

Restraining order on Evers administration extended

Posted on Monday, Oct 12, 2020

A Waukesha County judge granted the request of Wisconsin Manufacturers & Commerce to extend the temporary restraining order preventing the Evers administration from releasing information on businesses with COVID-19 outbreaks.

The order from Judge Lloyd Carter, issued yesterday morning, will be in effect “until the matter can be fully presented to the court by way of briefs.”

The next hearing will take place on Nov. 30 between plaintiffs WMC and chambers from Muskego and New Berlin, and the defendants Gov. Tony Evers, Department of Health Services Secretary Andrea Palm and Department of Administration Secretary Joel Brennan.

The suit argues that information on over 1,000 businesses with more than 25 employees with at least two employees that tested positive for COVID-19 was pulled from confidential patient health care records and shouldn't be released.

Plaintiff attorney Ryan Walsh argued in yesterday's briefing that if the judge did not extend the injunction while he reviewed the briefs from either side, the case would be moot.

The information would be released in response to open records requests in March, May and June from media outlets including the Milwaukee Journal Sentinel, which was granted permission today to intervene in the case arguing on the side of the

defendants.

Defendant attorney Andie Bensky argued that the restraining order should not be extended and a preliminary injunction should not be issued. She said the state has a requirement to release the records under law once the requested information is compiled.

“There is a tremendous public interest in receiving this information,” she said. “The claim they’re making just doesn’t exist, there’s no legal hook for them to get into court.”

She added that there is no injury to employees of the business because the records are stripped of any personal identification and a lot of the information is already in the public sphere through county reporting of businesses with outbreaks.

“There is absolutely no evidence whatsoever beyond generalized speculation that any of the member employers are going to suffer any injury at all,” she said. “The only thing they include in their brief is a link to a Bloomberg article, and that’s just not sufficient to obtain the extraordinary remedy of asking a court to prohibit an agency from releasing public records when the law says that the agency has to.”

-By Stephanie Hoff

WisBusiness.com