

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

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

Plaintiffs,)

v.)

Cause No. 2020CH000098

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

Defendants.)

**PLAINTIFFS' MOTION FOR A TEMPORARY RESTRAINING
ORDER AND PRELIMINARY INJUNCTION**

Plaintiffs Illinois Manufacturers' Association and Illinois Retail Merchants Association, by their counsel Greensfelder, Hemker & Gale, P.C., for the reasons set forth in their Verified Complaint and Memorandum in Support of Their Motion for a Temporary Restraining Order and Preliminary Injunction, both of which are adopted and incorporated herein by reference, respectfully request that this Court issue a temporary restraining order and preliminary injunction against Defendants. In support of this Motion, Plaintiffs state as follows:

1. As set forth more fully in the Verified Complaint and Memorandum, on April 15, 2020, the Illinois Workers' Compensation Commission ("Commission") published a Notice of Emergency Amendments to the Illinois Workers' Compensation Act ("IWCA"), which went into effect on April 16, 2020 ("Amendments").

2. The Amendments mandate sweeping substantive legal reform, grant new rights to a broad class of employees, and infringe on protectable interests of their employers by declaring

COVID-19 a *prima facie* Occupational Disease under the IWCA and Illinois Workers' Occupational Disease Act ("IODA"), and by affording employees a burden-shifting rebuttable presumption that COVID-19 was in fact contracted *in the workplace*.

3. In enacting the Amendments, the Commission has exceeded its authority under IWCA and IODA in violation of the Illinois Administrative Procedure Act.

4. If left unchecked, the Commission's unlawful usurp of power reserved solely for the legislature will result in immediate, irreparable harm to both employees and employers as, among other things, creating a rebuttable presumption in favor of the claimants with regard to COVID-19 will significantly increase the costs of insurance to employers. In addition, Defendants' members, upon receipt of a COVID-19 claim, will have to either acquiesce to paying the employee's medical bills at the outset, or face harsh penalties for attempting to overcome the virtually irrefutable rebuttable presumption regarding COVID-19 claims.

5. Plaintiffs have no adequate remedy at law because even in the highly unlikely scenario in which the employers somehow or someway manage to overcome this virtually irrefutable presumption, the amount incurred in doing so will never be recoverable.

6. Plaintiffs and their members have protectable rights and interests at stake to be free from invalid lawmaking that requires employers to carry the healthcare load of a public pandemic.

7. Plaintiffs are likely to succeed on the merits as the IWCA did not have the authority to enact the Amendments and therefore, such Amendments are void.

WHEREFORE, Plaintiffs respectfully request that this Court enjoin the Commission from invoking the Amendments in favor of or against any person or entity until this Court has the opportunity to fully and finally declare the Amendments as a nullity.

Respectfully submitted,

ILLINOIS MANUFACTURER'S ASSOCIATION
and ILLINOIS RETAIL MERCHANTS
ASSOCIATION

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