

OFFICE OF
APPELLATE COURTS

JUL -5 2011

FILED

STATE OF MINNESOTA

IN SUPREME COURT

A11-1170

In re Government Shutdown Litigation

ORDER

By order filed June 30, 2011, the undersigned assigned four specified cases, as well as “any additional cases that may be filed in any district court seeking or opposing funding of executive or legislative branch functions during a government shutdown resulting from lack of appropriations for the biennium starting July 1, 2011,” to the Honorable Kathleen R. Gearin, Chief Judge of the Second Judicial District (“Government Shutdown Litigation Interdistrict Assignment Order”). In a case filed in Koochiching County District Court, the Honorable Charles H. LeDuc granted a temporary restraining order on June 30, 2011, against the Commissioner of the Department of Natural Resources, enjoining the Commissioner from enforcing his prior administrative order directing the plaintiff loggers to refrain from cutting and removing timber from state lands pursuant to the state timber sales program during a government shutdown. *See Whitefish Creek Enterprises, Inc., Erickson Timber Products, Incorporated, Erickson Herefords, Inc., and Hasbargen Logging, Inc., vs. Tom Landwehr, in his official capacity as Commissioner, Minnesota Department of Natural Resources*, No. 36-CV-11-471 (Koochiching County Dist. Ct. June 30, 2011, amended July 1, 2011). Judge LeDuc set a temporary injunction hearing for July 11, 2011.

The Commissioner of the Department of Natural Resources, Tom Landwehr, and Governor Mark Dayton have moved for an expedited order reassigning the Koochiching County case to Chief Judge Gearin on the basis that it satisfies the requirements of Minn. Gen. R. Prac. 113.03. Respondents (plaintiffs below) argue that this case does not involve any expenditure of state funds, but only enforcement of their contractual right to harvest timber for which they have already paid, and therefore is unrelated to the matters assigned to Chief Judge Gearin.

Although the minimal materials submitted in relation to this motion do not definitively establish whether expenditure of state funds is at issue in this case, it is nevertheless apparent that filing of multiple independent cases in various district courts throughout the state will exacerbate the difficulties presented by the government shutdown. In contrast, assignment of all cases related to the shutdown to a single judge will further the interests of the parties and the judiciary by eliminating duplicative litigation in different districts, preventing inconsistent rulings, conserving the resources of the parties, their counsel, and the judiciary, and facilitating resolution of the cases. Moreover, an action to enforce contractual rights against the Commissioner is properly venued in Ramsey County District Court under Minn. Stat. § 542.03, subd. 1 (2010), and *Ebenezer Society v. Minnesota State Bd. of Health*, 301 Minn. 188, 197, 229 N.W.2d 385, 390 (1974). For these reasons, the Koochiching County case is reassigned to Chief Judge Gearin.¹

Based upon all the files, records, and proceedings herein,

¹ The moving parties have not requested, and this order does not constitute, review of
(Footnote continued on next page.)

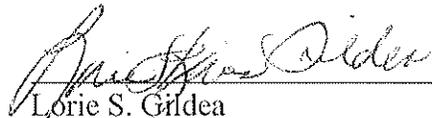
IT IS HEREBY ORDERED THAT:

1. Pursuant to Minn. R. Gen. Prac. 113.03, the Honorable Kathleen R. Gearin, of the Second Judicial District, having consented, is appointed to hear and decide all remaining matters, including pretrial and trial proceedings, in *Whitefish Creek Enterprises, Inc., Erickson Timber Products, Incorporated, Erickson Herefords, Inc., and Hasbargen Logging, Inc., vs. Tom Landwehr, in his official capacity as Commissioner, Minnesota Department of Natural Resources*, No. 36-CV-11-471 (Koochiching County Dist. Ct.).

2. In all other respects the interdistrict assignment order of June 30, 2011, in this matter remains in effect.

3. The Clerk of Appellate Courts shall transmit a copy of this order to the chief judges and the administrators of each judicial district, the Hon. Charles H. LeDuc, the court administrators for the Ramsey County and Koochiching County District Courts, and the parties' counsel in the Koochiching County case.

Dated: July 5, 2011



Lorie S. Gildea
Chief Justice

(Footnote continued from previous page.)
the temporary restraining order issued by Judge LeDuc.