

IN THE CIRCUIT COURT  
FOR THE SEVENTH JUDICIAL CIRCUIT OF ILLINOIS  
SANGAMON COUNTY, ILLINOIS

**FILED**

ILLINOIS MANUFACTURERS' )  
ASSOCIATION and ILLINOIS RETAIL )  
MERCHANTS ASSOCIATION, )

Plaintiffs, )

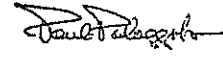
v. )

ILLINOIS WORKERS' COMPENSATION )  
COMMISSION and MICHAEL J. )  
BRENNAN, COMMISSIONER, IN HIS )  
OFFICIAL CAPACITY, )

Defendants. )

APR 24 2020

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 Clerk of the  
Circuit Court

Case No.2020CH00098

**TEMPORARY RESTRAINING ORDER**

This matter coming before the Court on Plaintiffs' Motion for Temporary Restraining Order, the Court having heard from counsel of Plaintiffs and Defendants, having read Plaintiffs' Verified Complaint, Motion for Temporary Restraining Order and Memorandum in Support of Motion for Temporary Restraining Order, having read the Interest of the Amici Brief, having read Defendants' Response to Motion for Temporary Restraining Order and having heard oral argument by the Plaintiffs and Defendants, the Court finds as follows:

1. Defendants received proper and advanced notice of the telephonic hearing held on Thursday April 23, 2020 at 2:30 p.m. on Plaintiffs' Motion for Temporary Restraining Order.
2. Based on Plaintiffs' pleadings and oral arguments presented during the telephonic hearing, the Court finds that Plaintiffs have demonstrated a reasonable likelihood of success on the merits with respect to the Defendants' exceeding their rule making authority in enacting the Notice of Emergency Amendments to the Illinois Workers Compensation Act (50 Ill. Adm. Code 9030.70) effective April 16, 2020 ("hereinafter the Amendments) in violation of the Illinois Workers Compensation Act ("IWCA") and Illinois Administrative Procedure Act ("IAPA") in that it appears to the Court that the Defendants are solely limited to procedural rule making under the IWCA and the IAPA. In addition, it appears to the Court that the impact to Plaintiffs' members of the

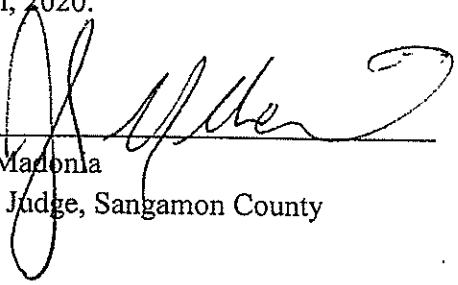
- Amendments are substantive, not procedural in nature, as they create new substantive rights for employees and new liabilities for employers.
3. The Court finds that the Plaintiffs, through their members, have protectable rights and interests at stake as they have the right to be free from Defendants' invalid lawmaking that purports to shift the burden of COVID-19 healthcare to employers as set forth in the Amendments.
  4. The Court finds that as a result of Plaintiffs having established a protectable interest, irreparable injury with an inadequate remedy at law or harm is presumed. The harm would be of a continuing nature if the status quo of the IWCA and the Illinois Workers' Occupational Disease Act ("IODA") prior to the enactment of the Amendments is not preserved.
  5. The Court finds that the purpose of a temporary restraining order ("TRO") is to prevent immediate and irreparable harm, not wait for that harm to occur, and Plaintiffs have met that burden. The Court is mindful of balancing the public interest and the Court finds that the status quo prior to the enactment of the Amendments should be preserved so that employees do not rely on the assurances set forth in the Amendments that COVID-19 is a compensable workplace related injury given that the enforceability and legality of the Amendments are questionable. In addition, Plaintiffs have demonstrated irreparable harm for which there is no adequate remedy of law in connection with the time restrictions imposed by Section 19(l) of the IWCA and employers are put in an untenable position of providing essential services as deemed essential by the Governor's March 20, 2020 Order or closing their doors because they are unable to take on the additional costs contemplated by the Amendments.
  6. The Court finds that the Plaintiffs have an inadequate remedy at law because Plaintiffs will not be able to recoup any costs or expenses associated with preparing for or responding to the Amendments and/or penalties imposed by the Illinois Workers' Compensation Commission under section 19(l) of the IWCA for not meeting the time restrictions imposed by section 19(l) of the IWCA.

As a result of its findings above, the Court enters the following temporary restraining order:

1. The Commission and anyone acting in concert with the Commission is enjoined from invoking and/or enforcing the Amendments in favor of or against any person or entity, specifically those persons or entities identified in the Amendments, and that the IWCA and IODA as construed, implemented and interpreted prior to the Amendments shall be the status quo. For purposes of clarification, any rebuttable presumption that was properly enacted by a duly seated legislature and was in the IWCA and IODA prior to the Amendments remains in effect.
2. By Agreement of the Parties, Defendants have until April 30, 2020 to file their Answer to Plaintiffs' Verified Complaint for Injunctive Relief.

- Parties will convene on May 4, 2020 at 2:30 for a telephonic status hearing on the pleadings and for discussion on the preliminary injunction proceedings.

ORDER ENTERED: this 24<sup>th</sup> day of April, 2020.



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John M. Madonna  
Presiding Judge, Sangamon County