

FILED
01-30-2025
CLERK OF WISCONSIN
SUPREME COURT

Supreme Court of Wisconsin



ABBOTSFORD EDUCATION ASSOCIATION, et al.,
Plaintiffs-Respondents-Petitioners,

v.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION, et al.,
Defendants, Co-Appellants.

No. 2024AP2429

Filed January 30, 2025

Justice Brian Hagedorn entered the following order on this date:

¶1 Members of the judiciary take a solemn oath to be independent and impartial. Our duty is to call it straight in every case, with neither partiality nor prejudice toward anyone. The law must guide our decisions—not politics, tribalism, or personal policy views.

¶2 To that end, a variety of statutory standards and court-promulgated rules regarding recusal have been adopted. *See* WIS. STAT. § 757.19; SCR 60.04(4). These rules go beyond what the constitution requires, and are aimed at protecting against actual and perceived partiality. In my view, recusal on this court should be rare—done only when the law requires it. Going beyond that can create problems. We have seen how recusal can be weaponized by parties seeking a litigation advantage. *See Miller v. Carroll*, 2020 WI 56, ¶124 n.3, 126, 392 Wis. 2d 49, 944 N.W.2d 542 (Hagedorn, J., dissenting). And justices who recuse cannot be replaced with another, which heightens our obligation to decide cases when recusal is not mandatory.

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¶3 Nonetheless, recusal is not optional when the law commands it. After reviewing the filings and the various ethical rules I am sworn to uphold, I have concluded that the law requires me to recuse from this case. The issues raised involve matters for which I provided legal counsel in both the initial crafting and later defense of Act 10, including in a case raising nearly identical claims under the federal constitution. *See Wis. Educ. Ass'n Council v. Walker*, 705 F.3d 640 (7th Cir. 2013). Accordingly, I will not participate in this case.

IT IS ORDERED, *sua sponte*, that Justice Brian Hagedorn will not participate in this matter.

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