

No. 25-2382

**UNITED STATES COURT OF APPEALS FOR
THE SEVENTH CIRCUIT**

CHRISTOPHER MANHART, individually and on behalf
of all others similarly situated,
Plaintiff-Appellant,

v.

WESPAC FOUNDATION, INC., ET AL.,
Defendants-Appellees.

On Appeal from the United States District Court
for the Northern District of Illinois
Case No. 1:24-cv-08209

BRIEF OF *AMICI CURIAE* MANHATTAN INSTITUTE
AND TAL FORTGANG
IN SUPPORT OF PLAINTIFF-APPELLANT AND REVERSAL

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CORPORATE DISCLOSURE STATEMENT

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***AMICI CURIAE'S* IDENTITY, INTEREST,
AND AUTHORITY TO FILE¹**

The Manhattan Institute for Policy Research (“MI”) is a nonpartisan public policy research foundation whose mission is to develop and disseminate new ideas that foster greater economic choice and individual responsibility. To that end, MI has historically sponsored scholarship supporting the rule of law and opposing government overreach, including in the marketplace of ideas.

Tal Fortgang is a legal policy fellow at MI. He has published widely in academic and popular journals, including on the theory of civil terrorism as a unique phenomenon in American legal and political culture. He has a J.D. from New York University Law School.

This case interests *amici* because the defendants are attempting to redefine unlawful conduct as lawful speech. This case implicates MI’s

¹ FRAP 29 Statement: Plaintiff-Appellant consented to the filing of this brief, as did Defendants-Appellees WESPAC Foundation, National Students for Justice in Palestine, Jewish Voices for Peace, and Tides Center. But counsel for Defendants-Appellees Jinan Chehade, Rifqa Falaneh, Simone Tucker, Superior Murphy, and Dissenters objected, “because it is so contrary to our clients’ interests, politics and the fundamental importance of civil disobedience.” Accordingly, a motion for leave accompanies this brief. Further, nobody other than *amicus*, its members, or its counsel authored this brief in whole or in part or made a monetary contribution intended to fund its preparation or submission.

expertise because it specifically draws on the work of *amicus* Fortgang and colleagues regarding civil terrorism. *Amici* file this brief to emphasize that protestors have a constitutional right to speech and protest, but not to advance their political agenda through lawbreaking.

BACKGROUND AND SUMMARY OF ARGUMENT

On April 15, 2024, a group of pro-Palestinian activists staged a demonstration against Israel and its role in the ongoing conflict between Israel and Hamas. Second Amended Verified Complaint, *Manhart v. WESPAC Foundation, Inc.*, No. 1:24-cv-08209 (N.D. Ill. Jan. 29, 2025), ECF No. 69. Using PVC piping, the activists linked arms across Interstate 190 near O’Hare International Airport, blocking traffic for over 2 hours. *Id.* ¶ 66-70. The protest was organized by a group known as “A15 Action,” which sought “to disrupt and blockade economic logistical hubs and the flow of capital.” *Id.* ¶ 57.

The plaintiff, Christopher Manhart, brought a class action lawsuit, alleging that the blockade trapped him and others on the road, causing them to miss their flights. *Id.* ¶ 79. For Manhart specifically, missing his flight caused him to also “miss[] an important work dinner and networking session.” *Id.* Manhart brought claims against the defendants

for false imprisonment, in-concert liability, aiding and abetting liability, and conspiracy, among other claims. *Id.* ¶ 94-146.

The events that gave rise to this litigation exemplify a growing phenomenon that *amicus* has previously described as “civil terrorism.” See Tal Fortgang, *Blocking the Road Is Civil Terrorism*, Wall St. J., Jan. 10, 2024, <https://tinyurl.com/rhwzh3xw>. To draw attention to their cause, demonstrators pull unlawful stunts—in this case, a traffic blockade—that inflict costs on law-abiding Americans. The demonstrators do not aim to persuade or win sympathy from those on the fence about the issue. They aim, instead, to make civilian life under the political status quo miserable to the point that affected civilians lobby elected officials on behalf of the demonstrators’ cause, just to make the disruptions stop. *Id.*

Civil terrorism exploits the fact that misdemeanors committed en masse can be hugely disruptive and even dangerous but are rarely prosecuted. But even in the absence of prosecutions, law-abiding citizens need not tolerate, much less capitulate to, attacks on the good working order of American life. They can deter acts of civil terrorism by bringing lawsuits against those who commit such unlawful acts, winning compensation for those who lost time and money to civil terrorism and

simultaneously “raising the cost of future demonstrations.” *Id.* This is a basic and longstanding function of our private law across subject matter areas. The plaintiff’s lawsuit here represents such an effort.

The district court used the plaintiff’s invocation of the theory of civil terrorism as evidence that the plaintiff is seeking to quash defendants’ legitimate political expression. That conclusion reflects a misunderstanding of the theory of civil terrorism and its role in the plaintiff’s argument. This Court must correct the district court’s misunderstanding and allow the plaintiff’s lawsuit to proceed precisely for reasons illuminated by the theory of civil terrorism. The lawsuit targets unlawful conduct, not lawful speech, and conflating the two is precisely what allows lawlessness to grow unabated.

ARGUMENT

I. The Theory of Civil Terrorism Explains Why This Lawsuit Targets Unlawful Conduct, Not Lawful Speech

The plaintiff’s lawsuit does not seek to suppress the defendants’ speech, and it would not have a chilling effect on constitutionally protected speech. Instead, the plaintiff’s lawsuit seeks to hold the defendants accountable for unlawful conduct and ensure that “free speech” does not become a justification for lawless behavior.

In developing the theory of civil terrorism, *amicus* has previously acknowledged that the First Amendment protects the right to express politically controversial stances, even those as odious as support for foreign terrorist organizations like Hamas. Tal Fortgang, *Block a Road, Go to Prison*, Wall St. J., Feb. 19, 2025, <https://tinyurl.com/4ezktjh8> (“The First Amendment protects their right to do so, and it should.”). Indeed, the theory of civil terrorism serves to distinguish between such constitutionally protected acts of speech and crimes such as the disorderly conduct of blocking roads, trespassing on campus spaces, and vandalizing property. *Id.* The plaintiff’s tort action targets defendants who engaged in expressive conduct on roads where they were not permitted by law to be. This suit, therefore, targets conduct that has an expressive component but is not itself protected speech. As the theory of civil terrorism explains, it actually bears little relation to protected speech despite having some surface-level features in common.

Protest and civil terrorism both involve using expression to effect political, social, or cultural change. Civil terrorists frequently borrow from the protestor’s playbook, using banners, signs, matching apparel, and chants. But they do not congregate on sidewalks, in parks, or on op-

ed pages. Instead, they block roads, vandalize property, trespass, and commit other similar minor crimes in large groups, while tying their disruptive behavior to a cause: here, if the United States ceases its support for Israel, the disruptions will stop.

Civil terrorism is an intimidation campaign that undermines the free exchange of ideas. In the battle for Americans' hearts and minds, the side whose position includes ". . . and if you don't take our view, we will continue shutting down interstates" has a perverse advantage over its law-abiding opponents. Legitimate free speech facilitates the democratic process; civil terrorism subverts it. Bringing legal actions against civil terrorists protects the integrity of the freedom of speech by drawing a clear boundary between legitimate speech and lawbreaking conduct.

The concern that tort actions against civil terrorism may nevertheless have a chilling effect on lawful and legitimate speech is thus unwarranted. There are clear and justified distinctions between lawful speech and unlawful conduct containing an expressive element. Civil terrorism is an entirely different approach to political activism, one that is rightly held to be unlawful. Civil terrorists are not mere protestors whose exercise of free speech occasionally crosses the line into unlawful

conduct. Civil-terrorist groups, including several defendants here, regularly engage in lawbreaking, from destroying property on college campuses to other defacing behavior across many jurisdictions. They do so as a matter of strategy. Blocking roads and vandalizing property are illegal acts for good reason: they disturb law-abiding people's ability to go about their days in peace, free from disorder and chaos.

Civil terrorists' goal is to create chaos, uncertainty, and disorder to achieve political ends through mass commission of "minor" crimes. That has a political dimension, because it aims to achieve political goals, such as changes in public opinion and public policy. But it is not participation in the democratic process of peaceful protest and persuasion the First Amendment protects. It is the logic of terrorism: coerce an exasperated law-abiding public into acquiescence by making its life miserable and vowing not to stop until the demands are met. Bringing civil actions against those who use bombs and guns to advance political goals does not chill speech, even though traditional terrorism has an expressive aspect to it. Similarly, bringing civil actions against those engaged in *civil* terrorism—which employs the same strategy using less-violent means—should not be conflated with an attempt to chill speech.

Far from being a sign of a vendetta against defendants, the plaintiff's decision to sue them is a logical response to civil terrorism. Civil terrorists strategically engage in activity that they know the legal system will not significantly punish. Specifically, they target jurisdictions that have reputations for using prosecutorial discretion in defendant-friendly ways. They engage in misdemeanors that are low priorities for prosecutors. The criminal justice system has not yet adjusted to civil terrorism, because it assumes that the disorderly conduct of blocking a road will be committed occasionally by one or two lawbreakers—not regularly by large gatherings of demonstrators. Law-abiding people are not adequately protected by the criminal-law prohibitions on destructive, lawless behavior. Private causes of action exist to compensate those who suffered harms—and to raise the cost of continuing such exploitative behavior.

Finally, to observe the difference between an anti-speech campaign and an anti-intimidation campaign, consider the history of anti-abortion protests. In 1994, Congress passed the Freedom of Access to Clinic Entrances (FACE) Act, which criminalized the threat and use of force to interfere with a person's access to abortion services. 18 U.S.C. § 248

(2018). Even before the passage of this Act, abortion-rights organizations successfully obtained injunctive relief against anti-abortion activists who blocked access to abortion facilities, on the grounds that such blockades constituted trespass and public nuisance. *See e.g. Nat’l Org. for Women v. Operation Rescue*, 914 F.2d 582 (4th Cir. 1990). Yet neither the FACE Act nor the successful lawsuits against blockades of access to abortion facilities curbed the lawful speech and protest of pro-life advocates, who later saw a landmark legal victory in *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215 (2022). What they did do was ensure that attempts to circumvent the political process through unlawful means failed.

The plaintiff’s lawsuit here represents a similar effort with respect to anti-Israel demonstrations. There is nothing stopping advocates of any view regarding the Israel-Hamas war from voicing their opinions. This suit simply asks the judicial system to reaffirm that they must do so within the confines of the law.

II. The District Court Misunderstood the Role of the Theory of Civil Terrorism in the Plaintiff’s Argument

The district court mischaracterized the plaintiff’s second amended complaint (“SAC”) and misunderstood the role of the theory of civil terrorism in the plaintiff’s lawsuit.

The lower court explained that the plaintiff’s “filings were presented for the improper purpose of harassment” and that the plaintiff’s “allegations . . . are only a hair’s breadth away from calling Defendants terrorists.” Mem. Op. and Order at 34, *Manhart v. WESPAC Foundation, Inc.*, No. 1:24-cv-08209 (N.D. Ill. Aug. 7, 2025), ECF No. 109. The lower court also took exception to the plaintiff’s approving citation of “an article from a think tank that accuses Defendants of engaging in ‘civil terrorism,’ being ‘anti-Western,’ and working to ‘make life intolerable for Americans who support . . . the U.S. in its current form.” *Id.* at 35. These purported indicia of malice “persuaded” the district court “that Plaintiff’s intent in bringing this action was not to recover the damages actually sustained, but instead to harass Defendants.” *Id.*

This characterization of the plaintiff’s allegations is inaccurate because it treats “civil terrorist” as a mere pejorative rather than a term that describes defendants’ pattern of conduct. As described above, civil-terrorist groups organize strategic lawbreaking that revolves on making life intolerable until Americans capitulate. When *amicus* describes litigation against civil terrorists as “mak[ing] a dent in the Defendants’ resources via a ‘slow’ discovery process,” *id.* (quoting Tal Fortgang, *The*

Rise of Civil Terrorism, City Journal, Mar. 9, 2025, <https://tinyurl.com/4kd6e2x6>), it is not arguing for “lawfare” against political opponents. Instead, it is trying to internalize the externalities that the organizations that foster unlawful behavior impose on society.

Accordingly, the plaintiff’s use of *amicus*’s theory to explain the full context of defendants’ actions is not evidence that plaintiff is trying to harass defendants or prevent them from expressing their political views in a lawful manner. To the contrary, it helped explain from the outset why this litigation has nothing to do with efforts to quash defendants’ speech, notwithstanding defendants’ foreseeable argument conflating the two—an argument the district court erroneously accepted. As the SAC puts it, “While individuals and organizations have First Amendment rights to peaceably assemble, speak freely, and publicly air their grievances, the First Amendment does not protect tortious behavior masquerading as protest.” Second Am. Verified Compl. ¶ 7. The theory of civil terrorism is merely an application and elaboration of this correct general statement of law.

As the SAC and *amicus*’s articles which it cites make clear, the plaintiff was not calling the defendants “terrorists” as an *ad hominem*

attack or trying to harass them for expressing their opinions. Instead, the plaintiff pointed out that the defendants' actions represented a pattern of violated undisputed limitations on the time, place, and manner of speech—and that failure to treat these violations with the seriousness they deserve will result in future violations. The content of the defendants' speech is irrelevant to the plaintiff's allegations. Even if the defendants had been agitating on behalf of a different cause that was less politically controversial—say, the need for increased funding of the Art Institute of Chicago—their conduct would have been no less damaging to the plaintiff, whose allegations would have retained their legal force.

Additionally, the lower court misunderstood statements by *amicus* about the theory of civil terrorism in the context of this case. The court claimed that *amicus* Fortgang “call[ed] for the ‘civil terrorists’ who participated in the protest at issue in this action—that is, Defendants—to be denaturalized and deported.” Mem. Op. at 35. That is false. He called for the deportation only of civil terrorists who are found to be noncitizens or naturalized citizens who concealed affiliations with foreign terrorist organizations. Fortgang, *The Rise of Civil Terrorism*, Mar. 9, 2025 (“If it turns out that noncitizens—or naturalized citizens who lied

about their terrorist affiliations—are implicated in organizing these actions, they should be prosecuted and deported.”). Moreover, in that sentence, *amicus* Fortgang was referring to civil terrorists in general, not the defendants specifically. At no point did he opine on whether these conditions for deportation applied to the defendants here. There is simply no evidence that the plaintiff or *amici* have personal biases against the defendants—as opposed to anyone who engages in lawbreaking—much less that they seek to quash the free expression of their political views.

Identifying defendants’ conduct as civil terrorism does not show any intent to harass, because it’s a description, not a slur. It illuminates how defendants have sought to undermine the democratic process by opting to spread their message through lawbreaking rather than protected speech in its proper time, place, and manner.

CONCLUSION

Civil terrorism refers to unlawful conduct that aims to coerce law-abiding citizens into accepting a political agenda—it has nothing to do with lawful speech. The Plaintiff-Appellant’s action seeks to hold Defendants-Appellees accountable for their unlawful conduct, not harass

them for their lawful speech. This Court should reverse the district court and allow this lawsuit to proceed.

Respectfully submitted,

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Dated: October 13, 2025

CERTIFICATE OF COMPLIANCE

This brief complies with the word limit of Fed. R. App. P. 29(b)(4) and 7th Cir. R. 29 because this brief contains 2,602 words, excluding parts of the brief exempted by Fed. R. App. P. 32(f), as determined by the word counting feature of Microsoft Office.

This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in Word using a proportionally spaced typeface, 14-point Century Schoolbook.

October 13, 2025

/s/ Ilya Shapiro
Ilya Shapiro
Counsel for Amici

CERTIFICATE OF SERVICE

I, Ilya Shapiro, counsel for *amici curiae* and a member of the Bar of this Court, certify that, on October 13, 2025, a copy of the attached Brief of *Amici Curiae* was filed with the Clerk and served on the parties through the Court's electronic filing system. I further certify that all parties required to be served have been served.

/s/ Ilya Shapiro
Ilya Shapiro