

# WISCONSIN SUPREME COURT CALENDAR AND CASE SYNOPSES FEBRUARY 2026

The cases listed below will be heard in the Supreme Court Hearing Room, 231 East, State Capitol. The cases listed below originated in the following counties:

Jefferson  
Outagamie  
Waukesha

## **TUESDAY, FEBRUARY 10, 2026**

9:45 a.m.	2024AP250	Outagamie County v. M.J.B.
11:00 a.m.	2023AP588	Cincinnati Insurance Company v. James Ropicky

## **WEDNESDAY, FEBRUARY 11, 2026**

9:45 a.m.	2022AP2026	Konkanok Rabiebna v. Higher Educational Aids Board
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**Note:** The Supreme Court calendar may change between the time you receive it and when a case is heard. It is suggested that you confirm the time and date of any case you are interested in by calling the Clerk of the Supreme Court at (608) 266-1880. If your news organization is interested in providing any type of camera coverage of the Supreme Court oral argument, you must contact media coordinator Jason Cuevas at WISC-TV, (608) 277-5241. The synopses provided are not complete analyses of the issues presented.

**WISCONSIN SUPREME COURT**

**February 10, 2026**

**9:45 a.m.**

2024AP250

Outagamie County v. M.J.B.

*This is a review of a decision by the Wisconsin Court of Appeals, District III (headquartered in Wausau), which reversed Outagamie County Circuit Court orders, Judge Yadira Rein presiding, for involuntary commitment and involuntary medication. The case examines whether a circuit court loses competency to hold a final Chapter 51 hearing when one examiner's report is not accessible to defense counsel at least 48 hours before the hearing under Wis. Stat. § 51.20(10)(b).*

The final hearing followed the appointment of two examiners. One report was filed on Friday, September 1. The second examiner faxed his report to the court on Saturday, September 2, but it was not entered on the docket until the morning of Tuesday, September 5. At the Wednesday, September 6 hearing, defense counsel objected that the second report was not accessible 48 hours in advance. The circuit court overruled the objection, proceeded with the hearing, and entered six-month commitment and involuntary-medication orders.

On appeal, the Court of Appeals addressed whether the 48-hour access requirement was satisfied and, if not, whether the court retained competency to proceed. In a published decision, the court concluded the late-filed report was not accessible to counsel as required, held that the circuit court lost competency to conduct the final hearing, and reversed the commitment and medication orders.

Before the Supreme Court, the County argues that “access” does not equate to docket filing and that the 48-hour requirement is directory rather than mandatory, so a report available less than 48 hours in advance does not by itself divest the court of competency. The respondent relies on the Court of Appeals’ interpretation that the statutory access requirement was not met here, and that the competency ruling should be affirmed.

The Wisconsin Supreme Court granted review to address the following issues:

- 1) Is an examiner’s report filed less than 48 hours in advance of the final hearing considered inaccessible under Wis. Stat. § 51.20(10)(b), resulting in the circuit court losing competency to proceed?

# WISCONSIN SUPREME COURT

February 10, 2026

11:00 a.m.

2023AP588

Cincinnati Insurance Company v. James Ropicky

*This is a review of a decision by the Wisconsin Court of Appeals, District II (headquartered in Waukesha), which reversed a Waukesha County Circuit Court order, Judge Michael J. Aprahamian presiding. The case concerns insurance coverage for storm-related water intrusion at a residence and turns on the interpretation of a homeowner's policy provisions, including a construction defect exclusion, an ensuing loss clause, and a fungi exclusion with a separate additional-coverage provision.*

The dispute began after a severe rainstorm in May 2018, when water entered the home's great room. The homeowners submitted a claim to Cincinnati Insurance Company. Cincinnati retained an engineer who attributed the damage to construction deficiencies and to deterioration associated with moisture and fungi. Relying on the policy's construction defect exclusion and fungi exclusion, Cincinnati denied most of the claim, but paid the policy's fungi additional-coverage sublimit and a smaller amount for items it treated as covered under the policy's ensuing loss clause.

The homeowners sued. The circuit court granted summary judgment to Cincinnati, concluding that the construction defect exclusion barred coverage, that the ensuing loss clause did not reinstate coverage for the claimed damage, and that recovery related to fungi was limited by the policy's additional-coverage provision. The Court of Appeals reversed and remanded, holding that the ensuing loss clause could reinstate coverage where a covered peril, such as stormwater, caused damage even if construction deficiencies existed, and that the fungi additional coverage operates as a separate grant of limited coverage. The appellate court also concluded that disputed issues of material fact concerning causation and the role of fungi precluded summary judgment.

Cincinnati argues that the fungi exclusion precludes coverage beyond the additional-coverage sublimit and that the construction defect exclusion bars coverage for the loss, and that the ensuing loss clause does not reinstate coverage under these facts. The homeowners respond that Cincinnati did not establish the exclusions as a matter of law, that competing inferences about storm causation create factual disputes, and that the policy language supports limited fungi coverage and application of the ensuing loss clause.

The Wisconsin Supreme Court granted review to address the following issues:

- 1) Whether the fungi exclusion in the Executive Classic Homeowner policy precludes coverage beyond the \$10,000 limit provided by the policy's Additional Coverage m. Fungi, Wet or Dry Rot, or Bacteria, which Cincinnati has paid.
- 2) Whether Cincinnati met its burden to establish that the policy's construction defect exclusion applies to preclude coverage for damage caused by water infiltration, and whether the insured established that the "ensuing loss" clause applies to reinstate coverage.

# WISCONSIN SUPREME COURT

February 11, 2026

9:45 a.m.

2022AP2026

Konkanok Rabiebna v. Higher Educational Aids Board

*This is a review of a decision by the Wisconsin Court of Appeals, District II (headquartered in Waukesha), which reversed a Jefferson County Circuit Court order, Judge William F. Hue presiding. The case examines whether Wisconsin's minority undergraduate retention grant statute, Wis. Stat. § 39.44, violates state or federal equal protection guarantees and whether the taxpayer plaintiffs have standing to bring the challenge.*

The case concerns a state financial aid program that provides need-based grants to certain undergraduate students, including Black, American Indian, Hispanic, and specified Southeast Asian students, as set forth in Wis. Stat. § 39.44. Participating colleges and technical colleges award the grants and report program information to the Higher Educational Aids Board. The plaintiffs filed suit challenging the statute's eligibility criteria on equal protection grounds and asserted taxpayer standing.

The circuit court granted summary judgment to the Higher Educational Aids Board, concluding that the statute met constitutional requirements and that the plaintiffs had standing to pursue their claims. The Court of Appeals reversed and remanded for further proceedings, holding that the plaintiffs could proceed and that the statute's eligibility criteria did not survive the constitutional standard applied by the court.

Before the Wisconsin Supreme Court, the Higher Educational Aids Board defends the statute's constitutionality and maintains that the plaintiffs do not meet the requirements for taxpayer standing. The plaintiffs respond that the eligibility criteria are unconstitutional in all applications and that they have alleged a sufficient personal pecuniary injury to establish taxpayer standing.

The Wisconsin Supreme Court granted review to address the following issues:

- 1) Whether the respondents show that Wisconsin Stat. § 39.44 is unconstitutional in all applications?
- 2) Whether the respondents satisfied the requirements for taxpayer standing by demonstrating a personal pecuniary loss?