

# **Wis. Institute for Law & Liberty: Represents Dane County dance studio in fight against health department fines, orders**

Posted on Thursday, Feb 4, 2021

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The News: The Wisconsin Institute for Law & Liberty (WILL) is representing A Leap Above Dance Studio, in Oregon, Wisconsin, in [an enforcement action](#) brought against it by Dane County's health department. The department is seeking nearly \$24,000 in fines for what it misleadingly characterized as a "performance" of the Nutcracker on December 13, 2020. In addition to fighting the fines, A Leap Above Dance Studio joined [WILL's lawsuit](#) challenging a Dane County ordinance that makes the health department's orders enforceable, filed in January.

The Quote: WILL Deputy Counsel, Luke Berg, said, "This outrageous enforcement action illustrates why a single, unelected official cannot have this much unchecked power. No one should be allowed to write, reinterpret, and enforce their own county code."

Background: The Dane County Health Department issued [an order](#) in November with a ban on some in-person gatherings, but the order allowed "child care and youth settings" such as "unregulated youth programs" to continue to host groups of 15 or fewer students.

The [Wisconsin Department of Children and Families](#) puts "[g]roup lessons to develop a talent or skill such as dance," like A Leap Above, into that category.

A Leap Above, in Oregon, Wisconsin, normally hosts a performance of the Nutcracker during the holidays. The event is the highlight of the year for many dancers, and they begin preparing during the summer. Due to COVID, A Leap Above owner Natalie Nemeckay realized that a performance would not be possible, so she came up with a safe, innovative way to allow her dancers to do the dances they had been practicing, to bring them some joy during the holidays, while complying with the order. They came to the studio in groups of 6-10, wearing masks, to record their dances. The groups rotated through separate rooms to change and do their dances in a consistent direction and were scheduled over a six-hour period to minimize interactions. There was no audience and even parents were required to wait in their cars.

Then, on January 25, the Dane County Health Department filed a complaint against A Leap Above for this, seeking nearly \$24,000 in fines. The Health Department's complaint suggests that A Leap Above was warned prior to the event that it would violate the order in place at the time, but this is not true. The event occurred on a Sunday – the Health Department mailed a letter on the Friday before, but it did not arrive until Monday, after the event. The Department also left a voicemail on Friday, while the business was closed, and the studio did not receive it until Monday.

When asked what her initial reaction was to the health department fine, Nemeckay said, "Shock and disbelief I suppose. And I felt attacked. I felt like they never tried to talk to me. They never came to my business. For eleven months now, I've been extremely cautious and have followed all of these mandates to keep my kids safe."

"I'm a strong business," said Nemeckay. "The only reason I could survive COVID is because I've saved a lot of money. Because a lot of our revenue came from performances and we can't do those anymore. And I don't know when we will be allowed to do those again. If the health department gets away with fining all of these businesses, a lot of them are going to close."

Nemeckay and A Leap Above will be represented by WILL in fighting the fines. In addition, A Leap Above joined a [separate lawsuit](#), filed in January in Dane County Circuit Court, which challenges the authority of the Dane County health department to issue sweeping restrictions without oversight or permission from local elected officials.