

Wisconsin Institute for Law and Liberty: Files amicus brief urging supreme court to review first amendment challenge to mandatory state bar membership

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The News: The Wisconsin Institute for Law & Liberty (WILL) filed an [amicus brief](#) in the Supreme Court of the United States in support of a suit challenging compelled membership in, and financial support of, the State Bar of Wisconsin. The Petitioner in the lawsuit, Schuyler File, represented in part by lawyers at Liberty Justice Center, argues that forcing Wisconsin lawyers to choose between practicing their profession or joining and funding an organization they do not support violates First Amendment guarantees of free speech and association.

The Quote: WILL Deputy Counsel, Anthony LoCoco, said, “There is no special exception in the First Amendment for attorneys. Forcing objecting attorneys to join and fund an organization that engages in speech with which they disagree is contrary to fundamental values of free speech and free association. If the State Bar wants members, it should have to earn their support.”

Background: In 2018, the United State Supreme Court re-affirmed in *Janus v. AFSCME* that the right to freedom of speech and association includes the right to decline to speak and to decline to associate. But to practice law in Wisconsin, attorneys must join and pay membership dues to the state bar association, the State Bar of Wisconsin. The state bar then uses this money to engage in speech on a variety of matters of public interest. In 2019, WILL challenged the legality of compelled membership in the state bar under *Janus* on behalf of two practicing

attorneys, but the Supreme Court denied review of that case [with Justice Thomas and Justice Gorsuch dissenting](#).

This issue is now back before the Supreme Court thanks to lawyers at the Liberty Justice Center. Petitioner Schuyler File lost before the United States District Court for the Eastern District of Wisconsin and the Seventh Circuit under governing Supreme Court case law, and the Supreme Court is now considering whether to accept review of the issue. In this [amicus brief](#), WILL urges the Court to resolve this critical First Amendment issue, explaining in part that the State Bar was voluntary for much of its history and that today the Bar does not even regulate, discipline, or monitor the competency or character of attorneys—those roles belong to the Board of Bar Examiners and the Office of Lawyer Regulation. Instead, the State Bar is akin to a trade association. That role may be unobjectionable but association with the Bar should be voluntary.