

WILL: Asks judge to decide on merits in lawsuit challenging Gov. Evers' emergency declarations

Posted on Friday, Oct 23, 2020

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Critical questions remain before the court on emergency powers

The News: The Wisconsin Institute for Law & Liberty (WILL) filed a motion for summary judgement in [Lindoo v. Evers](#), a lawsuit filed in Polk County Circuit Court challenging Governor Tony Evers' legal authority to issue multiple emergency declarations in response to COVID-19. A [motion for summary judgement](#) asks Judge Waterman to make a decision on the merits of the claims made in WILL's lawsuit. Judge Waterman's recent denial of an injunction on October 12, did not address the merits of all of the lawsuit's claims.

The Quote: WILL President and General Counsel Rick Esenberg said, "The questions before the court are very serious. Governor Evers's use of multiple emergency declarations to address COVID-19 pose critical challenges to the rule of law and the separation of powers in Wisconsin." What's Next? Unless Judge Waterman issues an expedited timetable, a summary judgement hearing on the merits of Lindoo v. Evers may not occur until December 2020 or later.

Background: Governor Tony Evers declared a second public health emergency, [Executive Order #82](#), on July 30, seizing emergency powers for a second 60-day period to address the ongoing COVID-19 pandemic. Accompanying the new emergency declaration was a mask mandate applying to all 72 counties.

WILL filed a lawsuit in Polk County Circuit Court, on behalf of three Wisconsin residents and taxpayers, on August 25. The lawsuit challenges the ability of Governor Evers to seize expansive emergency powers more than once to address the same crisis. Governor Evers declared his first public health emergency in relation to COVID-19 in March 2020.

WILL filed [a motion](#) for a temporary injunction on September 28, after Governor Evers [declared a third COVID-19 emergency](#) on September 22, in effect a continuation of the earlier emergencies.

WILL participated in a hearing on the motion on October 5, and made the case that our clients deserved relief because allowing the emergency declarations to stand would allow one-person rule by the Governor for what could be a virtually unlimited amount of time whenever he deemed the circumstances continued to warrant it. The result would be the total breakdown of our constitutional order.

Judge Waterman issued a [written decision](#) on October 12, denying the motion for an injunction.

Read More:

- [Motion for Summary Judgement](#), October 23, 2020
- [Brief in Support of Motion for Summary Judgement](#), October 23, 2020
- ["Gov. Evers' emergency COVID-19 declaration violates the law,"](#) Rick Esenberg, Wisconsin State Journal, August 26, 2020