

# SUPREME COURT



## Media Release

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On May 23, 2020, the Supreme Court:

**1. Issued an alternative writ of mandamus in:**

*Elkhorn Baptist Church v. Katherine Brown, Governor of the State of Oregon (S067736)*

Today, the Oregon Supreme Court issued an alternative writ of mandamus that pertains to a trial court order granting a motion for preliminary injunction, which enjoined enforcement of executive orders issued by Governor Brown in response to the COVID-19 pandemic. The alternative writ sets deadlines for additional briefing on Governor Brown's petition asking the Court to direct that the preliminary injunction be vacated.

The issue of the preliminary injunction arose in an action for declaratory and injunctive relief filed in Baker County Circuit Court ("trial court") against the Governor. Plaintiffs, a group of churches and individuals, sought a judicial declaration that Governor Brown's May 8, 2020, executive order declaring a 60-day state of emergency based on the COVID-19 pandemic, and other orders restricting the activities of Oregon residents issued pursuant to that declaration, were invalid or had expired. In particular, plaintiffs argued that the executive orders violated their religious freedoms and did not comply with statutory and constitutional durational restrictions on the Governor's emergency powers.

Plaintiffs moved for a preliminary injunction in the trial court to immediately enjoin enforcement of the Governor's executive orders while the merits of their declaratory and injunctive relief action were being decided. The trial court granted that motion on May 18, 2020. Governor Brown immediately petitioned the Oregon Supreme Court to issue a peremptory writ of mandamus directing the trial court to vacate its preliminary injunction order or, otherwise, to issue an alternative writ that would allow the trial court an opportunity "show cause" why the order should not be vacated. Governor Brown also moved to stay the preliminary injunction, pending resolution of her mandamus petition, and the Court granted that motion for stay.

The Court has now issued an alternative writ of mandamus, which sets a deadline of Tuesday, May 26, at 5:00 p.m., for the trial court to either vacate its May 18 order granting plaintiffs' motion for a preliminary injunction or to show cause by proceeding to further briefing. The Court then set out short timelines for additional briefing on the question whether the trial court should be directed to vacate his May 18 preliminary injunction order that enjoined enforcement of the Governor's executive orders. The final briefing is due on Tuesday, June 2.