

GOP lawmakers seek emergency stay of lame-duck decision

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GOP lawmakers Friday went to the 3rd District Court of Appeals seeking an emergency stay of a Dane County judge's ruling holding up enforcement of legislation Republicans approved during a December extraordinary session.

The [filing](#) argues Thursday's injunction was "indefensible" and was creating chaos. Republicans are asking for a stay to be issued as early as Friday.

"There is no telling how the decisions that such bodies or the Governor or Attorney General are already making will be unwound once this meritless lawsuit is rejected on appeal," the brief argues.

But Gov. Tony Evers' attorney in a [letter](#) to the Appeals Court countered the brief "grossly misstates the issue" and argued the appeal should be filed in Madison's District 4 rather than Wausau's District 3.

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Dane County Judge Richard Niess ruled Thursday Republicans failed to lawfully convene December's extraordinary session. He issued a temporary injunction preventing enforcement of the laws and overturned 82 appointments the state Senate approved during the lame-duck session.

Evers quickly moved after the decision was issued to order AG Josh Kaul to withdraw Wisconsin from a lawsuit their predecessors backed seeking to overturn the Affordable Care Act.

The brief argues Niess' ruling will cause confusion over four decades of laws adopted during past extraordinary sessions, from those impacting child sex offenders to right-to-work.

It also focuses largely on the argument that the Legislature can adopt any work schedule it chooses for the legislative session and is free to call itself into extraordinary session under the Wisconsin Constitution. The brief also argues Niess didn't have jurisdiction to review the statute that governs how the Legislature meets each session.

In pushing for the stay, Republicans noted Kaul had already filed motions to withdraw the state from the Obamacare suit and one challenging an Obama-era rule that interprets sex discrimination to include "gender identity" and termination of pregnancy.

One of the 82 appointments impacted by Thursday's order was Gov. Scott Walker's move of Ellen Nowak from DOA secretary to the Public Service Commission during his final days of office. The brief notes the PSC canceled a hearing that was scheduled for Friday following Niess' decision, saying there was no public reason offered. But an agency spokesman told WisPolitics.com Thursday it was put off as the PSC studies the impact of the ruling on Nowak's appointment.

"There is no telling how many future meetings of important boards will need to be cancelled, and how these eighty-two individuals' lives will be harmed, by the Circuit Court's erroneous order," the brief argues.

League of Women Voters Executive Director Erin Grunze said this morning she's confident in the plaintiffs' position, adding the group's attorney, Jeff Mandell, "has laid a very solid course for this case." She said from the beginning, the group didn't see the issue as partisan, but rather one about how the state should be governed.

"This is not how the state constitution was meant to be enacted, and we stand by that," she said.