

WILL: Sues Gov. Evers over second COVID-19 emergency declaration

Posted on Tuesday, Aug 25, 2020

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The Wisconsin Institute for Law & Liberty (WILL), on behalf of three Wisconsin residents and taxpayers, filed a [lawsuit](#) in Polk County Circuit Court against Governor Tony Evers for violating state law by declaring a second public health emergency on July 30. State law forbids a governor from unilaterally extending a public health emergency beyond 60 days or skirting the law by declaring multiple 60-day emergencies for the same crisis.

WILL President and General Counsel Rick Esenberg said, "This lawsuit is not about whether masks are good or bad, or whether Wisconsin ought to do more, or less, to address COVID-19. It isn't even about whether the state should have a mask mandate. This lawsuit is about our system of government and the rule of law. Governor Evers cannot seize these time-limited emergency powers more than once without legislative approval."

On May 12, 2020, Wisconsin Governor Tony Evers's 60-day public health emergency, declared in relation to the sudden arrival of COVID-19, ended. The legislature had the option to extend the emergency and the expanded executive powers that accompany a state of emergency but declined to take any action. The end of the emergency heralded the return of our regular constitutional order. The legislature has the responsibility of crafting and passing legislation and the executive branch has the option to sign or veto legislation. Any further statewide responses to COVID-19 ought to have proceeded through this regular process. But Governor 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 is a mask mandate applying to all 72 counties.

WILL's lawsuit is very simple. Governor Evers cannot seize emergency powers more than once to address the same crisis. To interpret the law otherwise, would allow one-person rule by the Governor for what could be a virtually unlimited amount of

time whenever the vague statutory definition of a “public health emergency” or “disaster” can be said to be present. The result would be the total breakdown of our constitutional order.