

FILED
03-13-2024
CLERK OF WISCONSIN
SUPREME COURT

IN THE SUPREME COURT OF WISCONSIN
No. 2023-AP-2020-OA

Tony Evers, Governor of Wisconsin, Department of Natural Resources, Board of Regents of the University of Wisconsin System, Department of Safety and Professional Services and Marriage and Family Therapy Board, Professional Counseling and Social Work Examining Board

Petitioners,

v.

Senator Howard Marklein, Representative Mark Born, in their official capacities as chairs of the joint committee on finance; Senator Chris Kapenga, Representative Robin Cos, in their official capacities as chairs of the joint committee on employment relations; Senator Steve Nass and Representative Adam Neylon, in their official capacities as co-chairs of the joint committee for review of administrative rules,

Respondents,

**MOTION FOR LEAVE TO FILE A
BRIEF AS *AMICI CURIAE***

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Former Wisconsin Judges Richard J. Sankovitz, Richard G. Neiss, John A Markson, and Paul Lundsten (collectively, “Movants”) hereby move this Court, pursuant to Wis. Stat. §§ (Rules) 809.14(1) and 809.19(7)(a), for leave to file a brief as *amicus curiae*. In support of this motion, Movants submit the following:

1. As former judges, the Movants have experience at various levels of the Wisconsin State Court system, as both circuit court and court of appeals judges. They hold an interest in the integrity the courts and the judicial system.
2. Richard J. Sankovitz is a retired Milwaukee County Circuit Court judge. Judge Sankovitz is a 1983 Harvard Law School Graduate with over 40 years of practice experience. Following an appointment by former Governor Tommy Thompson, Judge Sankovitz served as a Circuit Court judge from 1996 to 2018.
3. Judge Richard G. Niess is a retired Dane County Circuit Court judge. After receiving his undergraduate degree from Dartmouth College, Judge Niess graduated from Duke University School of Law in 1978. Judge Niess spent 27 years in private practice before being appointed to

the bench by Gov. Jim Doyle in 2004. Judge Neiss served as a circuit court judge from 2004 to 2020.

4. Judge John A. Markson is a retired Dane County Circuit Court judge. Judge Markson attended the University of Wisconsin-Madison for both his undergraduate and graduate education. Following law school, Judge Markson clerked for Wisconsin Supreme Court Justice William Callow and after that spent 23 years in private practice. In 2007, Judge Markson was appointed to the bench by Governor Jim Doyle where he served until his retirement in 2017.

5. Judge Paul Lundsten is a retired judge in Wisconsin's District IV Court of Appeals. Judge Lundsten graduated from the University of Wisconsin Law School in 1983. Following law school, Judge Lundsten became an Assistant Attorney General until his appointment to the Court of Appeals by former Governor Tommy Thompson in 2000. Judge Lundsten served on the Court of Appeals from 2000 until 2019.

6. As former Wisconsin State Court judges, Movants have experience with the function and role of the court.

7. The Movants believe their brief would be desirable and should be accepted for filing because it will explain why Wis. Stat. §§ 23.0917(6m) and (8)(g)(3)_violate the Wisconsin Constitution's separation of powers.

8. On February 2, 2024, this Court accepted the petition for original action, and required the petitioners to file a brief not later than February 22, 2024. Responsive briefs are due March 13, 2024. The Movants submit this motion for leave to file and accompanying brief in a timely fashion and in accordance with Wis. Stat. § 809.19(7)(c).

WHEREFORE, Movants former Wisconsin Judges Richard J. Sankovitz, Richard G. Neiss, John A Markson, and Paul Lundsten hereby respectfully requests that the Court grant this motion and accept the accompanying brief for filing.

Respectfully submitted this 13th day of March, 2024.

Electronically signed by Chris Donahoe

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CERTIFICATE OF SERVICE

A copy of this certificate and the foregoing Motion for Leave to File a Brief as *Amici Curiae* has been filed electronically with the Court and email on counsel of record.

Electronically signed by Chris Donahoe

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