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May 21, 2019

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

Nos. 2019AP614-LV Service Employees International Union (SEIU), Local 1 v. Robin Vos
2019AP622 L.C.# 2019CV302

Two matters in the appellate courts have arisen from the Dane County circuit court's March 26, 2019 decision and order in Dane County Case No. 2019CV302 that (1) denied the motion to dismiss filed by the Legislative Defendants,¹ (2) granted the plaintiffs' motion for a temporary injunction, and (3) denied the Legislative Defendants' motion for a stay of the temporary injunction pending appeal. One matter is an appeal by the Legislative Defendants as of right from the circuit court's temporary injunction, which has been assigned Case No. 2019AP622. This court assumed jurisdiction over that case on its own motion in an order dated

¹ As the parties have done in their filings in both Case No. 2019AP614-LV and Case No. 2019AP622, we use the term "Legislative Defendants" to refer to Robin Vos, Roger Roth, Scott Fitzgerald, and Jim Steineke, all of whom are defendants who were sued in their official capacities as Legislative leaders.

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April 19, 2019. The other matter is a petition by the Legislative Defendants for leave to file an interlocutory appeal from the circuit court's denial of their motion to dismiss the complaint. That matter, which has been assigned Case No. 2019AP614-LV, is currently pending in the court of appeals.

On April 22, 2019, following this court's order assuming jurisdiction over Case No. 2019AP622, counsel for the Legislative Defendants filed a letter addressing two topics "that this court may want to consider." The second topic in the letter was the petition for leave to file an interlocutory appeal that was pending in the court of appeals in Case No. 2019AP614-LV. The letter asked this court to consider assuming jurisdiction over the petition for leave to file an interlocutory appeal, as it had done with respect to the appeal as of right from the injunction.

On April 23, 2019, defendant Governor Tony Evers filed a motion to strike the April 22, 2019 letter as an improper request to this court for relief because counsel for the Legislative Defendants had failed to follow the proper form and procedure for filing motions or petitions in this court. In effect, Governor Evers alleged that the April 22, 2019 letter was, in part, a disguised petition for bypass in Case No. 2019AP614-LV that failed to comply with the requirements for such a petition. See Wis. Stat. § (Rule) 809.60.

On April 24, 2019, the Legislative Defendants filed a response to the Governor's motion to strike. In the response, the Legislative Defendants asserted that the April 22nd letter was intended simply to inform this court about the proceedings in Case No. 2019AP614-LV, which is related to the appeal over which this case had just assumed jurisdiction (Case No. 2019AP622). They contended that the letter had not asked this court to issue any order so it should not be stricken as an improper motion or petition.

On April 25, 2019, the judges of the court of appeals, District III, filed a letter with this court requesting clarification of that court's authority to act on the pending petition for leave to file an interlocutory appeal in light of this court's assumption of jurisdiction over Case No. 2019AP622 and the suggestion in the Legislative Defendants' April 22nd letter that this court may wish to consider also assuming jurisdiction over Case No. 2019AP614-LV.

Having considered these matters, the court concludes that it will proceed as follows. As the Legislative Defendants have asserted that the April 22, 2019 filing was simply a letter and not a motion that asked this court for relief, the court will treat the filing as a letter on which it will take no action. Further, because the court is not taking any action in response to the letter, it will deny Governor Evers' motion to strike.²

² The court does caution the parties that if they wish to ask this court to grant them relief, they must file their requests in the form of a proper motion or petition so that the opposing parties may file responses pursuant to the rules of appellate procedure. The court will then decide the motion in a written order.

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This court acknowledges that it has been considering whether to assume jurisdiction over the pending petition for leave to file an interlocutory appeal. To assist the court in that consideration, the court now asks the parties to file legal memoranda that address (1) whether the court can assume jurisdiction over a petition for leave to file an interlocutory appeal that is pending in the court of appeals and (2) whether it should do so in this instance. The court will have the parties file simultaneous memoranda on those issues and will allow the parties to file simultaneous responses to the memoranda filed by the opposing parties. Accordingly,

IT IS ORDERED that the court deems the April 22, 2019 filing by counsel for Robin Vos, Roger Roth, Scott Fitzgerald, and Jim Steineke to be a letter filed in both Case No. 2019AP614-LV and Case No. 2019AP622, in response to which this court will take no action; and

IT IS FURTHER ORDERED that the motion of Governor Tony Evers to strike the April 22, 2019 letter is denied; and

IT IS FURTHER ORDERED that, on or before Friday, May 31, 2019, the parties shall file simultaneous legal memoranda, each not exceeding 3,200 words, that address (1) whether this court can assume jurisdiction over a petition for leave to file an interlocutory appeal that is pending in the court of appeals and (2) whether this court should assume jurisdiction over the pending petition in this instance; and

IT IS FURTHER ORDERED that, on or before Wednesday, June 5, 2019, the parties may file legal memoranda, each not exceeding 1,500 words, in response to the memoranda filed on May 31, 2019, by the opposing parties.

Sheila T. Reiff
Clerk of Supreme Court

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2019AP622Service Employees International Union (SEIU), Local 1 v. Robin Vos
L.C.# 2019CV302*Address list continued:

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