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WPMCA INDUSTRY UPDATE

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Positive Development Regarding Unfair Sales Act

Are you ready for some good news? We are pleased to report a positive development in our efforts on behalf of Wisconsin's Unfair Sales Act. The 7th Circuit Court of Appeals has just issued a STAY of Judge Rudolph Randa's decision in the *Flying J* case. You probably recall that Judge Randa declared the minimum markup provisions of the law unconstitutional and prohibited the Wisconsin Attorney General and Department of Agriculture, Trade and Consumer Protection from enforcing the markup. Therefore a STAY of Judge Randa's opinion means the Unfair Sales Act, including the markup provisions, is again fully intact – at least until a final appeal is decided. The STAY frees the AG and DATCP to once again enforce the minimum markup provisions with respect to motor vehicle fuel during the process of WPMCA's appeal.

Bottom line, please keep in mind that this is a very positive development by the courts. Perhaps most significant, in order to issue a stay, the 7th Circuit had to conclude that WPMCA has at least a reasonable likelihood of 1) prevailing on its motions to intervene and 2) overturning Judge Randa's judgment. This finding underscores the seriousness with which the 7th Circuit is obviously taking WPMCA's appeal request.