

# Wisconsin Institute for Law and Liberty: Responds to MMAC support of Marquette in academic freedom case

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Contact:

Collin Roth | WILL Research Fellow  
collin@will-law.org | 414-727-7418

February 22, 2018 – Milwaukee, WI – Sometimes it’s important to remember what litigation is and isn’t about. On Tuesday the Metropolitan Milwaukee Association of Commerce (MMAC) requested permission to sign an amicus brief supporting Marquette University in our academic free speech case, *McAdams v. Marquette*.

We welcome all comers. But MMAC seems to believe that the outcome in *McAdams* will have a broader effect on private employers who are not universities and who have not promised their employees the rights of academic freedom and personal expression. It will not.

Our suit on behalf of John McAdams is designed to enforce a promise that Marquette made. It chose to promise academic freedom to its tenured faculty. Its contract with Dr. McAdams promises that no faculty member shall be “impaired” from “full and free enjoyment of academic freedoms of thought, doctrine, discourse, association, advocacy or action.”

It says that termination for discretionary cause will not be used to impair the exercise of any right that would be protected by the United States Constitution.

Now it is possible that a bank or a law firm or metal fabricator might make similar commitments of academic freedom. But it is not likely. While it's not unusual for universities to make these commitments, other private employers do not.

It has long been recognized that universities are different. The free exchange of ideas requires a protection for speech that would not be protected in other contracts including the right to say things that the administration and other faculty members do not like and even criticize the university.

A brief that compares Marquette University to other private institutions in Milwaukee would be comparing apples to oranges. Marquette as a private academic institution has promised academic freedom to their faculty. Other private employers make no such commitments and are engaged in quite different business.

The business community need not fear *McAdams v. Marquette*. It seeks to enforce a promise that Marquette has made and, while it certainly will have an impact on other universities who made similar commitments, it will have no effect on other private employers.