

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

## In the Supreme Court of Wisconsin

JERÉ FABICK AND LARRY CHAPMAN,

*Petitioners,*

v.

ANDREA PALM, JULIE WILLEMS VAN DIJK, NICOLE SAFAR, IN THEIR OFFICIAL CAPACITIES AS EXECUTIVES OF WISCONSIN DEPARTMENT OF HEALTH SERVICES; JOSH KAUL, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL OF WISCONSIN; DAVID ERWIN, IN HIS OFFICIAL CAPACITY AS CHIEF OF THE WISCONSIN STATE CAPITOL POLICE; DAVID MAHONEY, IN HIS OFFICIAL CAPACITY AS SHERIFF OF DANE COUNTY, WISCONSIN; ISMAEL OZANNE, IN HIS OFFICIAL CAPACITY AS DISTRICT ATTORNEY OF DANE COUNTY, WISCONSIN; ERIC SEVERSON, IN HIS OFFICIAL CAPACITY AS SHERIFF OF WAUKESHA COUNTY, WISCONSIN; SUSAN OPPER, IN HER OFFICIAL CAPACITY AS THE DISTRICT ATTORNEY OF WAUKESHA COUNTY, WISCONSIN; KURT PICKNELL, IN HIS OFFICIAL CAPACITY AS SHERIFF OF WALWORTH COUNTY; AND ZEKE WIEDENFELD, IN HIS OFFICIAL CAPACITY AS DISTRICT ATTORNEY OF WALWORTH COUNTY, WISCONSIN.

*Respondents.*

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### PETITIONERS' EMERGENCY MOTION FOR INJUNCTION

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\*Applications to appear *pro hac vice* forthcoming.

## **EMERGENCY MOTION FOR INJUNCTION**

Petitioners, by their attorneys, respectfully and urgently move this Court, pursuant to Wisconsin Statutes §§ 813.02 and 809.14, for an injunction immediately enjoining the enforcement of certain provisions of Emergency Order 28 (“EO 28” or the “Order”), issued by Respondent Secretary-Designee Palm, that unlawfully infringe upon Petitioners’ rights under the Wisconsin Constitution.

As more fully explained in Petitioners’ supporting memorandum, entry of an injunction is warranted because EO 28 infringes upon (1) Petitioners’ rights to freedom of worship and liberty of conscience protected under Article I, Section 18 of the Wisconsin Constitution; (2) Petitioners’ rights to freedom of speech and assembly protected under Article I, Sections 3 and 4 of the Wisconsin Constitution; and (3) Petitioners’ right to travel as protected under the Wisconsin Constitution.

In addition, and as is also more fully explained in Petitioners’ supporting memorandum, entry of an injunction is warranted because Petitioners lack an adequate remedy at law and would thus likely suffer irreparable harm in the absence of injunctive relief, an injunction is necessary to preserve the status quo, and, on balance, equity strongly favors the entry of an injunction.

For these reasons, Petitioners respectfully request that this Court issue an order immediately enjoining enforcement of the following provisions of Emergency Order 28, and any other provisions of that Order to the extent they are related to the implementation, interpretation, or enforcement of such provisions:

(1) The provision of Section 13(h) of the Order limiting religious gatherings to fewer than ten people in a room or confined space;

(2) The provision of Section 3 of the Order prohibiting all public and private gatherings of any number of people that are not part of a single household or living unit;

(3) The provision of Section 1 of the Order ordering all individuals present within Wisconsin to stay at home or at their place of residence;

(4) The provision of Section 5 of the Order prohibiting all forms of travel;

(5) The provision of Section 18 of the Order to the extent it authorizes enforcement by law enforcement officials of those aspects of the Order that have been enjoined.

Any order issued by the Court should provide that nothing in it should be construed to enjoin enforcement of Social Distancing Requirements as

defined under Section 16 of the Order or to preclude application of such Social Distancing Requirements or other general reasonable risk-mitigation measures to activities allowed to resume as a result of this injunction.

The Court's order should direct Respondent Palm to issue an order or other guidance advising law enforcement officials that they shall not enforce those provisions of the Order whose enforcement has been enjoined while this Court's injunction remains in effect.

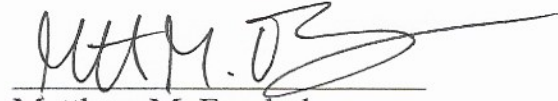
Finally, in light of Petitioners' urgent need for relief from this Court, Petitioners request that the Court set an expedited schedule for the briefing of this Emergency Motion and Petitioners' Emergency Petition.

Dated: May 4, 2020

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

A copy of this motion is being served upon all parties via e-mail and first-class mail.

Dated: May 4, 2020



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