic stop on Feller. *Id.* Trooper Glick issued a citation to Feller for Speeding 11-15 mph in a 70 mph zone. *See* R. 12.

During a trial to the Trial Court, defense counsel asked Trooper Glick about a vehicle Feller had claimed was following closely behind Feller while Feller was in the passing lane. *Id.* at 11-12. Trooper Glick responded, “I noticed [Feller’s], vehicle entered the lane for approximately three to five seconds. And then after that, I observed another dark-colored vehicle behind him.” *Id.* at 11. When asked if this other vehicle came up very quickly behind Feller’s vehicle, Trooper Glick responded, “From where I was [the other vehicle], it did not – it appeared to change lanes along maybe the same speed, approximately, maybe a little less, but I wouldn’t say that it was too close for the following distance.” *Id.* at 12. When asked an additional question about the other vehicle traveling closely behind Feller’s vehicle, Trooper Glick responded, “From where I was at, there might have been a possibility that it was close, but from what I observed, it wasn’t.” *Id.*

After the completion of Trooper Glick’s testimony, Feller elected to testify. *Id.* at 14. During Feller’s testimony, he explained that the vehicle traveling in front of him, that he ultimately passed, was

fluctuating speeds between 68 mph and 72 mph in the 70 mph Zone. *Id.* at 16. Feller stated, “His speed was not right at 70. He was slowing down to, like, 68, and then 72, and then 68, so I pulled around that car to pass him.” *Id.* Throughout his testimony, Feller spoke about the other vehicle who he alleged approached him rapidly, and explained his purpose for speeding in excess of 70 mph. *Id.* at 17-19. Feller stated, “Yes, I know I went 81 miles an hour, but I did it as an evasive move to keep from an accident happening, because it would have been really bad going 81 miles an hour and getting rear-ended by someone, you know.” *Id.* at 22.

On cross-examination of Feller, the State asked Feller questions regarding the speed of the vehicle in front of Feller prior to Feller passing said vehicle. *Id.* at 26. In response, Feller stated, “That car was probably going 67, 70, something like that, kind of varying back and forth, because it was a car that was nervous because there is a police officer in the area.” *Id.* The State then asked Feller, “And you sped to pass up that silver car; is that correct?” To which Feller responded, “Yeah. Maybe – I was maybe going, like, 72.” *Id.*

The Trial Court ultimately determined that Feller violated the 70 mph speed limit by traveling 81 mph and found Feller guilty. *Id.* at 32, 33.

**B. The evidence overwhelmingly supported the Trial Court's finding that Feller was guilty of speeding and the Trial Court's findings of fact were not clearly erroneous.**

The evidence and testimony presented at trial showed by clear, satisfactory and convincing evidence that Feller operated a motor vehicle at a speed in excess of 70 mph. Nothing in the record shows that the Trial Court made any erroneous finding of fact during the course of his ruling. The Trial Court addressed all of the credible evidence and testimony, including Feller's legal justification defense.<sup>1</sup>

Further, "when a trial judge acts as finder of fact, he or she acts as ultimate arbiter of credibility of witnesses." *Village of Big Bend v. Anderson*, 103 Wis. 2d 403, 409, 308 N.W.2d 887, 891 (Wis. Ct. App. 1981). Where there is conflicting testimony, the trial judge, as the factfinder, "is the ultimate arbiter of the credibility of the witnesses." *Cogswell v. Robertshaw Controls Co.*, 87 Wis. 2d 243, 248, 274 N.W.2d 647, 650 (1979).

The Trial Court, as the factfinder, stated in its decision, "First of all, the vehicle that you indicate you were passing was going the speed limit." R. 12 at 30. The court continued, "It was going 70 miles an hour, which was the speed limit, and you made a decision to pass that

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<sup>1</sup> The Trial Court addressed Feller's legal justification defense at the time of trial. The State's position is that the legal justification defense should be unavailable to Feller because law enforcement was not the cause of the violation. *See State v. Brown*, 107 Wis. 2d 44, 56, 318 N.W.2d 370 (1982). The State addresses the issue in greater detail later in its brief.

vehicle. So if I take everything you are saying at face value, we start there. You are passing a vehicle that's going the speed limit." *Id.* at 31. The Trial Court's assessment coincides with Trooper Glick's testimony that Trooper Glick was traveling in his squad at 70 mph and the silver vehicle following him was maintaining its distance, leading Trooper Glick to infer the vehicle was traveling approximately 70 mph. *Id.* at 6. Trooper Glick then observed Feller's vehicle pass the silver vehicle "at a fast rate of speed." *Id.* To add to this, Feller, by his own admission, travelled 72 mph in the 70 mph zone, prior to any other vehicle rapidly approaching his vehicle from behind. *Id.* at 26. Trooper Glick ultimately obtained a reading, using his radar, of 81 mph in a 70 mph zone. *Id.* at 7. Feller also admitted to traveling 81 mph. *Id.* at 22.

Moreover, Trooper Glick refuted any claim Feller made of being forced to violate the speed limit due to a rapidly approaching vehicle. As previously mentioned, Trooper Glick stated, "From where I was [the other vehicle], it did not – it appeared to change lanes along maybe the same speed, approximately, maybe a little less, but I wouldn't say that it was too close for the following distance." *Id.* at 12.



Therefore, the undisputed evidence shows that Feller was traveling 81 mph in a 70 mph zone, clearly in excess of the speed limit, and any claim of emergency was rebutted by Trooper Glick's testimony.

Conversely, Feller claims that the trial court's decision was concluded "out of thin air", was "based on a single factual conclusion" and was based on "speculation and unsupported by any evidence" because the Trial Court provided a "logical explanation" of what occurred. Feller's Brief, Page 6. Feller appears to neglect the entirety of the Trial Court's ruling and the evidence before it. As previously noted, in making its ruling the Trial Court stated,

First of all, the vehicle that you indicate you were passing was going the speed limit. That's the officer's testimony . . . . It was going 70 miles an hour, which was the speed limit, and you made a decision to pass that vehicle. So if I take everything you are saying at face value, we start there. You are passing a vehicle that's going the speed limit.

R. 12 at 30-31. The Court continued,

[Trooper Glick] observes your vehicle approaching very rapidly in the passing lane. That's his testimony. He observes your vehicle visually in excess of the speed limit, then takes steps to conduct a radar analysis of it and gets a clear lock on you for three to five seconds; so we have the period that he observes you approaching from the rear, a period that you are next to the vehicle, a period that you are beyond it, and a confirmation of an 81-mile-per-hour radar lock.

*Id.* at 31. Additionally, in regards to Feller's claim of speeding to avoid an accident, the Court stated,

It's a little hard for me to embrace the fact that you were in an emergency situation, when you were passing a vehicle going the speed limit in the first place, and that you suddenly found yourself in a position where you needed to travel ten miles an hour over the speed limit in order to avoid someone who suddenly was on your rear. It just doesn't add up. . . [Y]our explanation of what happened here just doesn't – it's not – it's plausible, and it's not credible. And the court finds it has been established clearly and convincingly that there was a radar evaluation done with Mr. Feller's vehicle in a 70 mile per hour zone. He was doing 81 miles per hour.

*Id.* Through the Trial Court's own statements it is clear the Trial Court took many factors into account when making its decision. Not only did the Court discuss the substantial amount of evidence showing that Feller was speeding in excess of the legal limit, the Court also addressed Feller's emergency claim. The Trial Court viewed the evidence, weighed the credibility of the witnesses and determined that Feller's version of events was not plausible. Therefore, the Trial Court's findings of fact were not clearly erroneous.

**III. THIS COURT SHOULD FIND THAT THE LEGAL JUSTIFICATION DEFENSE IS NOT APPLICABLE TO CIVIL FORFEITURE TRAFFIC OFFENSES WHERE THE CAUSE OF THE OFFENSE IS NOT LAW ENFORCEMENT.**

This Court should find that the legal justification defense is not applicable to civil forfeiture traffic offenses where law enforcement action is not the cause of the traffic offense. As the legislature and the Supreme Court have noted, traffic violations, such as speeding under

Wis. Stat. Sec. 346.57(4)(gm)(2), are “strict liability” offenses. *See State v. Brown*, 107 Wis. 2d 44, 52, 318 N.W.2d 370 (1982).

The Wisconsin Supreme Court, in *Brown*, held that, although, speeding was a strict liability offense, a motorist, “may claim the defense of legal justification *if the conduct of a law enforcement officer causes* the actor reasonably to believe that violating the law is the only means of preventing bodily harm to the actor or another and causes the actor to violate the law. *Id.* at 52, 55-56. (emphasis added). In the majority opinion, the Wisconsin Supreme Court declined to decide whether these defenses would be available to a defendant in a civil forfeiture for speeding if the causative force is someone or something other than a law enforcement officer. *Id.* at 56.

However, Justice Callow in his concurring opinion, in *Brown*, stated,

The majority does not reach the issue of whether a defense of legal justification will be recognized if the causative force is someone or something other than the conduct of law enforcement personnel. (Supra, at 8.) I would reach this issue, and I would not extend the defense of legal justification beyond conduct provoked by law enforcement personnel.

*Id.* at 47, 318 N.W.2d 370 (Callow, J., concurring). Moreover, in the unpublished decision of *State v. Heupher*, 2012 WI App 27, 339 Wis. 2d 490 (unpublished opinion), the court of appeals held that where there is no evidence of police misconduct, the legal justification

defense is unavailable to a defendant. *State v. Heupher*, 2012 WI App 27, ¶ 11, 339 Wis. 2d 490, (unpublished opinion). In *Heupher*, the defendant was issued a speeding citation for traveling sixty-nine miles per hour in a fifty-five miles per hour zone. *Id.* at ¶ 2. At a trial before the court, the defendant testified that she accelerated to avoid a rear-end collision as the vehicle behind the defendant was not slowing down. *Id.* at ¶ 6. The Trial Court found the defendant guilty of speeding, partly reasoning, that it did not believe there was an emergency causing the defendant to speed. *Id.* at ¶ 7. The Court of Appeals, citing *Brown*, held that because there was no evidence police caused the defendant to speed, the legal justification defense was not available to the defendant. *Id.* at ¶ 11.

Similarly, in the present case, Feller has made no indication or accusation that his speeding in excess of the legal limit was caused by law enforcement. Feller's claim is that another vehicle on the roadway caused him to speed in excess of the legal limit. Therefore, under Justice Callow's concurring opinion in *Brown*, and the reasoning of the Court of Appeals in *Heupher*, the legal justification defense would not be available to Feller.

Further, as a matter of law and public policy, the legal justification defense, established in *Brown*, should not be extended to include causes other than law enforcement. Justice Callow in his concurring

opinion in *Brown*, identified the primary issues with allowing legal justification defenses on “strict liability” traffic offenses.

Recognizing any defense of “excusable conduct” stemming from a defendant's perceived justifications would require, in my opinion, the prosecuting authority to prove the defendant's culpable state of mind and rebut the defense of justification for the admitted misconduct. I believe this defeats the primary premise that the public must obey traffic regulations in order to protect and promote public safety. The traveling public should be able to rely on the absolute requirement that traffic laws must be obeyed. The proposition that each driver could selectively evaluate the situation and violate the law with an expectation of impunity is unthinkable. A rule permitting judicial recognition of a defense of legal justification or excusable misconduct in any situation other than that reflected in the majority opinion would not only contravene well-established public policy, but it would have a disastrous impact on the judicial system, resulting in burgeoning the court calendar with traffic cases.

*Brown*, 107 Wis. 2d at 57-58 (Callow, J., concurring). As Justice Callow indicated in his concurring opinion, permitting the legal justification defense in all traffic infractions would effectively eliminate the strict liability nature of the offenses, potentially decrease public safety, and hinder the judicial system's ability to expeditiously resolve traffic cases. *Id.*

Notwithstanding this Court's determination as to the applicability of the legal justification defense, unlike in *Brown*, in the present case, Feller's trial was to the court and not to a jury. The Trial Court heard the testimony, weighed the credibility of witnesses and

notably addressed Feller's legal justification defense. R. 12 at 32. During the court's oral ruling it acknowledged Feller's argument that he sped only because of emergency circumstances and found it lacking plausibility and credibility. *Id.*

It's a little hard for me to embrace the fact that you were in an emergency situation, when you were passing a vehicle going the speed limit in the first place, and that you suddenly found yourself in a position where you needed to travel ten miles an hour over the speed limit in order to avoid someone who suddenly was on your rear. It just doesn't add up.

*Id.* Factual findings and credibility determinations are for the circuit court. *See* Wis. Stat. §805.17(2); *see also Village of Big Bend v. Anderson*, 103 Wis. 2d 403, 409, 308 N.W.2d 887, 891 (Wis. Ct. App. 1981). The Trial Court, the trier of fact and sole arbiter of the credibility of witnesses weighed the evidence and further stated,

"[Y]our explanation of what happened here just doesn't – it's not – it's (sic) plausible, and it's not credible. . . . [Feller] has not presented evidence which the court finds credible as an explanation for an emergency, and I do not accept his explanation of what occurred.

R. 12 at 32. Therefore, even if this Court determines that in strict liability traffic violations, where law enforcement was not the cause of the violation, the legal justification defense applies for any extraneous circumstance, the Trial Court already addressed the one asserted by Feller. The Trial Court conducted a full analysis of the

evidence and weighed witness credibility, and determined Feller's defense was implausible and incredible.

**CONCLUSION**

For all the foregoing reasons, the State respectfully requests this Court affirm the Circuit Court's conviction.

Dated this 11<sup>th</sup> day of October, 2019.

Respectfully,

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Barry J. Braatz  
Assistant District Attorney  
Waushara County District Attorney  
Attorney for Plaintiff-Respondent  
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**CERTIFICATION OF BRIEF**

I hereby certify that this document conforms to the rules contained in Wis. Stat. § 809.19(8)(b) and (c), for a brief and appendix produced with monospaced font. The length of this brief is 4,328 words long.

Dated this 11<sup>th</sup> day of October, 2019.

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Barry J. Braatz  
Assistant District Attorney  
Waushara County District Attorney  
Attorney for Plaintiff-Respondent  
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**CERTIFICATON OF COMPLIANCE WITH**  
**WIS. STAT. § (RULE) 809.19(12)**

I hereby certify that I have submitted an electronic copy of this brief, excluding the appendix, if any, 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 certification has been served with the paper copies of this brief filed with the court and served on all opposing parties.

Dated this 11<sup>th</sup> day of October, 2019.

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Barry J. Braatz  
Assistant District Attorney  
Waushara County District Attorney  
Attorney for Plaintiff-Respondent  
State Bar No. 1098312

**CERTIFICATION OF MAILING**

I hereby certify pursuant to Wis. Stat. § 809.80(4) that, on the 11<sup>th</sup> day of October, 2019, I mailed 10 copies of the Brief of the Plaintiff-Respondent, properly addressed and postage prepaid, to the Wisconsin Court of Appeals, P.O. Box 1688, Madison, Wisconsin 53701-1688.

Dated this 11<sup>th</sup> day of October, 2019.

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