

WILL: To participate in WI Supreme Court oral argument in legal challenge to Gov. Evers' COVID-19 emergency declarations

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The News: The Wisconsin Supreme Court [granted](#) the Wisconsin Institute for Law & Liberty (WILL) 10 minutes of oral argument time for the argument in Fabick v. Evers, an original action to the Wisconsin Supreme Court challenging the multiple emergency declarations issued by Governor Tony Evers in response to COVID-19. WILL's participation in oral arguments will specifically address whether the Legislature's grant of authority, in response to Governor Evers's emergency declarations, constitutes an unconstitutional delegation of its core power to legislate.

Oral arguments will occur at 9:45 am on November 16, 2020.

The Quote: WILL President and General Counsel Rick Esenberg said, "The separation of powers holds that one branch of government cannot give away its core powers to another. We are pleased the Court has granted WILL oral argument time to make the case that the Legislature's grant of authority on Governor Evers's emergency declarations constitutes an unconstitutional delegation of power."

Background: Governor Tony Evers has issued three emergency declarations in response to COVID-19 in 2020. But Wisconsin law is clear that without express approval from the state legislature, the governor lacks the legal authority to extend an emergency declaration beyond 60 days. But Governor Evers has done just that. The result is a total breakdown of our constitutional order where the state legislature crafts and passes legislation and the governor signs or vetoes legislation. In August 2020, WILL [filed a lawsuit](#) in Polk County Circuit Court on behalf of three Wisconsin taxpayers challenging Governor Evers's legal authority to issue multiple emergency declarations in response to COVID-19. A motion for a temporary

injunction was denied and a motion for summary judgment was before the Court when the Wisconsin Supreme Court took the Fabick original action. The Court stayed the proceedings in Polk County, and invited the Polk County plaintiffs to submit an amicus brief in Fabick.

WILL filed an [amicus](#) on November 3, along with a [motion for oral argument](#) time to brief the Court on the non-delegation matters in Fabick v. Evers. The Court granted WILL's motion for oral argument time on November 6.