

STATE OF WISCONSIN  
IN SUPREME COURT

Case No. \_\_\_\_\_

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JOSH KAUL, IN HIS OFFICIAL CAPACITY  
AS ATTORNEY GENERAL, WISCONSIN  
DEPARTMENT OF JUSTICE, TONY EVERS,  
IN HIS OFFICIAL CAPACITY AS  
GOVERNOR, AND JOEL BRENNAN, IN HIS  
OFFICIAL CAPACITY AS SECRETARY  
OF THE DEPARTMENT OF ADMINISTRATION,

Petitioners,

v.

WISCONSIN STATE LEGISLATURE,  
WISCONSIN STATE LEGISLATURE JOINT  
COMMITTEE ON FINANCE, ROGER ROTH,  
IN HIS OFFICIAL CAPACITY AS  
PRESIDENT OF THE WISCONSIN SENATE,  
SCOTT FITZGERALD, IN HIS OFFICIAL  
CAPACITY AS THE MAJORITY LEADER OF  
THE WISCONSIN SENATE, ROBIN VOS IN  
HIS OFFICIAL CAPACITY AS THE  
SPEAKER OF THE WISCONSIN ASSEMBLY,  
JIM STEINEKE, IN HIS OFFICIAL  
CAPACITY AS THE MAJORITY LEADER OF  
THE WISCONSIN ASSEMBLY, SENATOR  
ALBERTA DARLING, IN HER OFFICIAL  
CAPACITY AS A CO-CHAIR OF THE JOINT  
COMMITTEE ON FINANCE,  
REPRESENTATIVE JOHN NYGREN, IN HIS  
OFFICIAL CAPACITY AS A CO-CHAIR OF  
THE JOINT COMMITTEE ON FINANCE,  
SENATOR LUTHER OLSEN, IN HIS  
OFFICIAL CAPACITY AS A VICE CHAIR OF  
THE JOINT COMMITTEE ON FINANCE,

AND AMY LOUDENBECK, IN HER  
OFFICIAL CAPACITY AS A VICE CHAIR OF  
THE JOINT COMMITTEE ON FINANCE,

Respondents.

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**PETITIONERS' MOTION FOR  
TEMPORARY INJUNCTIVE RELIEF**

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Petitioners respectfully move this Court, pursuant to Wis. Stat. §§ 813.02 and 809.14, for a temporary injunction immediately enjoining the application of Wis. Stat. § 165.08 to two categories of plaintiff-side civil cases prosecuted by the Department of Justice (the “Department”).

As explained in Petitioners’ accompanying brief in support of this motion and their petition for an original action, the challenged applications of Wis. Stat. § 165.08 violate the separation of powers under Wis. Const. art. IV, § 1, art. V, § 1, and art. VII, § 2. Moreover, also as explained in that brief, a temporary injunction is proper because Petitioners lack an adequate remedy at law, would suffer irreparable harm absent injunctive relief, the balance of equities favors an injunction, and an injunction would preserve the status quo that existed before the challenged statutory provision was enacted.

For these reasons, Petitioners respectfully request that this Court issue an order immediately enjoining the application of Wis. Stat. § 165.08 to two categories of cases prosecuted by the Department<sup>1</sup>:

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<sup>1</sup> Although Petitioners do not believe that the Department could or would unilaterally concede the invalidity of state law in any case in these two categories, to the extent that ever could or would happen, Petitioners do not challenge Wis. Stat. § 165.08 as

- (1) Civil enforcement cases the Department can prosecute on its own initiative (*see* Pet. ¶¶ 29–54, 70–83);
- (2) Civil actions the Department prosecutes on behalf of executive-branch agencies relating to the administration of the statutory programs they execute (*see* Pet. ¶¶ 55–63, 84–89).

Dated this 23rd day of November 2020.

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applied to any such settlements and do not request an injunction as to those applications.

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