



FILED  
SUPERIOR COURT  
THURSTON COUNTY, WA

2020 DEC 16 PM 4:15

Linda Myhre Enlow  
Thurston County Clerk

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SUPERIOR COURT OF WASHINGTON  
FOR THURSTON COUNTY

DEPARTMENT OF LABOR AND  
INDUSTRIES OF THE STATE OF  
WASHINGTON

Plaintiff,

v.

FARM BOY DRIVE IN

Defendant.

No. 20-2-02460-34

TEMPORARY RESTRAINING  
ORDER COMPELLING  
COMPLIANCE WITH AGENCY  
ORDER OF IMMEDIATE  
RESTRAINT AND ORDER TO  
SHOW CAUSE

*Clerk's Action Required*  
**EX PARTE**

This matter came before the Court for ex parte action on December 15, 2020, on the Department of Labor and Industries' (Department) petition for civil enforcement of the order of immediate restraint issued to Farm Boy Drive In on December 7, 2020 and delivered on December 8, 2020.

~~The Court heard the statements of counsel for the Department, Michael Hall, AAG, in support of the Department's petition.~~ The Court considered the Department's petition for civil enforcement and the Declarations of Michael Hall, Anne Soiza, Nicholas Strueli, in support of the petition.

Based on the evidence presented, the Court finds:

1. Pursuant to RCW 49.17.170, the Court has jurisdiction over the parties to, and the subject matter of, this petition for civil enforcement.

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2. The Department has a clear legal right to enforce the requirements of the Washington Industrial Safety and Health Act.
3. RCW 49.17.130 authorizes the Department, in making inspections and investigations under Chapter 49.17 RCW, to issue an order of immediate restraint if it determines that an employer has violated a requirement of any safety or health standard which violation is such that a danger exists from which there is substantial probability that death or serious physical harm could result to an employee.
4. Where an order of immediate restraint has been issued, RCW 49.17.130(3) authorizes the Office of the Attorney General, on behalf of the Department, to “make an application to the superior court of the county wherein such condition of employment or practice exists for a temporary restraining order or such other relief as appears to be appropriate under the circumstances.”
5. The factual record establishes that: On December 7, 2020, the Department issued an order and notice of immediate restraint to Farm Boy Drive In regarding business activity located at 3840 Maytown Rd SW, Olympia, WA 98512. The order of immediate restraint required the employer to immediately cease the business activity of indoor dine-in service, and to comply with Proclamation 20-25.8 and WAC 296-800-14035. Following receipt of the Order of Immediate Restraint on December 8, 2020, Farm Boy Drive In has continued to engage in the business activity of indoor dine-in service.
6. The Department has a well-grounded fear of immediate invasion of its clear legal right to enforce the requirements of the Washington Industrial Safety and Health Act, as allowing Farm Boy Drive Into continue to provide indoor dine-in service constitutes a violation of WAC 296-800-14035, WAC 296-800-1105, and the Washington Industrial Safety and Health Act.

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7. Actual and substantial injury will result by allowing Farm Boy Drive In to continue operation in violation of the December 7, 2020 Order and Notice of Immediate Restraint in that employees in the State of Washington will be exposed to the risk of contracting COVID-19.

Based on the above findings, IT IS ORDERED:

The Department's Petition for a Temporary Restraining Order is granted. Farm Boy Drive In is hereby ordered to comply with the Department of Labor & Industries' December 7, 2020, Order of Immediate Restraint. Pursuant to RCW 49.17.190(4), violation of this Order is a gross misdemeanor, and upon conviction shall be punished by a fine of not more than ten thousand dollars or by imprisonment for not more than six months, or by both. Violation of this Order may also subject the violator to Contempt of Court.

**I. SHOW CAUSE ORDER**

It is Ordered the defendant appear and show cause, if any, why the Temporary Restraining Order should not be continued in full force and effect pending final determination of this action and why the other relief, if any, requested in the motion should not be granted. A hearing has been set for the following date, time and place:

Date: 12-22-20 Time: 1:30 P.M.

Place: Thurston County Superior Court Room/Dept: 202

// 2000 Lakeridge Dr. S.W. Bldg. 2  
Olympia, WA 98502

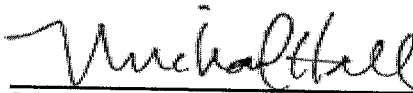
// This hearing is set for a telephonic hearing on the above date and time. The parties/attorneys shall call 360-252-9685, use passcode 1234#.

1 DATED this 15<sup>th</sup> day of December, 2020.  
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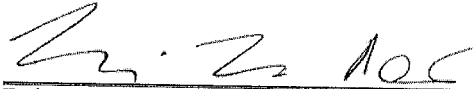
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5 JUDGE

6 Presented by: **CHRISTOPHER LANESE**

7 ROBERT W. FERGUSON  
8 Attorney General

9 

10 MICHAEL HALL  
11 Assistant Attorney General  
12 WSBA No 19871  
13 (360) 586-7761

14 

15 Brian Dew  
16 Assistant Attorney General  
17 WSBA No 18877  
18 (206) 389-2186  
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