Wisconsin Supreme Court and Court of Appeals Case Access

Wisconsin Legislature v. Andrea Palm

Appeal Number 2020AP000765 - OA

Supreme Court

CASE HISTORY

Status	Court	Filing Date	Anticipated Due Date	Activity
OCCD	SC	06-24-2020		Remittitur
OCCD	SC	05-18-2020		Response

Comment: Respondent's Letter Response to Petitioner's Supplemental Authority filing of 5/13/2020; Response submitted by Colin Roth Response to Legislature's Supplemental Authority letter; submitted by Atty Roth

OCCD	SC	05-15-2020		Additional Authorities

Comment: Supplemental Authority (DHS Rulemaking) submitted by Ryan J. Walsh Additional Authorities submitted by Atty Walsh

OCCD	SC	05-13-2020		Cites

942 N.W.2d 900

OCCD	SC	05-13-2020		Cites

391 Wis. 2d 497

OCCD	SC	05-13-2020		Opinion/Decision Opinion/Decision

Judge Panel: Roggensack, Bradley, Ziegler, Bradley, Kelly, Dallet, Hagedorn
Opinion: Opinion
Decision: Other Pages: 32
Written by: Roggensack, Patience Drake
Roggensack, Patience Drake Wrote Concurring Opinion 3 pages.
Bradley, Rebecca Grassl Wrote Concurring Opinion 22 pages.
Kelly, Daniel Wrote Concurring Opinion 24 pages.
Bradley, Ann Walsh Wrote Dissenting Opinion 4 pages.
Dallet, Rebecca F. Wrote Dissenting Opinion 20 pages.
Hagedorn, Brian K. Wrote Dissenting Opinion 51 pages.
Bradley, Rebecca Grassl Joined Concurring Opinion
Additional Judge Action:of Justice Daniel Kelly
Kelly, Daniel Joined Concurring Opinion
Additional Judge Action:of Justice Rebecca Grassl Bradley
Dallet, Rebecca F. Joined Dissenting Opinion

Additional Judge Action:of Justice Ann Walsh Bradley and Paragraphs 198 - 258 of Justice Brian K. Hagedorn
Bradley, Ann Walsh Joined Dissenting Opinion
Additional Judge Action:of Rebecca F. Dallet and Paragraphs 198 - 258 of Justice Brian K. Hagedorn
Order Text: By the court Palm's Emergency Order 28 is declared, unlawful, invalid and unenforceable. Rights Declared.
Comment: ROGGENSACK, C.J., delivered the majority opinion of the Court, in which ZIEGLER, REBECCA GRASSL BRADLEY, and KELLY, JJ., joined.

OCCD SC 05-13-2020 Public Domain Citation

Comment: PDC No: 2020 WI 42

OCCD SC 05-13-2020 Other Papers

Comment: Return mail for Amy Catherine Miller; 4/29/20 & 5/1/20 CTO

OCCD SC 05-11-2020 Attorney Change

Comment: Nicole Safar replaced in caption by Lisa Olson per letter from AAG Jurss. Letter RE: Attorney Change filed by AAG Jurss

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OCCD SC 05-11-2020 Caption Amended

Comment: Nicole Safar changed to Lisa Olson Notification of Amended Caption

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OCCD SC 05-05-2020 Brief of Amicus Curiae
Amicus Brief of Milwaukee Teachers' Education Association, Madison Teachers Inc., SEIU Healthcare Wisconsin, and Amalgamated Transit Union Local 998 in Opposition to Legislature's Petition for Original Action and Motion for Temporary Injunction

Filed By: Tamara Packard
Comment: Amicus Brief of Unions Acknowledgment of Filing of Brief - Amicus Curiae (Union) Brief of Amicus Curiae (Cover letter)

OCCD SC 05-05-2020 Oral Argument

Comment: at 10:00 a.m. via video/audio conferencing. Parties to present argument. Per court's 5-1-2020 order: amicus parties will not be granted argument time. Attorney Ryan J. Walsh for Petitioner, Attorney Colin T. Roth for Respondents.

OCCD SC 05-01-2020 Brief of Amicus Curiae
Amicus Brief of Washington County, Wisconsin in Support of Legislature's Emergency Petition for Original Action and Emergency Motion for Temporary Injunction

Filed By: Bradley Stern
Comment: Amicus Brief of Washington County

OCCD SC 05-01-2020 Assigned-Oral Argument

OCCD SC 05-01-2020 Other Papers

Comment: Motion for Pro Hac Vice Admission of Eric R. Bolinder

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OCCD SC 04-30-2020 Brief of Amicus Curiae
Amicus Brief of Legal Action of Wisconsin, Inc. in Opposition to Emergency Petition for Original Action and to Motion for Temporary Injunction

Filed By: Amanda Aubrey
Comment: Legal Action of Wisconsin. Please note the form and length certification pursuant to Rule 809.19(8)(d) & e-file certification pursuant to Rule 809.19(12)(f) have been added to all briefs.

OCCD SC 04-30-2020 Court Order

IT IS ORDERED that the motions identified above are granted. A copy of SCR 10.03(4), setting forth the requirements for attorneys appearing pro hac vice, is attached to the moving parties' copies of this order.

OCCD SC 04-30-2020 Response

Comment: Petitioner's Reply to Respondents' Response of 4/28/20 due by 4:00 pm

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OCCD SC 04-29-2020 Brief of Amicus Curiae
Amicus Brief of Independent Business Association of Wisconsin, Double Decker Automotive, Inc., and Shear Xcellence, LLC, in Support of the Emergency Petition for an Original Action and in Support of the Emergency Motion for a Temporary Injunction

Filed By: Lucas Vebber
Comment: IBAW, Double Decker Automotie and Shear Xcellence

OCCD SC 04-29-2020 Brief of Amicus Curiae
Amicus Brief of Wisconsin Faith Voices for Justice
Amicus Brief of Disability Rights Wisconsin, the ARC Wisconsin, the ARC, and Disability and Aging Organizations

Filed By: Kristin Kerschensteiner
Comment: Disability Rights Wisconsin, The Arc Wisconsin, The Arc, and Disability and Aging Organizations.

OCCD SC 04-29-2020 Brief of Amicus Curiae
Amicus Brief of Amici Curiae 24 Wisconsin Community, Advocacy, Labor, and Membership Organizations

Filed By: Douglas Poland
Comment: 24 Wisconsin Community, Advocacy, Labor and Membership Organizations

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OCCD SC 04-29-2020 Brief of Amicus Curiae
Amicus Brief of Wisconsin Manufacturers and Commerce and Wisconsin Dairy Alliance in Support of Wisconsin Legislature's Emergency Petitoin for an Original Action and In Support of the Emergency Motion for Temporary Injunction

Filed By: Robert Fassbender
Comment: Wisconsin Manufacturers and Commerce and Wisconsin Dairy Alliance. Separate Appendix.

OCCD SC 04-29-2020 Brief of Amicus Curiae
Amicus Brief of Wisconsin Public Health Association, Wisconsin Nurses Association, Wisconsin Chapter of American Academy of

Pediatrics, and Other Healthcare

Filed By: Jeffrey Mandell
Comment: Wisconsin Public Health Association, Wisconsin Nurses Association, Wisconsin Chapter of American Academy of Pediatrics and Other Healthcare Amici Curiae

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OCCD SC 04-29-2020 Brief of Amicus Curiae
Amicus Brief of Local Health Departments and Boards and Associated Municipalities and Counties

Filed By: Paul Gagliardi
Comment: Wisconsin Association of Local Health Departments and Boards and Associated Municipalities and Counties

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OCCD SC 04-29-2020 Brief of Amicus Curiae
Amicus Brief of the Tavern League of Wisconsin

Filed By: Zachary Bemis
Comment: The Tavern League of Wisconsin

OCCD SC 04-29-2020 Brief of Amicus Curiae
Amicus Brief of Americans for Prosperity

Filed By: Matthew Fernholz
Comment: Americans for Prosperity - Wisconsin

OCCD SC 04-29-2020 Brief of Amicus Curiae
Amicus Brief of Legal Scholars as Amici Curiae in Support of Respondents

Filed By: Barry Blonien
Comment: Legal Scholars

OCCD SC 04-29-2020 Motion to File Amicus/Non-Party Brief

Filed By: Robert Fassbender
Submit Date: 4-29-2020
Decision: (G) Grant
Decision Date: 4-29-2020
IT IS ORDERED that the motions for leave to file non-party briefs, amici curiae, identified above are granted and the briefs are accepted for filing.
Comment: Great Lakes Legal Foundation and WI Manufacturers & Commerce

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OCCD SC 04-29-2020 Motion to File Amicus/Non-Party Brief

Filed By: Kristin Kerschensteiner
Submit Date: 4-29-2020
Decision: (G) Grant
Decision Date: 4-29-2020
IT IS ORDERED that the motions for leave to file non-party briefs, amici curiae, identified above are granted and the briefs are accepted for filing.
Comment: Disability Rights of Wisconsin, The ARC of Wisconsin, The ARC, Disability and Aging Organizations

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OCCD SC 04-29-2020 Motion to File Amicus/Non-Party Brief

Filed By: Zachary Bemis

Submit Date: 4-29-2020
Decision: (G) Grant
Decision Date: 4-29-2020
IT IS ORDERED that the motions for leave to file non-party briefs, amici curiae, identified above are granted and the briefs are accepted for filing.
Comment: The Tavern League

OCCD SC 04-29-2020 Motion to File Amicus/Non-Party Brief

Filed By: Paul Gagliardi
Submit Date: 4-29-2020
Decision: (G) Grant
Decision Date: 4-29-2020
IT IS ORDERED that the motions for leave to file non-party briefs, amici curiae, identified above are granted and the briefs are accepted for filing.
Comment: Local Health Offices

OCCD SC 04-29-2020 Brief of Amicus Curiae
Amicus Brief of Hunter Nation, Wisconsin Lakeshore Business Association, Sport-Fishing Guides, and Individual Anglers in Support of the Emergency Petition for an Original Action and in Support of the Emergency Motion for Temporary Injunction

Filed By: Adam Jarchow
Comment: Hunter Nation, Wisconsin Lakeshore Business Association, Sport-Fishing Guides, and Individual Anglers Appendix Brief of Amicus Curiae (Amicus Brief of Hunter Nation)

OCCD SC 04-29-2020 Brief of Amicus Curiae

Filed By: Stephen Kravit
Comment: Wisconsin Faith Voices for Justice Appendix of Wisconsin Faith Voices for Justice

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OCCD SC 04-29-2020 Motion to File Amicus/Non-Party Brief

Filed By: Jeffrey Mandell
Submit Date: 4-29-2020
Decision: (G) Grant
Decision Date: 4-29-2020
IT IS ORDERED that the motions for leave to file non-party briefs, amici curiae, identified above are granted and the briefs are accepted for filing.
Comment: Healthcare Amici

OCCD SC 04-29-2020 Motion to File Amicus/Non-Party Brief

Filed By: Matthew Fernholz
Submit Date: 4-29-2020
Decision: (G) Grant
Decision Date: 4-29-2020
IT IS ORDERED that the motions for leave to file non-party briefs, amici curiae, identified above are granted and the briefs are accepted for filing.
Comment: Americans for Prosperity

OCCD SC 04-29-2020 Motion to File Amicus/Non-Party Brief

Filed By: Douglas Poland
Submit Date: 4-29-2020
Decision: (G) Grant

Decision Date: 4-29-2020
IT IS ORDERED that the motions for leave to file non-party briefs, amici curiae, identified above are granted and the briefs are accepted for filing.
Comment: Amicus Curiae 24

OCCD SC 04-29-2020 Motion to File Amicus/Non-Party Brief

Filed By: Tamara Packard
Submit Date: 4-29-2020
Decision: (G) Grant
Decision Date: 4-29-2020
IT IS ORDERED that the motions for leave to file non-party briefs, amici curiae, identified above are granted and the briefs are accepted for filing.
Comment: Motion by Milwaukee Teachers' Education Association, Madison Teachers Inc., SEIU Healthcare Wisconsin, and Amalgamated Transit Union Local 998 for Leave to File an Amicus Brief in Opposition to the Wisconsin Legislature's Petition for Original Action and Motion for Temporary Injunction (the Unions)

OCCD SC 04-29-2020 Motion to File Amicus/Non-Party Brief

Filed By: Barry Blonien
Submit Date: 4-29-2020
Decision: (G) Grant
Decision Date: 4-29-2020
IT IS ORDERED that the motions for leave to file non-party briefs, amici curiae, identified above are granted and the briefs are accepted for filing.
Comment: Legal Scholars

OCCD SC 04-29-2020 Motion to File Amicus/Non-Party Brief

Filed By: Frederick Brengel
Submit Date: 4-29-2020
Decision: (D) Deny
Decision Date: 5-1-2020
IT IS ORDERED that the motions of John Puchner and T.Wall Enterprises Mgt, LLC for leave to file nonparty briefs, amici curiae, are denied. IT IS FURTHER ORDERED that the motion of Washington County for leave to file a non-party brief, amicus curiae, is granted and the brief is accepted for filing.

Comment: T. Wall Enterprises Mgt. Amicus Motion Order

OCCD SC 04-29-2020 Motion to File Amicus/Non-Party Brief

Filed By: Bradley Stern
Submit Date: 4-29-2020
Decision: (G) Grant
Decision Date: 5-1-2020
IT IS ORDERED that the motions of John Puchner and T.Wall Enterprises Mgt, LLC for leave to file nonparty briefs, amici curiae, are denied. IT IS FURTHER ORDERED that the motion of Washington County for leave to file a non-party brief, amicus curiae, is granted and the brief is accepted for filing
Comment: Washington County

OCCD SC 04-29-2020 Motion to File Amicus/Non-Party Brief

Filed By: Adam Jarchow
Submit Date: 4-29-2020
Decision: (G) Grant
Decision Date: 4-29-2020

IT IS ORDERED that the motions for leave to file non-party briefs, amici curiae, identified above are granted and the briefs are accepted for filing.
Comment: Wisconsin Lake Shore Business Association, Fishing Guides and Individual Anglers

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OCCD SC 04-29-2020 Motion to File Amicus/Non-Party Brief

Filed By: Stephen Kravit
Submit Date: 4-29-2020
Decision: (G) Grant
Decision Date: 4-29-2020
IT IS ORDERED that the motions for leave to file non-party briefs, amici curiae, identified above are granted and the briefs are accepted for filing.
Comment: Wisconsin Faith Voices for Justice

OCCD SC 04-29-2020 Response

Comment: non-party motion with brief due by 4:00 pm

OCCD SC 04-28-2020 Motion to File Amicus/Non-Party Brief

Filed By: John Puchner
Submit Date: 4-28-2020
Decision: (D) Deny
Decision Date: 5-1-2020
IT IS ORDERED that the motions of John Puchner and T.Wall Enterprises Mgt, LLC for leave to file nonparty briefs, amici curiae, are denied. IT IS FURTHER ORDERED that the motion of Washington County for leave to file a non-party brief, amicus curiae, is granted and the brief is accepted for filing

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OCCD SC 04-28-2020 Motion to File Amicus/Non-Party Brief

Filed By: Lucas Vebber
Submit Date: 4-28-2020
Decision: (G) Grant
Decision Date: 4-28-2020
IT IS ORDERED that the motions are granted and the briefs are accepted for filing.
Comment: IBAW, Double Decker Automotive and Shear Xcellence

OCCD SC 04-28-2020 Other Papers

Comment: Applications for Pro Hac Vice submitted by Lauren C. Barnett, Brendan B. Gants, Elaine J. Goldenberg and Shira Wakschlag

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OCCD SC 04-28-2020 Motion to Intervene

Filed By: Tamara Packard
Submit Date: 4-28-2020
Decision: (D) Deny
Decision Date: 4-28-2020
IT IS ORDERED that the motion to intervene is denied; and IT IS FURTHER ORDERED that the motion for leave to file a non-party brief, amicus curiae, is denied. The courts April 21, 2020 order expressly stated that a non-party brief, which must be attached to a motion for leave to file it, shall not exceed 20 pages if a monospaced font is used or 4,400 words if a proportional serif font is used. The proposed non-party brief submitted with this motion fails to comply with this order as it is 74 pages in length.

Comment: movants, "The Unions" alternatively ask for leave to file an amicus brief

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OCCD SC 04-28-2020 Motion to File Amicus/Non-Party Brief

Filed By: Amanda Aubrey
Submit Date: 4-28-2020
Decision: (G) Grant
Decision Date: 4-28-2020
IT IS ORDERED that the motions are granted and the briefs are accepted for filing.
Comment: Legal Action of Wisconsin and Amended Motion filed 4-28-20

OCCD SC 04-28-2020 Response

Comment: Respondents' Response to Petition due by 4:00 pm

OCCD SC 04-21-2020 Court Order

PART 1 IT IS ORDERED that respondents, Andrea Palm, Julie Willems Van Dijk, and Nicole Safar, in their official capacities as executives of the Wisconsin Department of Health Services, shall file a response to the petition and the motion by 4:00 p.m. on April 28, 2020. The response shall be filed as an attachment in pdf format to an email addressed to clerk@wicourts.gov. See Wis. Stat. 809.14, 809.80, and 809.81. The respondents shall also mail or deliver a paper original and one copy of the response to the clerk of this court with the following notation on the top of the first page: This document was previously filed via email.; and IT IS FURTHER ORDERED that the petitioner may file a reply in support of the petition and the motion by 4:00 p.m. on April 30, 2020. The filing shall be accomplished in the manner set forth in the preceding paragraph;

OCCD SC 04-21-2020 Court Order

PART 2 - IT IS FURTHER ORDERED that any non-party that wishes to file a brief in support of or in opposition to the petition for leave to commence an original action and the motion for temporary injunction must file a motion for leave of the court to file a non-party brief pursuant to the requirements of Wis. Stat. (Rule) 809.19(7). Non-parties should also consult this courts Internal Operating Procedure III.B.6.c. concerning the nature of non-parties who may be granted leave to file a non-party brief. A proposed non-party brief must accompany the motion for leave to file it. Any proposed non-party brief shall be limited to the issues of whether this court should grant or deny the petition and the accompanying motion for temporary injunctive relief, and it shall not exceed 20 pages if a monospaced font is used or 4,400 words if a proportional serif font is used. Any motion for leave with the proposed non-party brief attached shall be filed no later than 4:00 p.m. on Wednesday, April 29, 2020. Any submission by a non-party that does not comply with Wis. Stat. (Rule) 809.19(7) and any proposed non-party brief for which this court does not grant leave will not be considered by the court.

OCCD SC 04-21-2020 Motion for Miscellaneous Relief

Filed By: Ryan Walsh
Submit Date: 4-21-2020
Decision: (O) Other
Decision Date: 5-13-2020
By the court Palm's Emergency Order 28 is declared, unlawful, invalid and unenforceable.
Motion Response
Filed By: Colin Hector
Submit Date: 4-28-2020
Comment: Emergency Motion for Temporary Injunction

OCCD SC 04-21-2020 Fee Paid

Comment: Receipt No: 20R 000825

OCCD SC 04-21-2020 Petition for an Original Action

Filed By: Ryan Walsh
Submit Date: 4-21-2020
Decision: (G) Grant
Decision Date: 5-1-2020
IT IS ORDERED that the Emergency Petition for Original Action is granted and this court assumes jurisdiction over this action as to only the following issues:

1. Whether the Department of Health Services (the Department) violated Wis. Stat. 227.24, governing emergency rules, by issuing Emergency Order No. 28 without complying with 227.24s procedures; and

2. Even if the Department did not violate 227.24, whether Emergency Order No. 28 exceeds the Departments authority by closing all nonessential businesses, ordering all Wisconsin persons to stay at home, and forbidding all nonessential travel; and

IT IS FURTHER ORDERED that the court will hear oral argument in this matter at 10:00 a.m. on Tuesday, May 5, 2020. Due to the COVID-19 pandemic, oral arguments before the court will be conducted via videoconferencing. The hearing room will not be open to the public. The public may watch proceedings on the Wisconsin Eye website. Counsel in this case will receive instructions from the Clerks Office prior to the date of the oral argument regarding the procedures for appearing remotely; and

IT IS FURTHER ORDERED that the petitioner and the respondents shall each have forty-five minutes of oral argument time. In addition to addressing the two issues set forth above, the parties may, in their discretion, also address whether a temporary injunction should be issued; and

IT IS FURTHER ORDERED that amici curiae shall not be granted additional oral argument time.

REBECCA FRANK DALLET, J., dissents.

Motion Response
Filed By: Colin Hector
Submit Date: 4-28-2020
Motion Response
Filed By: Ryan Walsh
Submit Date: 4-30-2020
Comment: Affidavit of Ryan J. Walsh filed 4/21/2020 Affidavits of Ryan P. Westergaard and Julie Willems Van Dijk filed 4/28/2020 Affidavit of Ryan J. Walsh filed 4/30/2020 05-01-2022 Court Order Supplemental Affidavit of Ryan P. Westergaard in Support of Respondents' Response to Petition for Original Action