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Supreme Court of Wisconsin

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May 1, 2020

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You are hereby notified that the Court has entered the following order:

No. 2020AP765-OA Wisconsin Legislature v. Palm

The court having considered the Emergency Petition for Original Action and Memorandum in Support of the Petition filed by petitioner, Wisconsin Legislature; the Response to the Petition for Original Action filed by respondents, Secretary-Designee Andrea Palm, Julie Willems Van Dijk and Nicole Safar, in their official capacities as executives of Wisconsin Department of Health Services; petitioner's Reply Memorandum; and various non-party briefs, amici curiae;

IT IS ORDERED that the Emergency Petition for Original Action is granted and this court assumes jurisdiction over this action as to only the following issues:

1. Whether the Department of Health Services (the Department) violated Wis. Stat. § 227.24, governing emergency rules, by issuing Emergency Order No. 28 without complying with § 227.24's procedures; and

2. Even if the Department did not violate § 227.24, whether Emergency Order No. 28 exceeds the Department’s authority by closing all “nonessential” businesses, ordering all Wisconsin persons to stay at home, and forbidding all “nonessential” travel; and

IT IS FURTHER ORDERED that the court will hear oral argument in this matter at 10:00 a.m. on Tuesday, May 5, 2020. Due to the COVID-19 pandemic, oral arguments before the court will be conducted via videoconferencing. The hearing room will not be open to the public. The public may watch proceedings on the Wisconsin Eye website. Counsel in this case will receive instructions from the Clerk’s Office prior to the date of the oral argument regarding the procedures for appearing remotely; and

IT IS FURTHER ORDERED that the petitioner and the respondents shall each have forty-five minutes of oral argument time. In addition to addressing the two issues set forth above, the parties may, in their discretion, also address whether a temporary injunction should be issued; and

IT IS FURTHER ORDERED that amici curiae shall not be granted additional oral argument time.

REBECCA FRANK DALLET, J., dissents.

Sheila T. Reiff
Clerk of Supreme Court

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