

FILED
04-15-2019
Clerk of Circuit Court
Brown County, WI
2018CV000640

STATE OF WISCONSIN CIRCUIT COURT BROWN COUNTY

BROWN COUNTY,
Plaintiff,

v.

Case No. 18-CV-640

BROWN COUNTY TAXPAYERS ASSOCIATION, et al.,
Defendants/Third-Party-Plaintiffs

v.

PETER BARCA, Secretary,
Wisconsin Department of Revenue,
Third-Party Defendant

**DEFENDANTS/THIRD-PARTY-PLAINTIFFS’
MOTION TO TAKE JUDICIAL NOTICE**

Defendants/Third-Party Plaintiffs Brown County Taxpayers Association, et al., (“BCTA”) by their attorneys, the Wisconsin Institute for Law & Liberty, hereby move that this Court take judicial notice of the completed PC-400 forms for 2017 and 2018 for Brown County and Eau Claire County. The grounds for the Motion are as follows:

On April 5th, Third-Party Defendant Peter Barca, Secretary of the Wisconsin Department of Revenue (“Department”), moved for leave to file an affidavit in this matter. The affidavit included two Exhibits – a blank PC-400 form and screenshots of the online forms counties use to fill out PC-400s. The affidavit averred that every county must file a PC-400 form with the Department every year (Foy Affidavit ¶5) and that the PC-400 form contains a line for “County Sales Tax Credit,” where counties must enter either zero or “the amount of collected county sales tax used to reduce the county property tax levy” (*Id.*, ¶10). BCTA has no objection to the introduction of this affidavit or the Exhibits.

On April 9th, counsel for BCTA requested copies of the last two years of filed PC-400 forms for Brown County and Eau Claire County from the Department. (Third Kamenick Aff. ¶¶2-3.) On April 11th, the Department provided those copies. (Third Kamenick Aff. ¶¶4, 6, Exs. B-E.)

Courts “may take judicial notice of matters of record in government files.” *Sisson v. Hansen Storage Co.*, 2008 WI App 111, ¶11, 313 Wis. 2d 411, 756 N.W.2d 667 (taking judicial notice of Iowa Department of Transportation records). State department records are commonly judicially noticed. *See, e.g., Dunlavy v. Dairyland Mut. Ins. Co.*, 21 Wis. 2d 105, 111, 124 N.W.2d 73 (1963) (taking judicial notice of Secretary of State records); *Johns v. State*, 14 Wis. 2d 119, 125, 109 N.W.2d 490 (1961) (same); *State v. Dye*, 215 Wis. 2d 281, 288, 572 N.W.2d 524 (Ct. App. 1997) (taking judicial notice of Department of Revenue correspondence).

Counsel for BCTA intends to discuss these government records at the hearing on April 26th. They are publicly available and represent official acts of government entities. Their accuracy cannot reasonably be questioned. For the above reasons, BCTA requests that this Court take judicial notice of the 2017 and 2018 PC-400 forms filed by Brown County and Eau Claire County.

WISCONSIN INSTITUTE FOR LAW & LIBERTY
Attorneys for Defendants/Third-Party Plaintiffs

Electronically Signed by Thomas C. Kamenick

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