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Conservative law firm seeks to end Wisconsin mask order

By SCOTT BAUER September 28, 2020

MADISON, Wis. (AP) — A conservative law firm asked a judge on Monday to immediately put an end to Wisconsin's mask mandate, arguing that Democratic Gov. Tony Evers doesn't have the authority to issue such an order that comes as COVID-19 cases surge statewide.

Attorneys for the Wisconsin Institute for Law and Liberty filed the request in Polk County Circuit Court for an immediate injunction to declare the order invalid and void. It was part of an amendment to a lawsuit they had filed

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to consider the motion.

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The original mask order ran from Aug. 1 through Monday. Evers last week issued a new public health emergency and extended the mask order until Nov. 21.

"This motion for an immediate injunction is a recognition that the executive branch in Wisconsin is, thus far, completely undeterred by the constraints of state law and must be reined in," said Rick Esenberg, president of the Wisconsin Institute for Law and Liberty, in a statement.

Evers has defended the mask order despite the ongoing legal challenge, saying it is within his power to mandate and is following the recommendations of public health experts. Health officials worldwide agree that wearing masks is an effective way to slow the transmission of COVID-19, along with washing hands, keeping a distance from other people and remaining at home as much as possible.

Evers' spokeswoman Britt Cudaback noted the surge in COVID-19 cases in the state in defending the mask order, including an average of 2,100 confirmed new cases each of the past seven days.

"It is irresponsible and dangerous for Republicans and their allies to see these trends and double down on preventing the governor from keeping people safe," Cudaback said. "While Republicans ignore the alarming case increases we are seeing across our state, Gov. Evers will continue doing everything he can to prevent the spread of COVID-19 in Wisconsin."

Wisconsin ranked third nationwide for new cases per capita with 459 new cases per 100,000 people over the past two

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tested positive for COVID-19 in Wisconsin and 1,283 have died, according to the state Department of Health Services.

The increase in new cases has been driven primarily by young people on college campuses across the state.

Evers first declared a public health emergency in March related to the coronavirus. That expired after 60 days on May 11 after the Republican-controlled Legislature did not extend it. In July, Evers declared a second state of emergency and issued the first mask mandate in conjunction with that order.

He issued a third order last week to extend the mask mandate.

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The Wisconsin Institute for Law and Liberty filed a lawsuit against that previous order but did not ask for any immediate action by the court until Monday. One of those represented by the law firm who brought the lawsuit, John Kraft, is chairman of the St. Croix Republican Party.

The group argues that Evers has no authority under state law or the Wisconsin Constitution to issue new health emergencies to address the same crisis without legislative approval. Wisconsin is one of 34 states with mask mandates; several others are also being challenged in court.

A poll worker fired in La Crosse for not wearing a mask during the August primary is also suing Evers, claiming that the statewide mandate is illegal.

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