

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff-Appellee/Movant,

v.

LESLIE GEISSLER MUNGER, in her capacity as  
Comptroller for the State of Illinois,

Defendant-Appellant/Respondent,

ILLINOIS DEPARTMENT OF CENTRAL  
MANAGEMENT SERVICES; AFSCME  
COUNCIL 31, *et al.*,

Intervenors-Appellants/Respondents.

THE AMERICAN FEDERATION OF STATE,  
COUNTY AND MUNICIPAL EMPLOYEES,  
AFL-CIO, COUNCIL 31, *et al.*,

Plaintiffs-Appellees/Respondents,

v.

STATE OF ILLINOIS,

Defendant-Appellant/Movant,

LESLIE GEISSLER MUNGER, in her official  
capacity as Comptroller for the State of Illinois,

Defendant-Appellant.

) Motion for Direct Appeal Pursuant  
) to Supreme Court Rule 302(b).

)  
) On interlocutory appeal from the  
) Circuit Court of Cook County,  
) Illinois, County Department,  
) Chancery Division, No. 15 CH  
) 10243, to the Appellate Court of  
) Illinois, First Judicial District, No.  
) 1-15-1877.

)  
) The Honorable  
) DIANE J. LARSEN,  
) Judge Presiding.

)  
) On interlocutory appeal from the  
) Circuit Court of the Twentieth  
) Judicial Circuit, St. Clair County,  
) Illinois, No. 15 CH 475, to the  
) Appellate Court of Illinois, Fifth  
) Judicial District, No. 5-15-\_\_\_\_\_.

)  
) The Honorable  
) ROBERT P. LeCHIEN,  
) Judge Presiding.

**EMERGENCY MOTION FOR DIRECT APPEAL  
PURSUANT TO SUPREME COURT RULE 302(B) AND OTHER RELIEF**

Movants People of the State of Illinois and the State of Illinois, through their attorney, Lisa Madigan, Attorney General of Illinois, request leave pursuant to Supreme Court Rule 302(b) for a direct appeal to this Court of the two above-

captioned appeals from conflicting temporary restraining orders specifying what actions the Appropriations Clause of the Illinois Constitution permits during a budget impasse. Because these appeals raise the fundamental question of when the State can expend public funds in the absence of a constitutionally required appropriations statute, and because simultaneous consideration by two appellate districts creates the possibility of continued confusion, movants ask that this Court consolidate those two appeals and order that they be transferred to the Court for consideration. And due to the exigencies of the expedited schedule under Rule 307(d) for the pending interlocutory appeals, movants also ask for emergency consideration of this motion and the exercise of this Court's supervisory authority to direct the appellate courts to stay consideration of the appeals pending resolution of this motion. In support, movants state as follows.

## **I. Introduction**

Movants ask this Court to resolve whether, and to what extent, the Illinois Constitution permits the payment of the state employee payroll when the General Assembly and Governor have failed to enact appropriations statutes. At the heart of the matter is the constitutional separation of powers under which the General Assembly and the Governor must take action to enact annual appropriations statutes. Although the appellate court had settled this issue in *AFSCME v. Netsch*, 216 Ill. App. 3d 566 (4th Dist. 1991), holding that the Appropriations Clause prohibits the payment of the state employee payroll without an appropriation, the Circuit

Court of St. Clair County has declined to follow that precedent, necessitating this Court's intervention. This Court should permit direct appeal pursuant to Rule 302(b) from the conflicting temporary restraining orders entered by two circuit courts in this matter of great public importance raising constitutional questions that affect the core of the government's operation.

In both of the underlying cases, the parties seek a determination of the State's authority to pay state employees during a budget impasse. In *People v. Munger*, the Circuit Court of Cook County entered a temporary restraining order that enjoined the Comptroller from processing payroll vouchers except (due to the operation of the Supremacy Clause of the United States Constitution) as necessary to meet only the requirements of the federal Fair Labor Standards Act (FLSA). Those requirements are the payment of federal minimum wage and overtime to non-exempt employees. S.R. 46-47. On interlocutory appeal, the Appellate Court of Illinois, First Judicial District, stayed the order pending appeal and declined the Comptroller's request for authorization to process the full state employee payroll. S.R. 66. Meanwhile, in *AFSCME v. State of Illinois*, the Circuit Court of St. Clair County entered a temporary restraining order directing the Comptroller to accomplish the payment of the full payroll to all state employees. S.R. 132-34. That order is on appeal to the Appellate Court of Illinois, Fifth Judicial District.<sup>1</sup> S.R. 168-70. Movants' briefs in

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<sup>1</sup> In the St. Clair action, the unions sued both the State of Illinois and the Comptroller. The Attorney General filed a motion to dismiss and a brief in opposition to the unions' motion for temporary restraining order on behalf of both the State and the Comptroller asserting, *inter alia*, that the court lacked subject

both appeals have not been filed at the time of this writing. Movants will supplement the Supporting Record with those briefs once filed.

These appeals are a matter of great public concern that invoke basic questions regarding the constitutional role of the branches of state government in expending public funds. Additionally, the two circuit courts that have taken jurisdiction over this matter have entered conflicting orders, resulting in substantial uncertainty. Because of the public importance of this case and the uncertainty from parallel proceedings in two circuit courts (and now two appellate courts as well), this Court should consolidate the appeals and direct that they be transferred to it for

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matter jurisdiction because sovereign immunity barred the unions' contract claims. At the hearing on the unions' motion, the Comptroller sent her in-house counsel to represent her and filed a motion to disqualify the Attorney General and appoint private counsel for her. S.R. 124-31; *see* SR. 135-67. Although the court took that matter under advisement, it allowed the Comptroller's unauthorized counsel to present their arguments, which included declining to join in any of the State's arguments (and thus purporting to waive sovereign immunity). Based on the positions taken by the Comptroller's unauthorized counsel, the circuit court dismissed the State as a defendant, but not the Comptroller, on sovereign immunity grounds. S.R. 133.

Even though the circuit court granted the motion to dismiss on sovereign immunity grounds as to the State, the State maintains standing to pursue this appeal because it has a direct, immediate and substantial interest that is prejudiced by the temporary restraining order and would be benefitted by its reversal. *In re O.H.*, 329 Ill. App. 3d 254, 257 (3d Dist. 2002); *In re Estate of Strong*, 194 Ill. App. 3d 219, 225 (1st Dist. 1990); *People v. White*, 165 Ill. App. 3d 249, 253 (4th Dist. 1988). That principle applies even to parties dismissed from the case. *People ex rel. Voss v. O'Connell*, 252 Ill. 304, 310-11 (1911). The State has a substantial interest that is prejudiced by the temporary restraining order in light of the impact it has on state finances. *See also People ex rel. Hartigan v. E & E Hauling, Inc.*, 153 Ill. 2d 473, 483-84 (1992) ("The Attorney General has the common law duty to protect the public purse as a matter of general welfare.").

consideration pursuant to Rule 302(b). And because the appeals are proceeding under the expedited schedule of Rule 307(d), this Court should expedite consideration of this motion and exercise its supervisory authority to order the appellate courts to stay consideration of the appeals during the pendency of this motion.

## II. Factual Background

Illinois has entered its 2016 Fiscal Year without an enacted budget other than for primary and secondary education.<sup>2</sup> S.R. 2. The Appropriations Clause of the Illinois Constitution provides that “[t]he General Assembly by law shall make appropriations for all expenditures of public funds by the State.” ILL. CONST. art. VIII, § 2(b). The appellate court has made clear that in the absence of appropriations statutes, the Comptroller may not authorize payment of the state employee payroll. *Netsch*, 216 Ill. App. 3d 566. This Court has cited *Netsch*’s holding with approval. *McDunn v. Williams*, 156 Ill. 2d 288, 308 (1993).

To ensure compliance with the Appropriations Clause when processing payments in the absence of appropriations legislation, the People sought declaratory and injunctive relief against the Comptroller in the Cook County action, asking the court to direct the Comptroller as to what may be paid during a budget impasse. S.R. 1-11. Several public labor unions and the Illinois Department of Central Management Services (CMS) were given leave to intervene in that case without objection. S.R. 45. Relying on the Appropriations Clause and *Netsch*, on July 7,

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<sup>2</sup> On June 25, 2015, Governor Rauner item vetoed the capital spending bill and completely vetoed the appropriations bills for all other non-education spending.

2015, the circuit court entered a temporary restraining order that enjoined the Comptroller from paying the state employee payroll except as necessary to meet only the requirements of the FLSA. S.R. 46-47.

On July 8, 2015, the Comptroller and CMS filed an emergency motion with the appellate court, seeking a stay of the order directing the Comptroller to process only state payroll payments necessary to meet the FLSA requirements and asking the court to authorize and direct the Comptroller to pay the full state payroll. S.R. 55-65. Later that day, the court granted the stay of the temporary restraining order but denied the affirmative request for an order authorizing the Comptroller to pay the full payroll. S.R. 66. The unions also have appealed the Cook County decision. S.R. 116-17.

The day after the Cook County action was filed, the public labor unions filed an action against the State of Illinois and the Comptroller in St. Clair County. S.R. 67-91. The unions claimed that the failure to timely pay bargaining unit members their full pay was an unconstitutional impairment of contract. *Id.* A week after the unions filed their complaint in St. Clair County and were given leave without objection to intervene in the Cook County case, and the day after the temporary restraining order was entered in Cook County, the unions moved for a temporary restraining order in St. Clair County seeking a different resolution from the Cook County case. S.R. 92-123. On July 10, 2015, the circuit court there entered a temporary restraining order requiring the Comptroller to draw and issue warrants

for payment to all state employees, not just union members, at their normal rate.<sup>3</sup>

S.R. 132-34.

### **III. Argument**

As the officer tasked by the Illinois Constitution with processing payments of public funds, the Comptroller needs this Court's guidance. Moreover, expedited consideration by this Court is needed because the resolution of the questions presented impacts all of state government. Indeed, the Comptroller is only the final step in the payment process — all state offices and agencies that rely on public funds initially determine what funds to obligate then present vouchers to the Comptroller for processing. The Court's determination of whether full payroll can be paid despite the lack of an enacted budget will affect those decisions. Additionally, the General Assembly and the Governor, who are constitutionally charged with, respectively, passing and signing or vetoing (in whole or in part) appropriations statutes, need clarity as to the background principles against which they act when deciding to enact (or not to enact) appropriations.

#### **A. The public interest requires expeditious determination by this Court.**

These appeals raise fundamental questions that go to the foundation of our system of government and the separation of powers mandated by the Illinois

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<sup>3</sup> Although the court stated orally that it was granting the unions' motion for temporary restraining order at the close of the July 9, 2015 hearing on the motion, the court did not enter the order until the afternoon of July 10, and this delayed the Rule 307(d) appeal from that order and, correspondingly, this motion.

Constitution. There is a strong public interest in the observance of these constitutional requirements, in the constitutionality of the payment of public funds during a budget impasse, and in the Comptroller's exercise of her constitutional duties. This interest requires expeditious determination by this Court of the issues raised in the interlocutory appeals. Rule 302(b) permits direct appeal to this Court in cases filed with the appellate court "in which the public interest requires prompt adjudication" by this Court. Ill. S. Ct. R. 302(b). This Court has the discretion to permit a Rule 302(b) direct appeal from interlocutory orders. *Desnick v. Dep't of Prof'l Regulation*, 171 Ill. 2d 510, 516 (1996); *Garcia v. Tully*, 72 Ill. 2d 1, 7 (1978).

To begin, this appeal raises important questions about what state funds may be expended during a budget impasse. These cases concern whether the Comptroller is authorized to process payment of state funds in the absence of appropriations legislation, despite the Illinois Constitution's directive that the General Assembly "shall make appropriations for all expenditures of public funds by the State." ILL. CONST. art. VIII, § 2(b). The public unquestionably has a strong interest in elected officials' constitutional performance of their duties and in enforcing constitutional limits on the expenditure of state funds.

Additionally, this Court has permitted direct appeal in other cases having a significant effect on the State's and local governments' finances. *See, e.g., Allegro Servs., Ltd. v. Metro. Pier & Exposition Auth.*, 172 Ill. 2d 243, 246 (1996) (challenge to tax for renovation of McCormick Place); *Geja's Café v. Metro. Pier & Exposition*

*Auth.*, 153 Ill. 2d 239, 245 (1992) (challenge to tax for expansion of McCormick Place); *Grais v. City of Chicago*, 151 Ill. 2d 197, 200-01 (1992) (challenge to tax for new public transportation system).

Next, this Court has permitted direct appeals in other actions concerning the public's interest in government services or public property. *See, e.g., Friends of Parks v. Chicago Park Dist.*, 203 Ill. 2d 312, 314 (2003) (use of public funds for improvements to public park for Soldier Field renovation); *Croissant v. Joliet Park Dist.*, 141 Ill. 2d 449, 450-51 (1990) (expansion of local airport on park district land); *Fumarolo v. Chicago Bd. of Educ.*, 142 Ill. 2d 54, 61 (1990) (public school reform); *Landmarks Pres. Council of Ill. v. City of Chicago*, 125 Ill. 2d 164, 167-68 (1988) (procedures for rescinding landmark designation).

This Court also has granted direct appeals in matters concerning public employment, *see, e.g., Kanerva v. Weems*, 2014 IL 115811, ¶ 1 (constitutionality of changes to health insurance of retired state employees); *Maddux v. Blagojevich*, 233 Ill. 2d 508, 510 (2009) (constitutionality of Compulsory Retirement of Judges Act); *Jorgensen v. Blagojevich*, 211 Ill. 2d 286, 297-98 (2004) (cost-of-living-adjustment to judicial salaries), including public labor relations, *see Office of Cook Cnty. State's Attorney v. Ill. Local Labor Relations Bd.*, 166 Ill. 2d 296, 298 (1995) (union certification petition submitted by public lawyers).

This case certainly meets the Rule 302(b) standard and merits this Court's attention. Additionally, along with previous budget impasses such as in 1991, the

State has recently faced this situation repeatedly in 2007, 2009, and now in 2015. Although *Netsch* should have settled this issue, it is clear from the St. Clair County order that it has not. Therefore, this Court's intervention is required.

Furthermore, the conflicting orders entered by the different circuit courts, and the continuing risk of additional conflicting orders, justifies this Court's consolidation of the appeals and expeditious resolution of the matter. *See In re Schneider's Estate*, 6 Ill. 2d 180, 183 (1955) (granting leave to appeal "primarily because of a conflict in the decisions of the Appellate Courts"). Indeed, where a circuit court already has acquired jurisdiction over a matter, a later circuit court's "acceptance of jurisdiction and issuance of orders conflicting" with those of the first court is "clearly erroneous" and "can only serve to diminish public respect for the judicial system of this State." *People ex rel. E. Side Levee & Sanitary Dist. v. Madison Cnty. Levee & Sanitary Dist.*, 54 Ill. 2d 442, 445 (1973).

**B. This Court should exercise its supervisory authority to direct the appellate courts to stay resolution of the appeals pending the resolution of this motion.**

Additionally, movants request that this Court exercise its supervisory authority to direct the appellate courts to hold the appeals in abeyance pending resolution of this motion. Both appeals are from temporary restraining orders and are proceeding under the expedited schedule set forth in Rule 307(d). As a result, there is a risk of conflicting appellate decisions adding further confusion to the already uncertain landscape while this motion is pending. To avoid that outcome,

movants request that this Court direct the appellate courts to stay consideration of the appeals pending resolution of this motion.

In sum, because the underlying lawsuits concern matters of great public importance relating to the constitutional role of the branches of state government in determining the expenditure of public funds, the discharge of an elected official's duties under the Illinois Constitution, the provision of government services, and state employment and because expeditious resolution is needed due to conflicting orders already entered by different circuit courts and to avoid the entry of conflicting orders by different appellate courts, this Court should consolidate the underlying appeals and grant the State's Rule 302(b) motion for a direct appeal. And due to the expedited schedule for the appeals at issue, this Court should exercise its supervisory authority to direct the appellate courts to stay consideration of the appeals while this motion is pending.

Wherefore, movants request that this Court give this motion expedited consideration, order the appellate courts to hold the respective appeals in abeyance pending resolution of this motion, consolidate the appeals, and direct that the consolidated appeals be transferred to this Court for resolution.

Respectfully submitted,

LISA MADIGAN  
Attorney General  
State of Illinois

By: /s/ Brett E. Legner

**CAROLYN E. SHAPIRO**  
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State of Illinois

**BRETT E. LEGNER**  
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Chicago, Illinois 60601  
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July 13, 2015



**Pursuant to Supreme Court Rule 302(b) and Other Relief** with the Clerk of the Supreme Court of Illinois, Supreme Court Building, 200 East Capitol Avenue, Springfield, Illinois 62701, via the electronic filing system of the Supreme Court of Illinois. A copy of said motion is hereby served on you.

Respectfully submitted,

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State of Illinois

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\*\*\*\* Electronically Filed \*\*\*\*

119525

07/13/2015

Supreme Court Clerk

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07/13/2015

Supreme Court Clerk

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\*\*\*\* Electronically Filed \*\*\*\*

STATE OF ILLINOIS     )  
                                   )  
 COUNTY OF COOK        )     SS.

119525

07/13/2015

Supreme Court Clerk

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### CERTIFICATE OF FILING AND SERVICE

The undersigned certifies that on July 13, 2015, the attached Notice of Filing by Electronic Means, Emergency Motion for Direct Appeal Pursuant to Supreme Court Rule 302(b) and Other Relief, and proposed Order, which complies with the proposed-order requirement of Ill. Sup. Ct. R. 361(b)(3), were filed with the Clerk of the Supreme Court of Illinois, Supreme Court Building, 200 East Capitol Avenue, Springfield, Illinois 62701, using the electronic filing system of the Supreme Court of Illinois; and that one copy of said motion was served on each person named below on July 13, 2015, by electronic mail and hand delivery.

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No. \_\_\_\_\_

IN THE  
SUPREME COURT OF ILLINOIS

---

PEOPLE OF THE STATE OF ILLINOIS,	)	Motion for Direct Appeal Pursuant
	)	to Supreme Court Rule 302(b).
Plaintiff-Appellee/Movant,	)	
	)	
v.	)	On interlocutory appeal from the
	)	Circuit Court of Cook County,
LESLIE GEISSLER MUNGER, in her capacity as	)	Illinois, County Department,
Comptroller for the State of Illinois,	)	Chancery Division, No. 15 CH
	)	10243, to the Appellate Court of
Defendant-Appellant/Respondent,	)	Illinois, First Judicial District, No.
	)	1-15-1877.
ILLINOIS DEPARTMENT OF CENTRAL	)	
MANAGEMENT SERVICES; AFSCME	)	
COUNCIL 31, <i>et al.</i> ,	)	The Honorable
	)	DIANE J. LARSEN,
Intervenors-Appellants/Respondents.	)	Judge Presiding.
	)	
<u>THE AMERICAN FEDERATION OF STATE,</u>	)	<u>On interlocutory appeal from the</u>
<u>COUNTY AND MUNICIPAL EMPLOYEES,</u>	)	<u>Circuit Court of the Twentieth</u>
<u>AFL-CIO, COUNCIL 31, <i>et al.</i>,</u>	)	<u>Judicial Circuit, St. Clair County,</u>
	)	<u>Illinois, No. 15 CH 475, to the</u>
Plaintiffs-Appellees/Respondents,	)	<u>Appellate Court of Illinois, Fifth</u>
	)	<u>Judicial District, No. 5-15-_____.</u>
v.	)	
	)	
STATE OF ILLINOIS,	)	
	)	
Defendant-Appellant/Movant,	)	
	)	
LESLIE GEISSLER MUNGER, in her official	)	The Honorable
capacity as Comptroller for the State of Illinois,	)	ROBERT P. LeCHIEN,
	)	Judge Presiding.
Defendant.	)	

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**ORDER**

THIS CAUSE COMING BEFORE THE COURT on the Emergency Motion for Direct Appeal Pursuant to Supreme Court Rule 302(b) and Other Relief, and due notice having been given;

IT IS HEREBY ORDERED:

1. The motion to direct the appellate courts to stay consideration of the

underlying appeals is: ALLOWED / DENIED

The appellate courts are directed to hold the appeals pending in *People v. Munger* (Appellate Court of Illinois, First Judicial District, No. 1-15-1877) and *AFSCME v. State of Illinois* (Appellate Court of Illinois, Fifth Judicial District, No. 5-15-\_\_\_\_\_) in abeyance until further order of this Court;

2. The motion to consolidate the underlying appeals and for leave for direct appeal to the Illinois Supreme Court is: ALLOWED / DENIED.

ENTER:

\_\_\_\_\_  
JUSTICE

DATED: \_\_\_\_\_  
Brett E. Legner  
Deputy Solicitor General

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF ILLINOIS

---

PEOPLE OF THE STATE OF ILLINOIS,	)	Motion for Direct Appeal Pursuant
	)	to Supreme Court Rule 302(b).
Plaintiff-Appellee/Movant,	)	
	)	
v.	)	On interlocutory appeal from the
	)	Circuit Court of Cook County,
LESLIE GEISSLER MUNGER, in her capacity as	)	Illinois, County Department,
Comptroller for the State of Illinois,	)	Chancery Division, No. 15 CH
	)	10243, to the Appellate Court of
Defendant-Appellant/Respondent,	)	Illinois, First Judicial District, No.
	)	1-15-1877.
ILLINOIS DEPARTMENT OF CENTRAL	)	
MANAGEMENT SERVICES; AFSCME	)	
COUNCIL 31, <i>et al.</i> ,	)	The Honorable
	)	DIANE J. LARSEN,
Intervenors-Appellants/Respondents.	)	Judge Presiding.
	)	
<hr/> THE AMERICAN FEDERATION OF STATE,	)	On interlocutory appeal from the
COUNTY AND MUNICIPAL EMPLOYEES,	)	Circuit Court of the Twentieth
AFL-CIO, COUNCIL 31, <i>et al.</i> ,	)	Judicial Circuit, St. Clair County,
	)	Illinois, No. 15 CH 475, to the
Plaintiffs-Appellees/Respondents,	)	Appellate Court of Illinois, Fifth
	)	Judicial District, No. 5-15-_____.
v.	)	
	)	
STATE OF ILLINOIS,	)	
	)	
Defendant-Appellant/Movant,	)	
	)	
LESLIE GEISSLER MUNGER, in her official	)	The Honorable
capacity as Comptroller for the State of Illinois,	)	ROBERT P. LeCHIEN,
	)	Judge Presiding.
Defendant.	)	

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**SUPPORTING RECORD FOR EMERGENCY MOTION FOR DIRECT APPEAL  
PURSUANT TO SUPREME COURT RULE 302(B) AND OTHER RELIEF**

\*\*\*\* Electronically Filed \*\*\*\*

119525

07/13/2015

Supreme Court Clerk

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1.	Verified Complaint in <i>People v. Munger</i> . . . . .	S.R. 1
2.	Verified Motion for Temporary Restraining Order and Preliminary Injunction in <i>People v. Munger</i> . . . . .	S.R. 12
3.	7-2-15 Order in <i>People v. Munger</i> . . . . .	S.R. 45
4.	7-7-15 Temporary Restraining Order in <i>People v. Munger</i> . . . . .	S.R. 46
5.	7-7-15 Agreed Interim Order in <i>People v. Munger</i> . . . . .	S.R. 48
6.	Emergency Motion For Stay in appeal 1-15-1877. . . . .	S.R. 55
7.	7-8-15 Order in appeal 1-15-1877. . . . .	S.R. 66
8.	Verified Complaint in <i>AFSCME v. State of Illinois</i> . . . . .	S.R. 67
9.	Motion for Temporary Restraining Order in <i>AFSCME v. State of Illinois</i> . . . . .	S.R. 92
10.	Motion to Disqualify Attorney General and Appoint Private Counsel in <i>AFSCME v. State of Illinois</i> . . . . .	S.R. 124
11.	7-10-15 Temporary Restraining Order in <i>AFSCME v. State of Illinois</i> . . . . .	S.R. 132
12.	Response to Motion to Disqualify Attorney General. . . . .	S.R. 135
13.	Motion to Strike Appearance. . . . .	S.R. 159
14.	Notice of Interlocutory Appeal in <i>AFSCME v. State of Illinois</i> . . . . .	S.R. 168
15.	Authenticating Affidavit of Brett E. Legner. . . . .	S.R. 171
16.	Notice of Interlocutory Appeal in <i>People v. Munger</i> . . . . .	S.R. 172

IN THE  
CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

---

PEOPLE OF THE STATE OF ILLINOIS,	)
	)
Plaintiff,	)
	)
v.	)
	)
LESLIE GEISSLER MUNGER, in her capacity	)
as Comptroller of the State of Illinois,	)
	)
Defendant.	)

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**VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiff People of the State of Illinois, by and through Lisa Madigan, Attorney General of the State of Illinois, brings this complaint seeking declaratory, injunctive, and other relief and alleges as follows:

**Nature of Action**

1. The People bring this complaint so that the Court may provide a declaration to Defendant as to what payments can and should legally be made in the absence of enacted annual appropriations statutes.

**Parties**

2. Lisa Madigan is the Attorney General of the State of Illinois. Pursuant to the Illinois Constitution, she is the legal officer for the State and has standing to bring this action on behalf of the People of the State of Illinois.

3. Defendant Leslie Geissler Munger is the Comptroller of the State of Illinois. Pursuant to the Illinois Constitution, she shall maintain the State's central fiscal

accounts and order payments out of the funds held by the Treasurer.

### **Venue**

4. Venue is proper in the Circuit Court of Cook County because it is a county in which the transaction or some part thereof occurred out of which this cause of action arose.

### **Factual Allegations**

5. The State of Illinois's 2015 Fiscal Year ended on June 30, 2015.

6. The 2016 Fiscal Year started on July 1, 2015.

7. The General Assembly passed appropriations legislation for the 2016 Fiscal Year and the Governor vetoed most of that legislation. Once a veto message is returned to the originating house of the General Assembly, that house has 15 calendar days to override the veto. If it does so, the other house of the legislature then has 15 calendar days to override the veto.

8. As a result of the Governor's vetoes, and as of the writing of this complaint, the State has not enacted appropriations statutes for the 2016 Fiscal Year, other than statutes providing education funding.

9. Payments for state obligations for the 2016 Fiscal Year are coming due imminently and before completion of the veto override timeframe.

10. The Comptroller must process vouchers for payments to be made from state funds.

11. Without enacted appropriations statutes or other lawful expenditure

authority, the Comptroller is not permitted to process vouchers for payment of state funds.

12. An actual controversy has arisen in light of substantial uncertainty regarding which, if any, payments may be authorized by the Comptroller in the absence of annual appropriations statutes.

### **Count One – Declaratory and Injunctive Relief**

13. Plaintiff repeats and realleges the foregoing allegations as though they were contained herein.

14. The Appropriations Clause of the Illinois Constitution provides that “The General Assembly by law shall make appropriations for all expenditures of public funds by the State.” ILL. CONST. art. VIII, § 2(b).

15. The State Comptroller Act provides that no payment may be made from public funds held by the State Treasurer except by warrant from the Comptroller. 15 ILCS 405/9(a).

16. That statute further provides that no warrant for the payment of money may be drawn by the Comptroller without presentation of a voucher indicating that the expenditure is “pursuant to law and authorized.” 15 ILCS 405/9(b).

17. Additionally, the Comptroller shall examine each voucher and determine whether appropriations or expenditure authority other than appropriations are available to make the expenditure of funds. 15 ILCS 405/9(c).

18. There are, however, instances in which an annual appropriation is not

required.

19. Payments made pursuant to continuing appropriations, including without limitation payments for debt service, judicial salaries, salaries of legislators, and legislative operations (*see, e.g.*, 15 ILCS 20/50-22), do not require an annual appropriation and may be authorized by the Comptroller in the absence of an annual appropriation. *See Graham v. Ill. State Toll Highway Auth.*, 182 Ill. 2d 287 (1998).

20. Payments from non-appropriated funds do not require an annual appropriation and may be authorized by the Comptroller in the absence of an annual appropriation.

21. Payments for operations of the judicial branch may be authorized by the Comptroller in the absence of an appropriation. *See Jorgensen v. Blagojevich*, 211 Ill. 2d 286 (2004).

22. The Supremacy Clause of the United States Constitution provides that federal law is the supreme law of the land. U.S. CONST. art. VI, cl. 2. Payments mandated by federal law thus are not limited by state law restrictions concerning legislative appropriations.

23. Federal consent decrees enforcing federal rights are federal law for the purposes of the Supremacy Clause.

24. By virtue of the Supremacy Clause, the Comptroller must authorize payments necessary to comply with federal consent decrees in the absence of an annual appropriation.

25. Also by virtue of the Supremacy Clause, in the absence of an annual appropriation, the Comptroller must authorize payments necessary to comply with the State's obligations pursuant to federal law, including the State's participation in federal programs requiring the expenditure of state funds.

26. In the absence of an annual appropriation, the Comptroller lacks authority under state law to authorize payment of wages due to state employees. *AFSCME v. Netsch*, 216 Ill. App. 3d 566 (4th Dist. 1999).

27. Pursuant to the Supremacy Clause, the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 *et seq.*, requires the payment of federal minimum wage and overtime to covered state employees in the absence of an annual appropriation.

28. The Department of Central Management Services has issued a statement maintaining that it would take 9 to 12 months to prepare a payroll that complies with the FLSA. *See* Exhibit A attached to this Complaint.

29. The first state employee paychecks of Fiscal Year 2016 are due to be issued on July 15, 2015.

30. The Comptroller must receive the payroll information for that payroll on or about July 10, 2015.

31. The People have a clearly ascertainable right in need of protection.

32. The People have a likelihood of success on the merits of their claim.

33. The People have no adequate remedy at law in the absence of an emergency injunction.

34. The People will suffer irreparable harm in the absence of an emergency injunction.

35. The balance of the equities weighs in favor of granting injunctive relief.

WHEREFORE, Plaintiff People of the State of Illinois respectfully prays for the following relief:

a. A declaration that the Comptroller, in the absence of an annual appropriation, is authorized to process payment vouchers for continuing appropriations;

b. A declaration that the Comptroller, in the absence of an annual appropriation, is authorized to process payment vouchers for non-appropriated funds;

c. A declaration that the Comptroller, in the absence of an annual appropriation, is authorized to process payment vouchers for operations of the judicial branch;

d. A declaration that the Comptroller, in the absence of an annual appropriation, is authorized to process payment vouchers to meet obligations required by consent decrees;

e. A declaration that the Comptroller, in the absence of an annual appropriation, is authorized to process payment vouchers to meet obligations required by the State's participation in federal programs;

f. A declaration that the Comptroller, in the absence of an annual appropriation, is authorized to process payment vouchers for the payment of the

federal minimum wage and overtime requirements of the FLSA, *or* in the alternative, a declaration that the Comptroller, in the absence of an annual appropriation and payroll vouchers that comply only with the minimum requirements of the FLSA, is not authorized to process payment vouchers for the state employee payroll;

g. A temporary and permanent injunction requiring the Comptroller to process payment vouchers for continuing appropriations, non-appropriated funds, judicial branch operations, consent decrees, and federal statutory mandates, in the absence of an annual appropriation;

h. A temporary and permanent injunction requiring the Comptroller to process payment vouchers for payrolls that meet only the minimum requirements of the FLSA *or* in the alternative an injunction enjoining the Comptroller from processing payroll vouchers until the enactment of appropriations statutes; and

i. Any and all other relief that this Court deems just.

Respectfully submitted,

LISA MADIGAN  
Attorney General  
State of Illinois

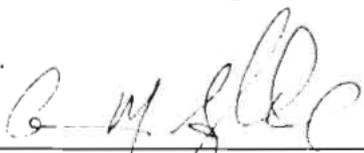
BY: /s/ Khara Coleman Washington  
KHARA COLEMAN WASHINGTON  
Assistant Attorney General

BRETT E. LEGNER  
Deputy Solicitor General  
100 West Randolph, 12th Floor  
Chicago, Illinois 60601  
(312) 814-2146  
Attorney Code 99000

-7-

**VERIFICATION**

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief, and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

  
\_\_\_\_\_  
Ann M. Spillane

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ILLINOIS

Bruce Rauner, Governor

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

Tom Tyrell, Director

VIA ELECTRONIC DELIVERY

June 30, 2015

Mr. Joseph Hartzler  
 Special Counsel  
 Office of Governor Bruce Rauner  
 205 Statehouse  
 401 S. Second Street  
 Springfield, Illinois 62706

Re: FLSA designations for State employees and minimum wage implications

Dear Mr. Hartzler:

I am writing in response to your request for information regarding the near-term possibility of determining Fair Labor Standards Act (FLSA) exemption designations for all State employees. You have also asked for an outline of the implications raised by placing State employees on a minimum wage payment basis during a budget impasse.

**FLSA determinations**

As you may be aware, the FLSA, 29 U.S.C. 201, *et seq.*, sets a uniform minimum standard for employee compensation in the United States. Pursuant to the Supremacy Clause of the United States Constitution, the Fair Labor Standards Act is binding upon all employment relationships in the State of Illinois. Moreover, the State of Illinois, as an employer, has waived sovereign immunity and is required to comply with the FLSA. 745 ILCS 5/1.5. Accordingly, failure to comply with the FLSA would subject the State of Illinois to significant financial liability, including the potential risk of treble damages and interest.

Determination of FLSA exemption status is a fact-intensive process that includes several steps, including verifying that the actual duties being performed by an employee are reflected by the position description's assigned duties, and then applying the FLSA and its implementing regulations to the identified duties. Nearly all of the FLSA determinations presently in place were made under a prior process that calls into question their accuracy. Since discovering the questionable accuracy of these determinations, staff of the CMS Bureau of Personnel have been working with CMS lawyers for several years to review and revise FLSA determinations when issues arise regarding an individual employee's pay is presented to CMS. Only a very small number of updated FLSA determinations have been corrected and updated through this approach.

Based on that framework and history and making this a priority task, my office reasonably estimates that it would take approximately nine to twelve months at current staffing levels to determine with the required degree of accuracy the FLSA status of the approximately 45,000 employees who perform work for the State of Illinois under the jurisdiction of the Governor's Office.

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100 West Randolph Street, Suite 4600, Chicago, Illinois 60601

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S.R. 9

Exhibit

A

### Minimum wage implications

You have also asked for the implications of putting State employees into a minimum wage payment regime during the pending budget impasse in an effort to avoid the possibility of treble damages and interest penalties imposed by the FLSA. The effects and processes outlined here would apply regardless of (and in addition to) the FLSA determination work that is described above, and these are only the most obvious effects. There are certainly going to be additional implications beyond what is identified below.

First, to implement an adjustment of State employees' pay down to the minimum wage, consider the following:

- There are tens-of-thousands of State employees whose payroll calculations are managed on several different payroll systems. Because of the variety of systems used to manage this data, there will be tens-of-thousands of employees whose payment settings will need to be manually adjusted, one-by-one, from their standard salary or wage down to the minimum wage, and this process will be different from system-to-system within the State. A large portion of State employees cannot have their salary/wage edited downward via simple global programming changes.
- There is a new minimum wage for jobs in the City of Chicago (effective 1 July 2015), which will add complexity to this task, as those State employees working within the City limits would have a minimum wage different than State employees outside of Chicago proper.
- The State Employee Retirement System (SERS) will have significant problems handling a temporary reduction in earnings by State employees during the minimum wage period, as income history and earnings credits will be substantially distorted. There will be employees who are retiring during such a minimum wage period, and these employees will have permanent problems with their retirement benefit calculations.
- State employee health insurance benefits can be substantially distorted, as the State employee cost of this benefit is indexed to employee earnings.
- State employee life insurance benefits can be substantially distorted, as the State employee cost of this benefit is indexed to employee earnings.
- Nearly every State employee with bankruptcy, child support and tax levy garnishments will be unable to make the minimum payments because federal guidelines will not allow them to occur in a minimum wage setting. Similarly, employees with bank loans (e.g., mortgages, car loans, student loan payments) may be unable to fund their automatic deductions and go into default.

Next, to reverse or undo the downward adjustment once a budget deal is reached, the tens-of-thousands of employees whose payroll records were adjusted downward will need to be manually adjusted, one-by-one, back up to their standard salary or wage from the minimum wage. Again, a large portion of State employees cannot have their salary/wage edited upward via simple global programming changes.

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**S.R. 10**

Finally, to reconcile (or "catch up") employees' pay after a budget resolution is reached, the State will have to overpay the employees to make up for the period where they were only paid minimum wage. Consider the following:

- Wage withholding tables (Social Security, Medicare, Federal Income Tax) will require higher withholding than usual, as it will appear employees will be on a higher earning trajectory. We know from past experience that State employees are particularly sensitive to withholding changes.
- The SERS system will have an additional round of very substantial problems from an upward adjustment, as income history and earnings credits will again be distorted. As with the downward adjustment, employees who retire during the catch up period will have incorrect earning calculations that would permanently affect their retirement benefits. In effect, it would be a form of pension spiking available to those who retire during the correction period.
- Health and life insurance benefits will again both be distorted, as the State employee cost of these benefits is indexed to employee earnings.

In the absence of certainty regarding the FLSA exemption status of nearly all State employees, and given the many negative implications of attempting to pay State employees the minimum wage, it is advisable to continue to pay employees their ordinary wages and salaries as set forth by the Pay Plan in accordance with the Personnel Code during a budget impasse. We will continue to make progress on correcting and updating the FLSA determinations for all State employees over time, and we will look further into processes that can facilitate that review.

Thank you for your attention to these matters. Please do not hesitate to contact me if you have any questions.

Sincerely,



Michael Basil  
General Counsel  
Illinois Department of Central Management Services

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**S.R. 11**

2015-2 BM 7:56

IN THE  
 CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
 COUNTY DEPARTMENT, CHANCERY DIVISION

---

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Plaintiff,	)	
	)	2015-CH-10243
v.	)	
	)	
LESLIE GEISSLER MUNGER, in her capacity as	)	
Comptroller of the State of Illinois,	)	
	)	
Defendant.	)	

---

**VERIFIED MOTION FOR TEMPORARY RESTRAINING ORDER AND  
PRELIMINARY INJUNCTION**

Plaintiff People of the State of Illinois, by and through Lisa Madigan, Attorney General of the State of Illinois, pursuant to 735 ILCS 5/11-101 et seq., brings this motion for a Temporary Restraining Order and Preliminary Injunction, and states as follows:

**Preliminary Statement**

Although the fiscal year for the State of Illinois began July 1, 2015, no budget is in place, and no annual appropriations statute has been enacted other than for education funding. Various state officers and state agencies have already expressed conflicting views as to which, if any, payments must be made under these circumstances, and which services must be provided. Time is of the essence. Illinois residents face imminent irreparable injury as a result of the present uncertainty on these issues and the risk of potentially unlawful government action. Clear direction from the Court is essential to ensure that Defendant Leslie Geissler Munger, Illinois Comptroller, makes appropriate payments of public funds in the absence of enacted annual appropriations statutes.

Regardless of the budget impasse, Federal and state constitutional mandates must be followed. Certain state employees who are required to work but whose salaries are not dependent on annual appropriations legislation, such as court personnel, judges and the legislature, must be paid. So, too, judicial consent decrees, such as those protecting the disabled, mental health patients, wards of the State and the elderly must be honored.

The State's first FY2016 payroll is fast approaching on July 15. However, without a budget and the properly enacted appropriations, there is significant uncertainty as to which payments are legally authorized under Federal and Illinois law. For example, certain payments, such as to agencies and providers of services necessitated by consent decrees must be made so that Illinois residents can be served.

To address that uncertainty and the serious harm it may cause, the Attorney General brought this action on behalf of the People to ensure that the Comptroller makes payments as required by law, even in the absence of enacted appropriations statutes, so that the People will be properly served, protected and provided the services they are entitled to.

In light of various payments coming due over the next few days, the current budget crisis has an immediate impact that should be addressed by the Court on an urgent basis. But the crisis may continue for weeks or longer, and during that time additional circumstances may materially change the nature of the guidance or other relief warranted. Accordingly, the Court should promptly grant relief to address the most urgent concerns, but should narrowly tailor such relief so as not to stand in the place of the responsibility of executive and legislative branches of the government to enact an annual appropriation.

### **Factual Allegations**

- The State of Illinois's 2015 Fiscal Year ended on June 30, 2015.
- The 2016 Fiscal Year started on July 1, 2015.
- As of the filing of this motion, the State has not enacted appropriations statutes for the 2016 Fiscal Year.
- The General Assembly passed appropriations legislation and the Governor vetoed that legislation. Beginning on June 22, 2015, the Illinois House has 15 calendar days to override that veto. If the House does override the veto, the Illinois Senate then has 15 calendar days to override the veto.
- Payments for state obligations for the 2016 Fiscal Year are coming due imminently.
- The Comptroller must process vouchers for payments to be made out of state funds.
- Without enacted appropriations legislation or other lawful expenditure authority, the Comptroller is not permitted to process vouchers for payment of state funds.
- The Appropriations Clause of the Illinois Constitution provides that "The General Assembly by law shall make appropriations for all expenditures of public funds by the State." Ill. Const. art. VIII, §2(b).
- The State Comptroller Act provides that no payment may be made from public funds held by the State Treasurer except by warrant from the Comptroller. 15 ILCS 405/9(a).

- That statute further provides that no warrant for the payment of money may be drawn by the Comptroller without presentation of a voucher indicating that the expenditure is “pursuant to law and authorized.” 15 ILCS 405/9(b).
- The Comptroller shall examine each voucher and determine whether unencumbered appropriations or expenditure authority other than appropriations are available to make the expenditure of funds. 15 ILCS 405/9(c).
- Payments made pursuant to continuing appropriations, including without limitation payments for debt service, judicial salaries, salaries of legislators, and legislative operations (*see, e.g.*, 15 ILCS 20/50-22), do not require an annual appropriation and may be authorized by the Comptroller in the absence of an annual appropriation. *See Graham v. Ill. State Toll Highway Auth.*, 182 Ill. 2d 287 (1998).
- Payments from non-appropriated funds do not require an annual appropriation and may be authorized by the Comptroller in the absence of an annual appropriation.
- Payments for operations of the judicial branch may be authorized by the Comptroller in the absence of an appropriation. *See Jorgensen v. Blagojevich*, 211 Ill. 2d 286, 315-16 (2004).
- The Supremacy Clause of the United States Constitution provides that federal law is the supreme law of the land, notwithstanding any state constitutional provision or law to the contrary. U.S. CONST. art. VI, cl. 2. Payments

mandated by federal law thus are not limited by state law restrictions concerning legislative appropriations.

- Federal consent decrees enforcing federal rights are federal law for the purposes of the Supremacy Clause.
- Also by virtue of the Supremacy Clause, the Comptroller must authorize payments necessary to comply with federal consent decrees in the absence of an annual appropriation.
- Also by virtue of the Supremacy Clause, in the absence of an annual appropriation, the Comptroller must authorize payments necessary to comply with the State's obligations pursuant to federal law, including the State's participation in federal programs requiring the expenditure of state funds.
- In the absence of an annual appropriation, the Comptroller lacks authority under state law to authorize payment of wages due to state employees. *AFSCME v. Netsch*, 216 Ill. App. 3d 566, 568 (4th Dist. 1991).
- Pursuant to the Supremacy Clause, the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 *et seq.*, requires the payment of federal minimum wage and overtime to covered state employees in the absence of an annual appropriation.
- The Department of Central Management Services has issued a statement maintaining that it would take 9 to 12 months for the State to prepare a payroll that complies with the FLSA. *See* Exhibit A attached to the Verified Complaint For Declaratory and Injunctive Relief.

- The first state employee paychecks of Fiscal Year 2016 are due to be issued on July 15, 2015.
- The Comptroller must receive the payroll information for that payroll on or about July 10, 2015.

In light of the foregoing, an actual and pressing controversy has arisen regarding which, if any, payments may be authorized by the Comptroller in the absence of annual appropriations statutes.

The Comptroller sent a letter requesting that the Attorney General seek a court order authorizing FLSA payments, or to the extent “it is not feasible” to make such payments, payment of full wages to both employees who are covered by the FLSA as well as those who are not. See Exhibit A, attached hereto.

The People filed this action to obtain direction on those critical issues. “The Attorney General has a common law duty to protect the public purse as a matter of general welfare.” *People ex rel. Hartigan v. E & E Hauling, Inc.*, 153 Ill. 2d 473, 483 (1992).

### **Legal Standards**

A plaintiff must establish four elements to obtain a temporary restraining order (“TRO”) or preliminary injunction: (1) a protectable right; (2) irreparable harm; (3) an inadequate remedy at law; and (4) a likelihood of success on the merits. *Murges v. Bowman*, 254 Ill. App. 3d 1071, 1081 (1st Dist. 1993). See also *Kanter & Eisenberg v. Madison Assoc.*, 116 Ill. 2d 506, 510-11, 515-16 (1987); *Bradford v. Wynstone Property Owners’ Ass’n*, 355 Ill. App. 3d 736, 739 (2d Dist. 2005); *AFSCME Council 31 v. Ryan*,

332 Ill. App. 3d 965, 966-67 (1st Dist. 2002). In addition, the time-limited relief of a TRO is intended to protect against serious harm before a court can decide whether to grant a preliminary injunction motion. *Paddington Corp. v. Foremost Sales Promotions, Inc.*, 13 Ill. App. 3d 170,175 (1<sup>st</sup> Dist. 1973). Plaintiff has demonstrated each of these elements, as set forth below.

## **Argument**

### **1. Protectable right**

A plaintiff seeking a preliminary injunction need only show that there is a “fair question” of the existence of a protectable right and that the court should preserve the status quo until the case can be decided on the merits to prevent immediate harm. *Murges*, 253 Ill. App. 3d at 1082 (quoting *People ex rel. Stony Island Church of Christ v. Mannings*, 156 Ill. App. 3d 356, 362 (1st Dist. 1987)). Here, there can be no doubt that Illinois residents have a protectible right to ensure that public funds are legally expended. *Granberg v. Didrickson*, 279 Ill. App. 3d 886, 889 (1st Dist. 1996). Moreover, Illinois residents such as the disabled, those in need of mental health services, wards of the State, and the elderly, who are protected by consent decrees, have a clear protectable right in the services they are constitutionally entitled to and a court has ordered they receive. These payments help fund critical government services, such as medical care for children in foster care, residential placements for mentally disabled individuals, food assistance for low-income families, and the operation of the state hotline to report child abuse and neglect.

## 2. Irreparable Harm

Illinois residents will suffer immediate and irreparable harm unless the Court directs the Comptroller to authorize certain payments, even absent a legislative appropriation or additional court order. On the one hand, irreparable harm will occur if the Comptroller fails to make certain payments. For example, individuals with disabilities, or with mental health needs, or juveniles who need services from the Illinois Department of Child and Family Services depend on the programs, services and personnel required pursuant to consent decrees and will suffer serious and irreparable harm if the services and supports provided in such decrees become unavailable. *See Exhibit B*, a list of consent decrees that the State must comply with regardless of an enacted appropriation; *see also Exhibit C*, a list of continuing appropriations statutes and non-appropriated funds from which payments that must be made.

On the other hand, irreparable harm also will occur if the Comptroller makes payments that are not authorized by law. If the Comptroller makes payments to public employees, vendors or other state creditors in excess of her legal authority, such expenditures of public funds would cause irreparable injury to the People. *Granberg*, 279 Ill.App.3d at 889 (“If the challenged funds had been expended, plaintiffs would be irreparably harmed ... as taxpayers ...by the improper expenditure of public funds. Illinois courts have long viewed public funds as being held in trust on behalf of all taxpayers and have recognized that the wrongful expenditure of public assets necessarily harms the public.”) (citing *Snow v. Dixon*, 66 Ill. 2d 443, 450–51

(1977); *Turkovich v. Board of Trustees of University of Illinois*, 11 Ill. 2d 460, 464 (1957); *Barco Manufacturing Co. v. Wright*, 10 Ill. 2d 157, 160 (1956)).

Moreover, if payments are improperly made to public employees, vendors, or other creditors, the State will suffer irreparable harm, as it will be implausible to recover money damages through tens of thousands of individual lawsuits.

### **3. Inadequate Remedy at Law**

An adequate remedy at law is one that is clear, complete, and as practical and efficient as the potential equitable remedy. *Granberg*, 279 Ill. App. 3d at 890. Here, money damages alone will not suffice to ameliorate the harm that will be caused if Defendant does not obtain clear guidance from the Court and immediately implement the required payments. As discussed above, Illinois residents depend on the programs, services and personnel that will not be provided if Defendant does not make the required payments. For example, money damages cannot make whole a mental health patient who is denied services she is entitled to pursuant to the federal constitution and court order. Nor can money damages make whole the juvenile who does not get the services the court has required he be provided by DCFS or other third-party providers.

And as discussed above, the State will not be able to obtain money damages in the event that the Comptroller makes improper payments to public employees, vendors or other creditors because it is implausible that the State will be able to recover money damages through tens of thousands of individual lawsuits.

### **4. A Likelihood of Success on the Merits**

Illinois residents have a strong likelihood of success on the merits. As set forth above, Illinois law is clear that the Comptroller generally cannot make payments of public funds without an appropriation, but must make certain payments even without an enacted annual appropriation.

*First*, as set forth above, Illinois requires the Comptroller to authorize payments, even absent the enactment of annual appropriations legislation, for such expenditures as continuing appropriations and non-appropriated funds (*Graham v. Ill. State Toll Highway Auth.*, 182 Ill. 2d at 312-13) as well as judicial operations (*Jorgensen*, 211 Ill. 2d at 286).

Nor is there any doubt that the Comptroller must make payments necessary to carry out the requirements of consent decrees because the State is required to comply with court orders. See *Colbert v. Rauner*, order dated June 30, 2015 (Judge Lefkow)(Exhibit D); *Ligas v. Norwood*, order dated June 30, 2015 (Judge Coleman)(Exhibit E).

*Second*, federal law requires the Comptroller to authorize certain payments. The Supremacy Clause of the United States Constitution declares that federal law “shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” U.S. CONST. art. VI, cl. 2. This provision, then, explicitly provides that federal law is supreme over the requirements of a state constitution or state statutes. Accordingly, where the State has entered into agreements with the federal government pursuant to federal law that requires the State to expend funds, the

Supremacy Clause requires the State to comply with those laws. Examples of such federal programs include the Supplemental Nutrition Assistance Program, 7 U.S.C. § 2011 *et seq.*, the Temporary Assistance to Needy Families Program, 42 U.S.C. § 601 *et seq.*, and the Medicaid Program, 42 U.S.C. § 1396 *et seq.*

Additionally, the Supremacy Clause extends to federal court orders enforcing federal rights. A “[s]tate-law prohibition against compliance with the District Court’s decree cannot survive the command of the Supremacy Clause of the United States Constitution.” *Washington v. Washington State Commercial Passenger Fishing Vessel Ass’n*, 443 U.S. 658, 695 (1979). “A state statute that thwarts a federal court order enforcing federal rights” violates the Supremacy Clause. *Brinn v. Tidewater Transp. Dist. Comm’n*, 242 F.3d 227, 233-34 (4th Cir. 2001) (internal quotation marks omitted). As an Illinois bankruptcy court has explained, “[f]ederal court orders enforcing a federal statute . . . supersede any contrary state law.” *In re Xpedior Inc.*, 354 B.R. 210, 235 (N.D. Ill. 2006). Federal consent decrees enforcing federal rights, therefore, are part of the supreme law of the land that are supreme over contrary provisions of Illinois constitutional or statutory law. Accordingly, the State may not rely on state law to decline to enforce those orders.

*Third*, as a general matter the Illinois Constitution prohibits the Comptroller from paying wages to state employees in the absence of an annual appropriations statute. The Appropriations Clause states that “The General Assembly by law shall make appropriations for all expenditures of public funds by the State.” ILL. CONST. art. VIII, § 2(b). In exactly the same circumstance, the appellate court already has

rejected a claim that the State must pay state employees even in the absence of an appropriation. In *Netsch*, 216 Ill. App. 3d at 568, the court rejected the unions' effort to require the Comptroller to pay employees and held that the Comptroller could not pay state employees in the absence of an appropriation and "any attempt by the comptroller to issue the funds in the absence of an appropriation bill signed into law by the governor would create obvious problems under the separation-of-powers doctrine." *Netsch* is consistent with the Illinois Supreme Court's discussion of appropriations statutes in *People ex rel. Kirk v. Lindberg*, 59 Ill. 2d 38, 42-43 (1974), where the court explained that an effective appropriations law is required "to prevent government operations from being brought to a complete stop." The court continued that a veto of an appropriations bill "would also delay the availability of appropriated funds to insure the continued operation of governmental functions." *Id.* at 43.

The Supremacy Clause, however, requires the State to comply with the FLSA, regardless of state laws requiring an appropriation. *See Council 13, AFSCME v. Rendell*, 986 A.2d 63 (Pa. 2009); *White v. Davis*, 68 P.3d 74 (Cal. 2003). By its terms, the FLSA requires payment of federal minimum wage and overtime to non-exempt employees. 29 U.S.C. §§ 206, 207. "The principal congressional purpose in enacting the [FLSA] was to protect all covered workers from substandard wages and oppressive working hours." *Barrentine v. Arkansas-Best Freight Sys., Inc.*, 450 U.S. 728, 739 (1981); 29 U.S.C. § 202(a). The FLSA "was designed to give *specific minimum protections*" to covered workers. *Barrentine*, 450 U.S. at 739 (emphasis

added). By its terms, the statute does not justify or require payment of full wages to all employees.

Under the doctrine of conflict preemption, the FLSA preempts Illinois appropriations laws to the extent that it requires compliance with the wage and overtime provisions — the specific minimum protections to covered workers. *See Rendell*, 986 A.2d at 82 (FLSA preempts Pennsylvania appropriations requirement as matter of conflict preemption). There is no authority for the proposition that complying with more than the FLSA minimum is required by the Supremacy Clause. Rather, that is contrary to well-settled preemption law. *See Wimbush v. Wyeth*, 619 F.3d 632, 643 (6th Cir. 2010) (“Conflict preemption analysis should be narrow and precise, to prevent the diminution of the role Congress reserved to the States while at the same time preserving the federal role.”) (internal quotation marks omitted). Because federal law does not *require* more than payment of minimum wage and overtime to covered employees, it does not justify paying anything beyond that under Supremacy Clause preemption of the Illinois Constitution’s Appropriations Clause. *Glib v. Chiang*, 186 Cal. App. 4th 444, 472 (2010).

In sum, there is no real question that the Comptroller must make some payments to ensure that certain services are provided to the State. The only real question is which payments must be made. The Attorney General, on behalf of the People, asks this Court to provide direction to the Comptroller on these urgent and important matters to the State.

## **5. Balancing of Hardships**

Illinois courts considering a preliminary injunction also require the plaintiff to show that the balance of the hardships weighs in favor of granting the preliminary injunction. See *Delta Med. Sys. v. Mid-America Med. Sys., Inc.*, 331 Ill. App. 3d 777, 789, 772 N.E.2d 768, 778 (1st Dist. 2002). Here, the Comptroller has publicly expressed reservation as to which payments are properly made absent enacted annual appropriations legislation. There is limited if any hardship for the Comptroller to receive Court guidance on this issue. To the contrary, great hardship, including the risk of the Comptroller exceeding the limits of her authority, or the failure to make lawfully required payments, may result absent prompt Court direction.

The scales tip heavily to the hardships the People will face absent this Court's clear direction. Payments must be made for continuing appropriations, non-appropriated funds, operations of the judicial branch, to meet obligations required by consent decrees, and to meet obligations required by the State's participation in federal programs. In short, the balance of hardships weighs heavily in favor of the relief requested.

#### **6. Public Interest**

Finally, courts also look at a last factor, the effect on the public interest, *Granberg*, 279 Ill. App. 3d at 890, to determine if a preliminary injunction is proper. Here, there is no doubt that it is in the People's interest to ensure that the Comptroller is following the law, and making the payments that she is required to make, and only those payments, in order to keep the citizens safe, healthy and

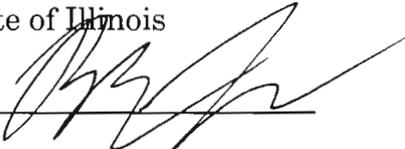
receiving the services they are entitled to, while at the same time preserving the public funds.

WHEREFORE, Plaintiff People of the State of Illinois respectfully prays that the Court enter a temporary restraining order and preliminary injunction ordering the Comptroller:

- a. To process payment vouchers for continuing appropriations;
- b. To process payment vouchers for non-appropriated funds;
- c. To process payment vouchers for operations of the judicial branch;
- d. To process payment vouchers to meet obligations required by consent decrees;
- e. To process payment vouchers to meet obligations required by the State's participation in federal programs;
- f. To process payment vouchers for payments pursuant to the federal minimum wage and overtime requirements of the Fair Labor Standards Act, *or* in the alternative, not to process payment vouchers for state employee payroll in the absence of payroll vouchers that comply only with the minimum requirements of the Fair Labor Standards Act; and
- g. Any and all other relief that this Court deems just.

Respectfully submitted,

LISA MADIGAN  
Attorney General  
State of Illinois

BY: 

BRETT E. LEGNER  
Deputy Solicitor General  
100 West Randolph, 12th Floor  
Chicago, Illinois 60601  
(312) 814-3786  
Attorney Code 99000

**VERIFICATION**

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief, and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.



A handwritten signature in black ink, appearing to be "A. M. [unclear]", is written over a horizontal line.



STATE OF ILLINOIS • OFFICE OF THE COMPTROLLER  
LESLIE GEISSLER MUNGER

By Hand Delivery  
July 1, 2015

The Honorable Lisa Madigan  
Attorney General  
500 S. Spring Street  
Springfield, IL 62701

Dear Attorney General Madigan:

As you know, today marks the first day of fiscal year 2016. To date, the legislature has failed to adopt a balanced budget for the State, resulting in severe constraints on the Comptroller's Office's ability to fund essential State operations, including State employee payrolls. I note that while the rank and file State employees are at risk of delays in receiving paychecks due to the current budget impasse, the Legislators themselves passed a law last year which will ensure they are paid on time in the new fiscal year (PA 98-682).

My legal counsel has advised me that the inability to process payrolls for State employees due to the lack of an approved budget carries the potential for significant liability for the State under the federal Fair Labor Standards Act ("FLSA"). As we understand it, that Act provides for treble damages calculated from the amount of missed payrolls.

In order to fulfill my constitutional and statutory duty to issue State payments only where such payments are "pursuant to law and authorized," and to protect the state from potential excessive fines, I am formally requesting that your office represent my office in Court to seek an Agreed Order to allow the State to avoid fines and penalties under the federal Fair Labor Standards Act.

I have determined from detailed and extensive conversations with State agencies and my staff that the circumstances today are no different than the State faced in 2007, when your office agreed to entry of an Agreed Order to allow payment to all State employees at their regular rates of pay. Specifically, while the mandate of the FLSA is to pay "covered employees" at a rate at least equal to the federal minimum wage, the State's payroll processing systems in place today are not set up such that the proper amounts could be calculated and paid to "covered employees."

In order to prevent the State from incurring significant fines or penalties under the FLSA, the Agreed Order sought on our behalf should include a sentence, as follows:

To the extent it is not feasible to limit the issuance of warrants or electronic payments only to those State employees and in such amounts necessary to comply with the FLSA, the Comptroller shall issue such other additional payroll warrants or electronic payments to ensure that the requirements of the FLSA have been

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312/814-2451

STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706-0001  
217/782-6000

LAND OF LINCOLN BUILDING  
325 WEST ADAMS  
SPRINGFIELD, ILLINOIS 62704-1871  
217/782-6084

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satisfied, including payroll warrants or electronic payments to State employees that may not be covered by the FLSA.<sup>1</sup>

<sup>1</sup> This sentence is identical to the Agreed Order entered in 2007, copy attached.

The contribution of State employees to maintaining public services and public order is beyond dispute. Allowing these employees to be paid on time and at the correct rate of pay until the budget impasse is resolved will also promote the legitimate goals of government to maintain critical services.

Going forward, I believe it is imperative that the State be better prepared to establish compliance with the FLSA in the event of delays in adopting a budget in future fiscal years. I will initiate an effort to work with your office and the Governor's state agencies to adopt procedures to promptly identify employees covered by the Act in the event of another budget impasse. At the same time, the state is moving toward implementation of a new accounting system that will allow us to better comply with the FLSA in future years.

In conclusion, I will appreciate your confirming at your earliest convenience your willingness to seek the Agreed Order as outlined in this letter. I thank you and your staff for working closely with, and providing information to, the state Constitutional Offices to navigate the challenges caused by this ongoing budget impasse. Please contact me if you have any questions.

Sincerely,



Leslie Geissler Munger  
Comptroller

- i. *B.H. v. Tate*, No. 88 C 5599 – This decree covers virtually all of DCFS’s significant operations. As recently as 2009, the federal court ordered continued funding of the covered operations in the face of an inadequate appropriation. The consent decrees in *Aristotle P. v. Ryder*, No. 88 C 7919, *Burgos v. McEwen*, No. 75 C 3974, *Norman v. McEwen*, No. 89 C 1624, and *Hill v. Erickson*, No. 88 C 296, also cover other DCFS operations and require on-going funding.
- ii. *Beeks v. Bradley*, No. 92 C 4204 – This decree covers: Aid to the Aged, Blind and Disabled (AABD) 305 ILCS 5 / Art. III; Temporary Assistance for Needy Families (TANF). 305 ILCS 5 / Art. IV; Medical Assistance – 305 ILCS 5 / Art. V; and Child Care Assistance Program (CCAP) – 305 ILCS 5/9A-11.
- iii. *Ligas v. Norwood*, No. 05-4331 – This decree covers all home-based and residential services for adults with developmental disabilities and also covers services provided in Intermediate Care Facilities for the Developmentally Disabled. In addition, the decree in *Bogard v. Bradley*, No. 88 C 2414, contains additional obligations regarding DD services.
- iv. *Benson v. Blaser*, No. 80 C 2346 – This decree contains obligations regarding the Community Care Program operated under the Department on Aging, a program that serves tens of thousands of elderly residents. Another decree, from the *McCrimmon* case, covers similar services under the Home Services Program, which is operated under the Division of Rehabilitative Services.
- v. *Williams v. Rauner*, No. 05 C 4673 – This decree covers community-based services provided to residents of Institutes for Mental Disease who have diagnoses of serious mental illness and who have moved to community-based settings.
- vi. *Colbert v. Rauner*, No. 07 C 4737 – This decree covers community-based services provided to former nursing home residents in Cook County who are either mentally ill or physically disabled and are now living in community-based settings.
- vii. *Hampe v. Norwood*, No. 10 C 3121 – This decree covers services provided to individuals who were covered under but then aged out of the Home and Community Based Waiver for Medically Fragile and Technology Dependent Children.
- viii. *Jackson v. Maram*, No. 04 C 174 – This decree covers the provision of motorized wheelchairs to residents of Skilled Nursing Facilities who require such wheelchairs.
- ix. *Memisovski v. Wright*, No. 92 C 1982 – This decree covers all services provided to children in Cook County under the Early and Periodic Screening, Diagnostic and Treatment component of the Medicaid program.
- x. *M.H. v. Monreal*, No. 12 C 8523 – This decree covers the provision of counsel to juveniles charged with parole violations.

- xi. *Rasho v. Walker*, No. 07 C 1298 – This decree covers mental health services provided to IDOC inmates.





Fund Name	Agency Name	Appropriation	TYPE	Description
IP/TP ADMINISTRATIVE TR	TREASURER	OPERATIONAL EXPENSES OF IP/TP	9	OPERATIONAL EXPENSES OF IP/TP OPERATIONAL EXPENSES OF ILLINOIS PUBLIC TREASURER'S INVESTMENT POOL
MPEA TRUST	TREASURER	PAY SURPLUS REVENUES MPEA	9	
MPEA TRUST	TREASURER	PAYMENT OF FUNDS/BOND PAYMENT	9	PAYMENT OF FUNDS/BOND PAYMENT OF FUNDS FOR BOND PAYMENTS TO THE METROPOLITAN PIER AND EXPOSITION AUTHORITY
PROTEST	TREASURER	REFUND PROTESTED MONEY	9	REFUND OF LOST CASES OF PROTESTED MONEY
UNCLAIMED PROPERTY TRUST	TREASURER	REFUNDS OF UNCLAIMED PROPERTY	9	REFUNDS OF UNCLAIMED PROPERTY CLAIMS FOR REFUND OF UNCLAIMED PROPERTY
MUNICIPAL ECONOMIC DEVELOPMENT	TREASURER	OPERATIONAL EXPENSES	9	OPERATIONAL EXPENSES EXPENSES OF MUNICIPAL ECONOMIC DEVELOPMENT FUND
COLLEGE SAVINGS POOL ADMINISTR	TREASURER	OPERATIONAL EXPENSES	9	OPERATIONAL EXPENSES OF THE COLLEGE SAVINGS PLAN
CONVENTION CENTER SUPPORT	TREASURER	70 ILCS 210/13F ROSEMENT	9	
CONVENTION CENTER SUPPORT	TREASURER	PMTS TO VILLAGE OF ROSEMENT	9	
SERVICES FOR OLDER AMERICANS	AGING	REFUND TITLE V EMPLOYMENT SRVC	9	
DEPT ON AGING STATE PROJECTS	AGING	APP PROCESS DISABLED & SR CITZ	9	
REGULATORY	AGRICULTURE	OPERATIONS & OTHER COSTS	9	OPERATIONS & OTHER COSTS PURSUANT TO 240 ILCS 40/35-5
WHOLE SOME MEAT	AGRICULTURE	REFUND - REPAIR USDA PER AUDIT	9	
STATE COOPERATIVE EXTEN SERV	AGRICULTURE	ESTABLISHMENT AND OPERATION	9	ESTABLISHMENT AND OPERATION FUND IS MANDATED BY 505 ILCS 45/8(A)
WATERSHED PARK	AGRICULTURE	PURSUANT TO 505 ILCS 135/5	9	PURSUANT TO 505 ILCS 135/5 FOR OPERATIONS AND OTHER COSTS
CORN COMMODITY TRUST	AGRICULTURE	CORN MARKETING PROGRAM-REFUND	9	
STATE FAIR PROMO ACTIVITIES	AGRICULTURE	COSTS OF IL STATE FAIR	9	COSTS OF IL STATE FAIR PURSUANT TO 20 ILCS 205/205-20
LOC GOVT HEALTH INSURANCE RES	CENTRAL MANAGEMENT	LOCAL GOV HEALTH PLAN ADMINIS	9	
LOC GOVT HEALTH INSURANCE RES	CENTRAL MANAGEMENT	LOCAL GOVERNMENT HEALTHCARE	9	
FLEXIBLE SPENDING ACCOUNT	CENTRAL MANAGEMENT	DCAP REIMBURSEMENT	9	DCAP REIMBURSEMENT FLEXIBLE SPENDING ACCOUNT PURSUANT TO THE STATE EMPLOYEES GROUP INSURANCE ACT OF 1971
FLEXIBLE SPENDING ACCOUNT	CENTRAL MANAGEMENT	MCAP REIMBURSEMENT	9	MCAP REIMBURSEMENT FLEXIBLE SPENDING ACCOUNT PURSUANT TO THE STATE EMPLOYEES GROUP INSURANCE ACT OF 1971
FLEXIBLE SPENDING ACCOUNT	CENTRAL MANAGEMENT	CSP-TRANSIT PAYMENTS	9	CSP-TRANSIT PAYMENTS COMMUTER SAVINGS PROGRAM-DISBURSE EMPLOYEE CONTRIBUTIONS RELATING TO TRANSIT/COMMUTING EXPENSES
FLEXIBLE SPENDING ACCOUNT	CENTRAL MANAGEMENT	CSP-PARKING PAYMENTS	9	CSP-PARKING PAYMENTS COMMUTER SAVINGS PROGRAM-DISBURSE EMPLOYEE CONTRIBUTIONS RELATING TO PARKING EXPENSES
TCHR HEALTH INSURANCE SECURITY	CENTRAL MANAGEMENT	TRS-HEALTHCARE COVERAGE	9	
TCHR HEALTH INSURANCE SECURITY	CENTRAL MANAGEMENT	TRS HEALTH INSURANCE PROG ADMIN	9	
KANERVA VS. STATE TRUST	CENTRAL MANAGEMENT	ANNUITANT DISBURSMENT 2012 L 162	9	
IL PRESCRIPT DRUG DISCOUNT PRG	CENTRAL MANAGEMENT	HEALTH INSURANCE PAYMENTS	9	
COMMUNITY COLLEGE HEALTH INSUR	CENTRAL MANAGEMENT	HEALTH CARE COVERAGE	9	
COMMUNITY COLLEGE HEALTH INSUR	CENTRAL MANAGEMENT	SURS/COMM COLL INS PRGM ADMIN	9	
STATE EMPLOYEES DEF COMP PLAN	CENTRAL MANAGEMENT	PURCHASE OF INVESTMENTS	9	PURCHASE OF INVESTMENTS IMPLEMENTING SECTION 22A-111.1 AND ARTICLE 24 OF THE ILLINOIS PENSION CODE (49-ILCS 5/22A-111.1)
STATE EMPLOYEES DEF COMP PLAN	CENTRAL MANAGEMENT	PURCHASE OF INVESTMENTS	9	PURCHASE OF INVESTMENTS IMPLEMENTING SECTION 22A-111.1 AND ARTICLE 24 OF THE ILLINOIS PENSION CODE (49-ILCS 5/22A-111.1)
STATE EMPLOYEES DEF COMP PLAN	CENTRAL MANAGEMENT	PAYMENT OF REFUNDS	9	PAYMENT OF REFUNDS PAYMENT TO REFUNDS IMPLEMENTING AND AUTHORIZED BY SEC 22A-111.1 AND ART 24 OF IL PENSION CODE
STATE EMPLOYEES DEF COMP PLAN	CENTRAL MANAGEMENT	PAYMENT OF REFUNDS	9	
DCEO PROJECTS	COMMERCE AND ECONOMIC OPPORTUN	IDOL - SUMMER YOUTH JOBS PROG	9	
DCEO PROJECTS	COMMERCE AND ECONOMIC OPPORTUN	CMS GOMG EDBI FAINTERAG AGRMNT	9	
DCEO PROJECTS	COMMERCE AND ECONOMIC OPPORTUN	IDNR INTERAGENCY AGREEMENT	9	
BLUE WATER DITCH FLOOD CONTROL	NATURAL RESOURCES	BLUE WTRRS DITCH FLD CNTRL PROJ	9	
DNR SPECIAL PROJECTS	NATURAL RESOURCES	URBAN FLOODING AWARENESS	9	
DNR SPECIAL PROJECTS	NATURAL RESOURCES	H.O.P.E. PROGRAM	9	H.O.P.E. PROGRAM HELP OUR PARKS ENDAVOR PROJECT
DNR SPECIAL PROJECTS	NATURAL RESOURCES	RESEARCH PROTECT & EDUCATE	9	RESEARCH PROTECT & EDUCATE FOR NATURAL RESOURCE PROJECTS IN AN INTERAGENCY AGREEMENT ENVIRONMENTAL TRUST FUND COMMISSION
DNR SPECIAL PROJECTS	NATURAL RESOURCES	CAP IMPRV PRJCT GEO-DARIS SP	9	
DNR SPECIAL PROJECTS	NATURAL RESOURCES	YOUTH CONSERVATION WORKERS	9	
DNR SPECIAL PROJECTS	NATURAL RESOURCES	DNR-DCEO INTAGC CAP APP AGRMNT	9	
DNR SPECIAL PROJECTS	NATURAL RESOURCES	IL YOUTH RECREATIONAL CORP PRG	9	
DNR SPECIAL PROJECTS	NATURAL RESOURCES	CONSTRUCT VISITOR CENTER	9	
DNR SPECIAL PROJECTS	NATURAL RESOURCES	DCEO - LOWDEN STATE PARK	9	
DNR SPECIAL PROJECTS	NATURAL RESOURCES	EPA/WARD FLD TNML ALBANY PARK	9	

Fund Name	Agency Name	Appropriation	TYPE	Description
DNR SPECIAL PROJECTS	NATURAL RESOURCES	CHICAGO AREA WATERWAY SYS PROJ	9	
DNR SPECIAL PROJECTS	NATURAL RESOURCES	MANAGE GINTHER PARCEL	9	
DNR SPECIAL PROJECTS	NATURAL RESOURCES	IRVING WESTLY ESTATE FOR	9	IRVING WESTLY ESTATE FOR RESTORATION ACTIVITIES FOR PRAIRIE RESTORATION
DNR SPECIAL PROJECTS	NATURAL RESOURCES	DCCO COAL COMPETITIVENESS PROG	9	
DNR SPECIAL PROJECTS	NATURAL RESOURCES	CRYSTAL CREEK FLOOD CONTROL PU	9	CRYSTAL CREEK FLOOD CONTROL PU AGREEMENT BETWEEN SCHILLER PARK AND FRANKLIN PARK
DNR SPECIAL PROJECTS	NATURAL RESOURCES	URBAN FLOODING AWARENESS	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	IL STUDY WITH HABITAT ACTION GRANT	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	WHIP PROGRAM HABITAT RESTORE	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	USDOI-F&WS GRANT	9	USDOI-F&WS GRANT US INTERIOR'S FISH AND WILDLIFE SERVICE GRANT AWARD FOR THE NON-INDIGENOUS ACT
DNR FEDERAL PROJECTS	NATURAL RESOURCES	HSN1 AVIAN INFLUENZA STUDY	9	HSN1 AVIAN INFLUENZA STUDY MANAGE AWARD FROM THE US DEPARTMENT OF AGRICULTURE/APHIS FOR THE STUDY OF HSN1 AVIAN INFLUENZA IN WILD MIGRATORY BIRDS
DNR FEDERAL PROJECTS	NATURAL RESOURCES	FEMA-1729 DR-IL REPAIR DAMAGES	9	FEMA-1729-DR-IL-REPAIR DAMAGES AT SEVERAL STATE PARKS AND DNR SITES THROUGHOUT THE STATE
DNR FEDERAL PROJECTS	NATURAL RESOURCES	NOAA GRANT CFDA 11.407	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	HELP MANAGE INVASIVE SPECIES	9	HELP MANAGE INVASIVE SPECIES ON NON-FEDERAL WATERS/LAND LOCATED IN ILLINOIS
DNR FEDERAL PROJECTS	NATURAL RESOURCES	GRNT USDA VPA & HIP PUB ACCESS	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	GRNT US FISH & WILDLIFE RESTORATION	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	ADMINISTRATIVE FUNDS FOR SUBGRANTEES	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	DNR CONSERV SERV (CFDA 10.902)	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	RESTORE WETLANDS AT BPA GRANT	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	RESTORE SEARLUS BUFFER GRANT	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	REC OF ALLIGATOR SNAPPING TURT	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	FIRE FIGHTING REIMBURSEMENT	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	VOLUNTARY PUBLIC ACCESS (VPA)	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	GREAT LAKES FISH & WILDLIFE	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	PORT SECURITY GRANTS	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	FEMA 1633 PUB ASSISTANCE GRANTS	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	FEMA DISASTER 1826-00-00886-00	9	FEMA DISASTER 1826-00-00886-00 ICE STORM DAMAGE IN SOUTHERN ILLINOIS
DNR FEDERAL PROJECTS	NATURAL RESOURCES	FLOOD DISASTER FEMA-1991-DR-11	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	FEMA 1960 DR	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	COORDINATED NEEDS MGT STRATEGY	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	NFIP FLOOD MAP UPDATE PROGRAM	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	ROCK RIVER WATERSHED	9	
DNR FEDERAL PROJECTS	NATURAL RESOURCES	INVESTIGATIVE CASH FUNDS	9	
FEDERAL UNEMPLOYMENT COMP	EMPLOYMENT SECURITY	TRUST FUND TRANSFER	9	TRUST FUND TRANSFER TRANSFER FUNDS FROM FUND 0055 TO UNEMPLOYMENT TRUST FUND
TOMSA CONSUMER PROTECTION	FINANCIAL AND PROFESSIONAL REG	RESTITUTION PAYMENTS	9	RESTITUTION PAYMENTS TO CONSUMERS SUFFERING MONETARY LOSSES AS A RESULT OF TRANSACTIONS REGULATED BY TRANSMITTERS OF MONEY ACT
REAL ESTATE RECOVERY	FINANCIAL AND PROFESSIONAL REG	COURT ORDERED EXPENDITURES	9	COURT ORDERED EXPENDITURES PER COURT ORDER
VOCATIONAL REHABILITATION	HUMAN SERVICES	RETRND HOSPITAL OVERPAYMENT	9	
VOCATIONAL REHABILITATION	HUMAN SERVICES	REFUNDS HOSP OVERPAY TO OTHER ST	9	
HANSEN-THERKELSEN MEMORIAL	HUMAN SERVICES	COLLEGE LOANS TO DEAF STUDENTS	9	
DHS SPECIAL PURPOSE TRUST	HUMAN SERVICES	SNAP HIGH PERFORMANCE BONUS	9	
DHS SPECIAL PURPOSE TRUST	HUMAN SERVICES	JTD - SNAP PILOT EMP/TRN PRG	9	
DHS SPECIAL PURPOSE TRUST	HUMAN SERVICES	FY2005 FOOD STAMP BONUS	9	
DHS SPECIAL PURPOSE TRUST	HUMAN SERVICES	2011 SNAP BONUS	9	
ELECTRONIC BENEFITS TRANSFERS	HUMAN SERVICES	ELECTRIC BENEFITS TRANS TO RECIPS	9	
DHS FEDERAL PROJECTS	HUMAN SERVICES	ADMIN COSTS BRIDGE TO PATHWAY	9	
DHS FEDERAL PROJECTS	HUMAN SERVICES	ADMIN COSTS BRIDGE TO PATHWAY	9	
DHS FEDERAL PROJECTS	HUMAN SERVICES	COSTS BRIDGE TO PATHWAY	9	
DHS FEDERAL PROJECTS	HUMAN SERVICES	COSTS BRIDGE TO PATHWAY	9	
DHS STATE PROJECTS	HUMAN SERVICES	GLA RENOVATIONS	9	
DHS STATE PROJECTS	HUMAN SERVICES	IIPA-DHS INTERAGENCY AGREEMENT	9	

Fund Name	Agency Name	Appropriation	TYPE	Description
DHS STATE PROJECTS	HUMAN SERVICES	SUMMER YOUTH JOBS PROGRAM	9	
DHS STATE PROJECTS	HUMAN SERVICES	YOUTH SERVICES	9	
DHS STATE PROJECTS	HUMAN SERVICES	REFUND - ICIA	9	
DHS STATE PROJECTS	HUMAN SERVICES	REFUNDS-IMMIGRANT WELCOME CNTRS	9	
DHS PRIVATE RESOURCE	HUMAN SERVICES	NASMPHD TRANSFAM INITIATIVE GRNT	9	
DHS PRIVATE RESOURCE	HUMAN SERVICES	EDUCATIONAL MATERIALS	9	
DHS PRIVATE RESOURCE	HUMAN SERVICES	FORENSIC CLIN PSYCH INTERN PRG	9	
DHS PRIVATE RESOURCE	HUMAN SERVICES	DOMINICK'S-BREAST CANCER AWARE	9	
DHS RECOVERIES TRUST	HUMAN SERVICES	FED SHARE OF RECOVERY TO GRF	9	
DHS RECOVERIES TRUST	HUMAN SERVICES	FED SUP SEC INCOME (S)RECOVERY	9	
DHS RECOVERIES TRUST	HUMAN SERVICES	REFUNDS-NON-MEDICAL RECOVERIES	9	
DHS RECOVERIES TRUST	HUMAN SERVICES	REFUNDS-ADMIN, OTHER RECOVERY	9	
DHS RECOVERIES TRUST	HUMAN SERVICES	REFUND ARDC OVERPAY TO FED GOV	9	
DHS RECOVERIES TRUST	HUMAN SERVICES	REFUNDS FOOD STAMP BENEFIT RECV	9	REFUNDS FOOD STAMP BENEFIT RECV TO FEDERAL GOVERNMENT
DHS RECOVERIES TRUST	HUMAN SERVICES	INVESTMENT FUNDS TO ISBI	9	
IL POWER AGENCY TRUST	INSURANCE	AFFORDABLE CARE ACT HEALTH INS	9	
DEPT OF INSURANCE FED TRUST	INSURANCE	IL HLTH INS EXCHNG PRG GRNT	9	
DEPT OF INSURANCE FED TRUST	INSURANCE	CNSMR ASST PRGM GRNT CYCLE II	9	
DEPT OF INSURANCE FED TRUST	INSURANCE	PATIENT PROT AND AFF CARE ACT	9	
DEPT OF INSURANCE FED TRUST	INSURANCE	GRNT TO STATES HLTH INS RRC-II	9	
DEPT OF INSURANCE FED TRUST	INSURANCE	NET PAY CLAIMS MINIMUM WAGE	9	
DEPT OF LABOR SPEC STATE TRUST	LABOR	DEPOSIT INTO CAP PROJECT FUND	9	
STATE LOTTERY	STATE LOTTERY	PAYMENT PRIZES WINNING TICKETS	9	PAYMENT PRIZES WINNING TICKETS OR SHARES PER 20 ILCS 1805/27
DEFERRED LOTTERY PRIZE WINNERS	STATE LOTTERY	BLUETRAY OPERATIONS	9	
IL NATIONAL GUARD BILLETING	MILITARY AFFAIRS	IL NAT GUARD STATE ACTIVE DUTY	9	IL NAT GUARD STATE ACTIVE DUTYPURSUANT TO 20 ILCS 1805/56-2
IL NAT GUARD ST ACTIVE DUTY	MILITARY AFFAIRS	FEDERAL SHARE TO GRF	9	
PUBLIC AID RECOVERIES TRUST	HEALTHCARE & FAMILY SERVICES	EARLY INTERVENTION DUE DHS	9	
PUBLIC AID RECOVERIES TRUST	HEALTHCARE & FAMILY SERVICES	CONE MEDICID ADMIN EXP-UNC	9	
PUBLIC AID RECOVERIES TRUST	HEALTHCARE & FAMILY SERVICES	NON ADMINISTRATIVE EXPENSES	9	
PUBLIC AID RECOVERIES TRUST	HEALTHCARE & FAMILY SERVICES	LOCAL GOVT/SERVICE TO RECIP	9	
PUBLIC AID RECOVERIES TRUST	HEALTHCARE & FAMILY SERVICES	REFUND OF TTL RECOVERIES	9	
PUBLIC AID RECOVERIES TRUST	HEALTHCARE & FAMILY SERVICES	REFUND OF NON-TTL RECOVERIES	9	
PUBLIC AID RECOVERIES TRUST	HEALTHCARE & FAMILY SERVICES	DCE UNCLAIMED PROPERTIES	9	
CHILD SUPPORT ENFORCE TRUST	HEALTHCARE & FAMILY SERVICES	FUND TRANSFER	9	
CHILD SUPPORT ENFORCE TRUST	HEALTHCARE & FAMILY SERVICES	INTEREST PENALTY INCOME TAX	9	
CHILD SUPPORT ENFORCE TRUST	HEALTHCARE & FAMILY SERVICES	CHILD SPPRT INTEREST TO CLIENT	9	
CHILD SUPPORT ENFORCE TRUST	HEALTHCARE & FAMILY SERVICES	REDIRECT TANF EXCESS	9	
CHILD SUPPORT ENFORCE TRUST	HEALTHCARE & FAMILY SERVICES	REDIRECT OUT OF STATE TANF	9	
CHILD SUPPORT ENFORCE TRUST	HEALTHCARE & FAMILY SERVICES	REDIRECT ILLINOIS NON ASSISTINC	9	
CHILD SUPPORT ENFORCE TRUST	HEALTHCARE & FAMILY SERVICES	REDIRECT NON STATE NON ASSISTN	9	
CHILD SUPPORT ENFORCE TRUST	HEALTHCARE & FAMILY SERVICES	PASS THROUGH TO TANF CLIENTS	9	
CHILD SUPPORT ENFORCE TRUST	HEALTHCARE & FAMILY SERVICES	REFUNDS TANF OFFSET	9	
CHILD SUPPORT ENFORCE TRUST	HEALTHCARE & FAMILY SERVICES	STATE REFUNDS TANF OFFSET	9	
CHILD SUPPORT ENFORCE TRUST	HEALTHCARE & FAMILY SERVICES	COURT/3RD PARTY REFUNDS	9	
CHILD SUPPORT ENFORCE TRUST	HEALTHCARE & FAMILY SERVICES	REFUNDS NA OFFSET	9	
CHILD SUPPORT ENFORCE TRUST	HEALTHCARE & FAMILY SERVICES	STATE REFUNDS NA OFFSET	9	
CHILD SUPPORT ENFORCE TRUST	HEALTHCARE & FAMILY SERVICES	NON HFS COLLECTION REFUNDS	9	
CHILD SUPPORT ENFORCE TRUST	HEALTHCARE & FAMILY SERVICES	REFUNDS IRS RESPONSIBLE RELATV	9	
CHILD SUPPORT ENFORCE TRUST	HEALTHCARE & FAMILY SERVICES	REFUND STATE OFFSET	9	
CHILD SUPPORT ENFORCE TRUST	HEALTHCARE & FAMILY SERVICES	REIMBURSE DCES TITLE IV-E	9	
CHILD SUPPORT ENFORCE TRUST	HEALTHCARE & FAMILY SERVICES	REFUND NON STATE TANF	9	
CHILD SUPPORT ENFORCE TRUST	HEALTHCARE & FAMILY SERVICES	REFUND NON STATE NA	9	
COUNTY WATER COMMISSION TAX	REVENUE	DISBURSE CNTY WATER COMA SALES	9	DISBURSE CNTY WATER COMA SALES TAX-70 ILCS 3720/4
NON-HOME RULE MUNICIPAL ROT	REVENUE	DISBURSE NON-HOME RULE SALES	9	DISBURSE NON-HOME RULE SALES TAX-65 ILCS 5/8-11-1 6/3720/4
HOME RULE MUNI SOFT DRINK ROT	REVENUE	DISBURSE HOME RULE SFT DRINK	9	DISBURSE HOME RULE SFT DRINK TAX-65 ILCS 5/8-11-68
HOME RULE MUNI SOFT DRINK ROT	REVENUE	REFUND HOME RULE SFT DRINK TAX	9	REFUND HOME RULE SFT DRINK TAX 65 ILCS 5/8-11-68
MUNI WIRELESS SERV EMERGENCY	REVENUE	DIST 3911 SURCHARGE - CHICAGO	9	DIST 3911 SURCHARGE - CHICAGO P.A. 97-07/48
HOME RULE MUNICIPAL ROT	REVENUE	DISBURSE HOME RULE MUNI SALES	9	DISBURSE HOME RULE MUNI SALES TAX-65 ILCS 5/8-11-1

Fund Name	Agency Name	Appropriation	TYPE	Description
HOME RULE COUNTY ROT	REVENUE	DISBURSE HOME RULE CNTY SALES	9	DISBURSE HOME RULE CNTY SALES TAX 55 ICLS 5/5-1006
BUSINESS DIST RIERS' OCCUP TAX	REVENUE	BUSINESS DIST SALES TAX	9	DISBURSE CNTY MASS TRANS SALES TAX 35 ICLS 120/1
COUNTY & MASS TRANSIT DISTRICT	REVENUE	DISBURSE CNTY MASS TRANS SALES	9	DISTRIBUTE MUNI/CNTY SALES TAX 35 ICLS 120/1
LOCAL GOVERNMENT TAX	REVENUE	DISTRIBUTE MUNI/CNTY SALES TAX	9	DISBURSE COUNTY OPTION MTR FUEL 55 ICLS 5/5-1035.1
COUNTY OPTION MOTOR FUEL TAX	REVENUE	DISBURSE COUNTY OPTION MTR FUEL	9	DISBURSE CNTY PUB SAFETY SALES TAX 55 ICLS 5/5-1006.5
COUNTY PUBLIC SAFETY ROT	REVENUE	DISBURSE IL SPORTS FACILITY	9	DISBURSE IL SPORTS FACILITY ADMINISTRATION FEE - 70 ICLS 3205/19
SPORTS FACILITIES TAX	REVENUE	DISBURSE IL SPORTS FACILITY	9	DISBURSE IL SPORTS FACILITY ADVANCED TAX PAYMENT - 70 ICLS 3205/19
SPORTS FACILITIES TAX	REVENUE	DISBURSE OCE IL SPORTS FACILITY	9	
SPORTS FACILITIES TAX	REVENUE	DISBURSE MUNI HOTEL TAX	9	DISBURSE MUNI HOTEL TAX 65 ICLS 5/8 3-13
IL TOURISM TAX	REVENUE	DISBURSE MUNI HOTEL TAX	9	DISBURSE SCHOOL FACILITY OCCUPATION SALES TAX PA 95-0675
SCHOOL FACILITY OCCUPATION	REVENUE	DISBURSE SCHOOL FACILITY	9	DISTRIBUTION FLOOD PREVENTION OCCUPATION SALES TAX PA 09S-0719
FLOOD PREVENTION OCCUPATION	REVENUE	DISTRIBUTION FLOOD PREVENTION	9	DISBURSE MISDIRECTED PAYMENTS TO REVENUE 30 ICLS 105/34
TAX SUSPENSE TRUST	REVENUE	DISBURSE MISDIRECTED PAYMENTS	9	DISBURSE SALE TAX IMPOSED BY METRO-EAST PARK & RECREATION DISTRICT-35 ICLS 200/15-105
METRO EAST PARK AND RECREATION	REVENUE	DISBURSE SALE TAX IMPOSED BY	9	
MUNICIPAL TELECOMMUNICATIONS	REVENUE	DISBURSE MUNI TELECOM TAX	9	DISBURSE MUNI TELECOM TAX 35 ICLS 636/5-50
PERSONAL PROPERTY TAX REPLACE	REVENUE	DISBURSE MUNI TELECOM TAX	9	
PERSONAL PROPERTY TAX REPLACE	REVENUE	CO TREASURER STIPEND LIABILITY	9	
RTA SALES TAX	REVENUE	CO SHERIFF STIPEND LIABILITY	9	
METRO EAST MASS TRANS DIST TAX	REVENUE	DISBURSE RTA SALES/USE TAX	9	DISBURSE RTA SALES/USE TAX 70 ICLS 3615/4.03
TENN VALLEY AUTH LOCAL TRUST	REVENUE	DISBURSE METRO EAST SALES TAX	9	DISBURSE METRO EAST SALES TAX 70 ICLS 3610/5.01C
MUNICIPAL AUTO RENTING TAX	REVENUE	DISBURSE TENNESSEE VALLEY AUTH	9	DISBURSE TENNESSEE VALLEY AUTH PAYMENTS - 30 ICLS 250/01
COUNTY AUTOMOBILE RENTING TAX	REVENUE	DISBURSE MUNI AUTO RENTING TAX	9	DISBURSE MUNI AUTO RENTING TAX 65 ICLS 5/8-11-8
DRUG TRAFFIC PREVENTION	REVENUE	DISBURSE CNTY AUTO RENTING TAX	9	DISBURSE CNTY AUTO RENTING TAX 55 ICLS 5/5-1032
IL STATE POLICE FEDERAL PROJS	STATE POLICE	REFUNDS	9	REFUNDS OF FEDERAL GRANTS REFUNDS TO US DEPARTMENT OF JUSTICE OR THE ILLINOIS CRIMINAL JUSTICE INFORMATION AUTHORITY
VETERANS' AFFAIRS STATE PROJEC	VETERANS' AFFAIRS	REFUNDS OF FEDERAL GRANTS	9	
VETERANS' AFFAIRS LIBRARY GRANT	VETERANS' AFFAIRS	LICENSING QUALIFY VETS	9	LIBRARY EXPENSES SOS GRANT GRANT FROM SOS TO ESTABLISH, OPERATE & MAINTAIN A LIBRARY AT THE IL VETERANS' HOME AT ANNA
VETERANS' AFFAIRS LIBRARY GRANT	VETERANS' AFFAIRS	LIBRARY EXPENSES SOS GRANT	9	LIBRARY EXPENSES SOS GRANT GRANT FROM SOS TO ESTABLISH, OPERATE & MAINTAIN A LIBRARY AT THE IL VETERANS' HOME AT QUINCY
VETERANS' AFFAIRS LIBRARY GRANT	VETERANS' AFFAIRS	LIBRARY EXPENSES SOS GRANT	9	LIBRARY AT THE IL VETERANS' HOME AT LASCALLE
VETERANS' AFFAIRS LIBRARY GRANT	VETERANS' AFFAIRS	LIBRARY EXPENSES SOS GRANT	9	LIBRARY EXPENSES SOS GRANT GRANT FROM SOS TO ESTABLISH, OPERATE & MAINTAIN A LIBRARY AT THE IL VETERANS' HOME AT MANTENO
FEDERAL FINANCING COST REIMB	VETERANS' AFFAIRS	LIBRARY EXPENSES SOS GRANT	9	GRANTS BETWEEN ST AGENCIES TO CARRY OUT DESIRED PROGRAMS
CDB SPECIAL PROJECTS	GOVERNOR'S OFF OF MGT & BUDGET	CMA PAYMENT	9	
SCHOOL INFRASTRUCTURE	CAPITAL DEVELOPMENT BOARD	GRANTS BETWEEN ST AGENCIES	9	
CDB CONTRIBUTORY TRUST	CAPITAL DEVELOPMENT BOARD	CHICAGO PUBLIC SCHOOLS	9	
CDB CONTRIBUTORY TRUST	CAPITAL DEVELOPMENT BOARD	LUMP SUMS AND OTHER PURPOSES	9	LUMP SUMS AND OTHER PURPOSES
ICC FEDERAL GRANTS TRUST	CAPITAL DEVELOPMENT BOARD	ARRA MULTARY&VETERANS AFFAIRS	9	
ICC FEDERAL GRANTS TRUST	IL COMMERCE COMMISSION	FERC ORDER IN 12-7-000	9	
DEAF AND HARD OF HEARING SPECI	IL COMMERCE COMMISSION	PENS GRANT	9	
CHIP BOARD PAYROLL TRUST	DEAF & HARD OF HEARING COMM	SBE GRANT INTERPRETERS TRAIN	9	
COURT OF CLAIMS FD RC VIC CAMP GT	COMPREHENSIVE HLTH INSURANCE BD	ORDINARY AND CONTINGENT EXPSE	9	
EPA SPEC STATE PROJ T TRUST	COURT OF CLAIMS	REFUND TO FEDERAL GOVERNMENT	9	
EPA SPEC STATE PROJ TRUST	ENVIRONMENTAL PROTECT AGENCY	FUNDS TRANSFERRED FROM ETFC	9	
POLLUTION CONTROL BOARD ST TR	ENVIRONMENTAL PROTECT AGENCY	FUNDS TRANSFERRED FROM ETFC	9	
HEALTH INFORMATION EXCHANGE	ENVIRONMENTAL PROTECT AGENCY	RESOLUTION FY2015-3	9	
HEALTH INFORMATION EXCHANGE	ENVIRONMENTAL PROTECT AGENCY	RESOLUTION FY2014-3	9	
ICIA VIO PREVENT SP PRU	HEALTH INFO EXCHANGE AUTH	20 ICLS 3860/25	9	
ICIA VIO PREVENT SP PRU	HEALTH INFO EXCHANGE AUTH	PAYMENTS FOR CONSUL/TTECH SERVIC	9	
ICIA VIO PREVENT SP PRU	IL CRIMINAL JUSTICE INFO AUTH	GOV'S NEIGHBRHD RECOVERY INIT	9	
ICIA VIO PREVENT SP PRU	IL CRIMINAL JUSTICE INFO AUTH	GRANTS & OPS FOR SPL PRICTS GR	9	
ICIA VIO PREVENT SP PRU	IL CRIMINAL JUSTICE INFO AUTH	US DEPT JUSTICE VINC AGNST WMN	9	
ICIA VIO PREVENT SP PRU	IL CRIMINAL JUSTICE INFO AUTH	COMMUNITY VIOLENCE PRVNT PRGRM	9	
EDUC LABOR REL BD FAIR SHARE	IL CRIMINAL JUSTICE INFO AUTH	US DEPT JUSTICE VINC AGNST WMN	9	
IL MUNICIPAL RETIREMENT	IL EDUCAT LABOR RELATIONS BD	REFUNDS PER STATUTE	9	REFUNDS PER STATUTE
	IL MUNICIPAL RETIREMENT FUND	PURCHASE OF INVESTMENTS	9	PURCHASE OF INVESTMENTS

Fund Name	Agency Name	Appropriation	TYPE	Description
IL STATE BOARD OF INVESTMENTS	IL STATE BOARD OF INVESTMENTS	OPERATING EXPENSES OF BOARD	9	OPERATING EXPENSES OF BOARD
IL STATE TOLL HIGHWAY REVENUE	IL STATE TOLL HIGHWAY AUTH	MAINTENANCE AND OPERATIONS	9	
IL STATE TOLL HIGHWAY REVENUE	IL STATE TOLL HIGHWAY AUTH	RENEWAL AND REPLACEMENT	9	
IL STATE TOLL HIGHWAY REVENUE	IL STATE TOLL HIGHWAY AUTH	RENEWAL AND REPLACEMENT	9	MOVE ILLINOIS
IL STATE TOLL HIGHWAY REVENUE	IL STATE TOLL HIGHWAY AUTH	CAPITAL IMPROVE EXPENDITURES	9	
IL STATE TOLL HIGHWAY REVENUE	IL STATE TOLL HIGHWAY AUTH	CAPITAL IMPROVE EXPENDITURES	9	
IL STATE TOLL HIGHWAY REVENUE	IL STATE TOLL HIGHWAY AUTH	CAPITAL IMPROVEMENT EXPENDITURE	9	
IL STATE TOLL HIGHWAY REVENUE	IL STATE TOLL HIGHWAY AUTH	CAPITAL IMPROVEMENT EXPENDITURE	9	
IL STATE TOLL HIGHWAY REVENUE	IL STATE TOLL HIGHWAY AUTH	CAPITAL IMPROVEMENT EXPENDITURE	9	
IL STATE TOLL HIGHWAY REVENUE	IL STATE TOLL HIGHWAY AUTH	MOVE ILLINOIS PROGRAMS	9	
IL STATE TOLL HIGHWAY REVENUE	IL STATE TOLL HIGHWAY AUTH	PRINCIPAL & INTEREST EXPENDITRS	9	
IL STATE TOLL HIGHWAY REVENUE	IL STATE TOLL HIGHWAY AUTH	AWARDS AND GRANTS-GUARTEE PAY	9	AWARDS AND GRANTS-GUARTEE PAY GUARANTEE PAYMENTS
IL AGRICULTURAL LOAN GUARANTEE	IL FINANCE AUTHORITY	AWARDS AND GRANTS-GUARTEE PAY	9	AWARDS AND GRANTS-GUARTEE PAY GUARANTEE PAYMENTS
INJURED WORKERS' BENEFIT	IL WORKERS' COMPENSATION COMMI	WORKERS COMPENSATION BENEFITS	9	WORKERS COMPENSATION BENEFITS TO INJURED WORKERS WHEN EMPLOYER FAILED TO PROVIDE COVERAGE
SELF-INSURERS ADMINISTRATION	IL WORKERS' COMPENSATION COMMI	ADMIN EXPNS SELF INSURER ADVISRY	9	ADMIN EXPNS SELF-INSURER ADVISORY BOARD
SECOND INJURY	IL WORKERS' COMPENSATION COMMI	PAY WORKER COMP BENEFIT CLAIMS	9	
RATE ADJUSTMENT	IL WORKERS' COMPENSATION COMMI	ADMIN EXPENSE RATE ADJUST FUND	9	
RATE ADJUSTMENT	IL WORKERS' COMPENSATION COMMI	RATE ADJUST BENEFIT FOR WORKER	9	RATE ADJUST BENEFIT FOR WORKER COMPENSATION CLAIMS
SETTLEMENT	IL WORKERS' COMPENSATION COMMI	LIABILITY TO COLA PAYMENT RATE	9	LIABILITY TO COLA PAYMENT RATE ADJUSTMENT FUND
SELF-INSURERS SECURITY	IL WORKERS' COMPENSATION COMMI	ADMIN EXPENSE SELF-INSURERS	9	ADMIN EXPENSE SELF-INSURERS SECURITY FUND
SELF-INSURERS SECURITY	IL WORKERS' COMPENSATION COMMI	WORKERS COMP BENEFIT OF COMPANY	9	WORKERS COMP BENEFIT OF COMPANY BANKRUPT AFTER 12/31/85
LAW ENF OFF TRNG BD FED PROJ	IL LAW ENFORCE TRAIN & STDS BD	ST-HILAND SEC PROG CEDA 97.067	9	
LAW ENF OFF TRNG BD FED PROJ	IL LAW ENFORCE TRAIN & STDS BD	ENH-GRANT AGRMNT - HSGP 2012	9	
LAW ENF OFF TRNG BD FED PROJ	IL LAW ENFORCE TRAIN & STDS BD	LAW ENFORCEMENT TRAINING	9	
LAW ENF OFF TRNG BD FED PROJ	IL LAW ENFORCE TRAIN & STDS BD	LEIWAY ARREST GRANT	9	
MPEA GRANTS	METRO PIER & EXPOSITION AUTH	70 ILCS 210.13F CCRB	9	70 ILCS 210.13F CCRB MPEA GRANTS
STANDARDIZED PURSE	RACING BOARD	25% ADDITIONAL PARI-MUTUEL TX	9	25% ADDITIONAL PARI-MUTUEL TX TAX PER 230 ILCS 5/27
IL RACING BOARD CHARITY	RACING BOARD	DISBURSE TO QUALIFIED CHARITY	9	DISBURSE TO QUALIFIED CHARITY ORGANIZATIONS-230 ILCS 5/31.1
QUARTER HORSE PURSE	RACING BOARD	DISBURSE 25% ADD PARI-MUTUAL	9	DISBURSE 25% ADD PARI-MUTUAL TAX PER 230 ILCS 5/27
SBE FEDERAL DEPT OF AGRI	STATE BOARD OF EDUCATION	REFUND-US DEPART OF AGRI	9	REFUND-US DEPART OF AGRI RETURN UNUSED GRANT FUNDS TO USDA
SBE FEDERAL AGENCY SERVICES	STATE BOARD OF EDUCATION	SUB ABUSE & MH SERVICES GRANT	9	
SBE FEDERAL AGENCY SERVICES	STATE BOARD OF EDUCATION	REFUND GRANT FUNDS	9	REFUND GRANT FUNDS RETURN UNUSED GRANT FUNDS TO APPROPRIATE FEDERAL GRANTOR AGENCY
SBE FEDERAL DEPT OF EDUCATION	STATE BOARD OF EDUCATION	HIGH QUALITY PRESCHOL PROG	9	
SBE FEDERAL DEPT OF EDUCATION	STATE BOARD OF EDUCATION	SAFER SCHOOLS IN ILLINOIS	9	
SBE FEDERAL DEPT OF EDUCATION	STATE BOARD OF EDUCATION	REFUND-US DEPT OF EDUCATION	9	REFUND-US DEPT OF EDUCATION RETURN UNUSED GRANT FUNDS TO US DEPT OF EDUCATION
KANERVA VS. STATE TRUST	STATE EMPLOYEES' RETIRE SYSTEM	ANNUITANT DISBURSMINT 2012 L 162	9	
STATE EMPLOYEES RETIREMENT SYS	STATE EMPLOYEES' RETIRE SYSTEM	REGULAR POSITIONS	9	REGULAR POSITIONS PERSONAL SERVICES
STATE EMPLOYEES RETIREMENT SYS	STATE EMPLOYEES' RETIRE SYSTEM	STATE PAID RETIREMENT CONTRIB	9	STATE PAID RETIREMENT CONTRIBUTION
STATE EMPLOYEES RETIREMENT SYS	STATE EMPLOYEES' RETIRE SYSTEM	STATE EMPLOYEE RETIREMENT	9	STATE EMPLOYEE RETIREMENT
STATE EMPLOYEES RETIREMENT SYS	STATE EMPLOYEES' RETIRE SYSTEM	SOC SEC/MEDICARE CONTRIBUTIONS	9	SOC SEC/MEDICARE CONTRIBUTIONS SOCIAL SECURITY/MEDICARE CONTRIBUTIONS
STATE EMPLOYEES RETIREMENT SYS	STATE EMPLOYEES' RETIRE SYSTEM	EMPLOYER CONTRIB GRP INSURANCE	9	EMPLOYER CONTRIB GRP INSURANCE EMPLOYER CONTRIBUTION GROUP INSURANCE
STATE EMPLOYEES RETIREMENT SYS	STATE EMPLOYEES' RETIRE SYSTEM	CONTRACTUAL SERVICES	9	CONTRACTUAL SERVICES CONTRACTUAL SERVICES
STATE EMPLOYEES RETIREMENT SYS	STATE EMPLOYEES' RETIRE SYSTEM	TRAVEL	9	TRAVEL TRAVEL
STATE EMPLOYEES RETIREMENT SYS	STATE EMPLOYEES' RETIRE SYSTEM	PURCHASE OF INVESTMENTS	9	PURCHASE OF INVESTMENTS PURCHASE OF INVESTMENTS
STATE EMPLOYEES RETIREMENT SYS	STATE EMPLOYEES' RETIRE SYSTEM	COMMODITIES	9	COMMODITIES COMMODITIES
STATE EMPLOYEES RETIREMENT SYS	STATE EMPLOYEES' RETIRE SYSTEM	PRINTING	9	PRINTING PRINTING
STATE EMPLOYEES RETIREMENT SYS	STATE EMPLOYEES' RETIRE SYSTEM	EQUIPMENT	9	EQUIPMENT EQUIPMENT
STATE EMPLOYEES RETIREMENT SYS	STATE EMPLOYEES' RETIRE SYSTEM	ELECTRONIC DATA PROCESSING	9	ELECTRONIC DATA PROCESSING ELECTRONIC DATA PROCESSING
STATE EMPLOYEES RETIREMENT SYS	STATE EMPLOYEES' RETIRE SYSTEM	TELECOMMUNICATION	9	TELECOMMUNICATION TELECOMMUNICATION SERVICES
STATE EMPLOYEES RETIREMENT SYS	STATE EMPLOYEES' RETIRE SYSTEM	OPERATION OF AUTO EQUIPMENT	9	OPERATION OF AUTO EQUIPMENT OPERATION OF AUTOMOTIVE EQUIPMENT
STATE EMPLOYEES RETIREMENT SYS	STATE EMPLOYEES' RETIRE SYSTEM	NON-RECURRING REFUNDS/DISTRIB	9	NON-RECURRING REFUNDS/DISTRIB NON-RECURRING REFUNDS/DISTRIBUIONS
STATE EMPLOYEES RETIREMENT SYS	STATE EMPLOYEES' RETIRE SYSTEM	REPAYMENT TO GOBRI FUND	9	



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

Lenil Colbert, et al.,	)	
	)	
Plaintiffs,	)	
	)	Case No. 07 C 4737
v.	)	
	)	Judge Joan H. Lefkow
Bruce Rauner, et al.,	)	
	)	
Defendant.	)	

**AGREED ORDER TO MAINTAIN COMPLIANCE WITH CONSENT DECREE**

This case is before the Court on the parties' Joint Emergency Motion to Approve Agreed Order. The parties have advised the Court that the State of Illinois has not yet passed a budget appropriation for the State Fiscal Year beginning on July 1, 2015 (the "FY 2016 budget"). In the absence of a FY 2016 budget appropriation, Defendants will continue to provide all programs, services and personnel required by the Consent Decree (Dkt. #210), including without limitation any Implementation Plans issued pursuant to Section VIII of the Consent Decree approved by this Court on December 21, 2011 (Dkt. #210). It is the position of the Illinois State Comptroller that, without an appropriation, the Comptroller does not have the authority to continue to make payments for current services, programs and personnel that are necessary to maintain compliance with the Consent Decree unless specifically ordered to do so by the Court.

In order to assure compliance with the Consent Decree, IT IS HEREBY ORDERED THAT:

1. Until the FY 2016 budget takes effect, the Comptroller shall continue to make all payments for all services, programs and personnel, at a level no less than the levels paid in Fiscal

Year 2015, that are necessary to comply with the Consent Decree and Implementation Plans.

This order shall remain in effect until the effective date of the FY 2016 budget.

2. On or before July 1, 2015, Defendants shall publish this Order by (i) posting it on the Department on Aging website, and (ii) transmitting a copy of the Order to all personnel and to all contractors and providers of services under the Consent Decree, including without limitation any contractors or providers of services that received prior notice of a possible reduction in payments or the reduction in or termination of a contract as the result of the delays in completing a FY 2016 budget appropriation, via email where available and by such other additional means as the Defendants employ for communications to the foregoing persons and entities in their usual course of business.

Dated: June 30, 2015

SO ORDERED

BY:   
United States District Judge

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Stanley Ligas, et al.,	)	
	)	
Plaintiffs,	)	
	)	Case No. 05 C 4331
v.	)	
	)	Judge Sharon Johnson Coleman
Felicia Norwood, et al.,	)	
	)	
Defendant.	)	

**AGREED ORDER TO MAINTAIN COMPLIANCE WITH CONSENT DECREE**

This case is before the Court on the parties' Joint Emergency Motion to Approve Agreed Order. The parties have advised the Court that the State of Illinois has not yet passed a budget appropriation for the State Fiscal Year beginning on July 1, 2015 (the "FY 2016 budget"). In the absence of a FY 2016 budget appropriation, Defendants will continue to provide all programs, services and personnel required by the Consent Decree (Dkt. #549), including without limitation any Implementation Plans issued pursuant to Section XIII of the Consent Decree approved by this Court on June 15, 2011 (Dkt. #549). It is the position of the Illinois State Comptroller that, without an appropriation, the Comptroller does not have the authority to continue to make payments for current services, programs and personnel that are necessary to maintain compliance with the Consent Decree unless specifically ordered to do so by the Court.

In order to maintain compliance with the Consent Decree, IT IS HEREBY ORDERED THAT:

1. Until the FY 2016 budget takes effect, the Comptroller shall continue to make all payments for all services, programs and personnel, at a level no less than the levels paid in Fiscal

Year 2015, that are necessary to comply with the Consent Decree and Implementation Plans.

This order shall remain in effect until the effective date of the FY 2016 budget.

2. On or before July 1, 2015, Defendants shall publish this Order by (i) posting it on the DHS website, and (ii) transmitting a copy of the Order to all personnel and to all contractors and providers of services under the Consent Decree, including without limitation any contractors or providers of services that received prior notice of a possible reduction in payments or the reduction in or termination of a contract as the result of the delays in completing a FY 2016 budget appropriation, via email where available and by such other additional means as the Defendants employ for communications to the foregoing persons and entities in their usual course of business.

Dated: June 30, 2015

SO ORDERED

BY:   
United States District Judge

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,  
Plaintiff

v.

No. 15 CH 10243

MUNGER

Defendant

ORDER

THIS Matter Coming Before the Court on Plaintiff's MOTION FOR A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION, the parties being present, and the court being advised in the premises, IT IS HEREBY ORDERED:

1. This matter is set for status in Room 2405 on July 7, 2015 at 10:30 AM;

2. The oral motion of the unions for leave to intervene is granted without objection;

3. The oral motion of Illinois Department of Central Management Services is granted without objection.  
4. Defendant Comptroller will obtain counsel by the status date.

Atty. No.: 99000

Name: Bretz Legner

Atty. for: [Signature]

Address: 100 W. Randolph Street

City/State/Zip: CHICAGO, IL 60601

Telephone: 312-814-2146

ENTERED:

Dated:

Judge

Judge's No.

ENTERED  
JUDGE DIANE J. LARSEN-1771  
JUL 02 2015  
DOROTHY BROWN  
CLERK OF THE CIRCUIT COURT  
OF COOK COUNTY, IL  
DEPUTY CLERK

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

S.R. 45

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

People of the State of Ill., Plaintiff

v.

No. 2015 CH 10243

Leslie Geissler Mungler, Defendant

ORDER (page 1 of 2)

This matter having come before the Court on Plaintiff's motion for a temporary restraining order ("TRO") and preliminary injunction; Plaintiff, Defendant, the intervening unions and Illinois Department of Central Management Services ("CMS") having appeared and presented argument, and the Court having considered Plaintiff's verified complaint, verified motion, and supporting Memorandum, as well as Defendant's Response and attachments, and being fully advised in the premises; It is hereby Ordered:

Plaintiff's motion for a TRO is granted. The Court finds that Plaintiff has a protectible right in clear need of protection, has shown an inadequate remedy at law and irreparable injury in the absence of injunctive relief, and a likelihood of success on the merits. For the reasons stated at record, it is hereby ordered as follows: (continued on p. 2)

Atty. No.: \_\_\_\_\_

Name: Lisa Madigan / Brett Legner

ENTERED:

Atty. for: Plaintiff

Dated: \_\_\_\_\_

Address: 100 W. Randolph 12<sup>th</sup> Floor

City/State/Zip: Chicago, IL 60601

Telephone: (312) 814-2146



Judge

Judge's No.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

S.R. 46

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

People of the State of Illinois, Plaintiff

v.

No. 2015 CH 10243

Leslie Geissler Nungar, Defendant

ORDER (page 2 of 2)

Defendant is enjoined, in the absence of enacted appropriations legislation, from processing vouchers for payment of state employee payroll except vouchers that comply only with the minimum federal minimum wage and overtime requirements of the Federal Fair Labor Standards Act.

Atty. No.: 999000

Name: Lisa Modigan/Burt Lagner

Atty. for: Plaintiff

Address: 100 W. Randolph, 12th Floor

City/State/Zip: Chicago, IL 60601

Telephone: (312) 814-2146

ENTERED:

Dated: \_\_\_\_\_

Judge \_\_\_\_\_



Judge's No. \_\_\_\_\_

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

S.R. 47

IN THE  
CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

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PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	15 CH 10243
	)	
LESLIE GEISLER MUNGER, in her capacity	)	
as Comptroller of the State of Illinois,	)	
	)	
Defendant.	)	

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**AGREED INTERIM ORDER**

This cause having come before the Court on Plaintiff's Verified Motion for Temporary Restraining Order and Preliminary Injunction, the parties and intervenors being in agreement, and the Court being duly advised in the premises,

IT IS HEREBY ORDERED THAT:

Defendant Leslie Geissler Munger, in her official capacity as Comptroller of the State of Illinois, in the absence of enacted annual appropriations statutes for Fiscal Year 2016, is authorized to and shall process Fiscal Year 2016 certified payment vouchers for:

- a. All continuing appropriations, including but not limited to the continuing appropriations listed in the attached Exhibit A;
- b. All non-appropriated funds;
- c. Operations of the judicial branch, at the level paid as of June 30, 2015,

including but not limited to the operations listed in the attached Exhibit B; and

- d. Obligations and expenses required by consent decrees, including but not limited to payments for all services, programs, vendors, contractors and ~~State personnel~~ at the level paid as of June 30, 2015, that are necessary to comply with the consent decrees and any implementation plans approved thereunder, including but not limited to the consent decrees listed in the attached Exhibit C.

SO ORDERED

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge



## EXHIBIT A - CONTINUING APPROPRIATIONS STATUTES

- Debt Service: Repayment of principal and interest for all general obligation debt of the state pursuant to various statutes, including 30 ILCS 330/14, 16 and 20, as well as:
  - Metropolitan Civic Center Support Act (30 ILCS 355/13)
  - Illinois Private Activity Bond Allocation Act (30 ILCS 425/10, 11, and 15)
  - Capital Development Bond Act of 1972 (30 ILCS 420/9)
  - School Construction Bond Act (30 ILCS 390/9)
  - Illinois Coal and Energy Development Bond Act (20 ILCS 1110/13)
  - Transportation Bond Act (30 ILCS 415/7)
  
- State Pensions Continuing Appropriation Act: Contributions for the 5 state-funded retirement systems are backed by a continuing appropriation pursuant to 40 ILCS 15.
  
- Local Tax Funds: Taxes that are shared with local governments, or taxes that are locally-imposed but collected by the state Department of Revenue, are subject to a continuing appropriation, pursuant to a number of statutes, including:
  - County and Mass Transit District Fund (30 ILCS 105/6z-20)
  - Downstate Public Transportation Fund (30 ILCS 740/2-3)
  - Personal Property Tax Replacement Fund (30 ILCS 115/12)
  - Local Government Distributive Fund (30 ILCS 115/1)
  - Local Government Tax Fund (30 ILCS 105/6z-18)
  
- The Regional Transportation Authority Act, 70 ILCS 3615/4.09(b)(1), provides a continuing appropriation for payments from the Public Transportation Fund and the Regional Transportation Authority Occupation and Use Tax Replacement Fund to the Regional Transportation Authority.
  
- Tax Refunds: Amounts segregated for tax refunds are subject to a continuing appropriation pursuant to a number of statutes, including:
  - Income Tax Refund Fund (35 ILCS 5/901)
  - Corporate Franchise Tax Refund Fund (805 ILCS 5/15.97)
  - Estate Tax Refund Fund (35 ILCS 405/13)
  - Insurance Premium Tax Refund Fund (215 ILCS 5/412)
  
- Illinois Tax Increment Fund: In some instances, certain tax increment financing (TIF) districts received a portion of state sales tax receipts generated in the district and these payments were subject to a continuing appropriation pursuant to 30 ILCS 105/6z-16.
  
- Reciprocal Tax Agreements: The reciprocal payments made under agreements that the Department of Revenue enters into with other states are subject to a continuing appropriation pursuant to 35 ILCS 717/5-10.

- **Deferred Lottery Prize Winners Trust Fund:** Lottery awards for individuals choosing to receive their winnings in installments are subject to a continuing appropriation pursuant to 20 ILCS 1605/27.
- **Legislative operations and salaries of legislators and judges:** Pursuant to 15 ILCS 20/50-22, a continuing appropriation covers the operations of the legislative branch and the salaries of General Assembly members and judges. The amount is equal to the amount of those appropriations for the immediately preceding fiscal year.
- **Illinois Unemployment Insurance Trust Fund Financing Act:** Pursuant to 30 ILCS 440, the Department of Employment Security the authority to issue bonds to keep the Trust Fund solvent. The Act includes a continuing appropriation to IDES for the payment of any bonded revenues and any receipts from the fund building charge used for repayment of bonds.
- **Illinois Student Assistance Commission:**
  - Pursuant to 110 ILCS 947/152, ISAC is authorized to generate \$50 million in state-backed debt for ISAC's Lending Arm to buy rehabilitated loans from ISAC's Guarantor Arm. The debt service on these bonds is covered by a continuing appropriation.
  - Pursuant to 110 ILCS 947/110, ISAC serves as a federal guarantor for the Federal Family Education Loan (FFEL) program. In this capacity, ISAC is obligated to buy these loans if a student defaults and a continuing appropriation gives ISAC this spending authority.
- **Protest Funds:** Pursuant to 30 ILCS 105/8.28, the State Treasurer and Comptroller are authorized to make required transfers from the Protest Fund to GRF.
- **Ambulance revolving loan program:** Pursuant to 20 ILCS 3501/825-85, there is a continuing appropriation authorizing the State Fire Marshal's Office to send money in the Ambulance Revolving Loan Fund to the Illinois Finance Authority.
- **Fire truck and station revolving loan programs:** Pursuant to 20 ILCS 3501/825-80 & 81, the State Fire Marshal's Office has a continuing appropriation to send money in the Fire Truck Revolving Loan Fund and the Fire Station Revolving Loan Fund to the Illinois Finance Authority.
- **Agricultural Loan Guarantees:** The Illinois Finance Authority is authorized to issue state guarantees for farmers' debt held by lenders and the Illinois Agricultural Loan Guarantee Fund and the Illinois Farmer and Agribusiness Loan Guarantee Fund hold money to serve as guarantee. Pursuant to 20 ILCS 3501/830-30 & 35, there is a continuing appropriation to satisfy those guarantees if needed.
- **Illinois Grain Insurance Fund:** Pursuant to 240 ILCS 40/25-20, the Grain Insurance Fund is subject to a continuing appropriation.

- Drug Traffic Prevention Fund: Pursuant to 725 ILCS 175/5, all funds deposited in the Drug Traffic Prevention Fund pursuant to the Narcotics Profit Forfeiture Act are subject to a continuing appropriation to the Department of State Police to be used for specific purposes.
- The Deferred Compensation Continuing Appropriation Act, 40 ILCS 10/1, provides a continuing appropriation for the purpose of making disbursements for distributions, refunds and investments in accordance with the State Employees Deferred Compensation Plan from the State Employees Deferred Compensation Plan Fund to the Department of Central Management Services.
- The State Officers and Employees Money Disposition Act, 30 ILCS 230/2e(c), provides a continuing appropriation to the Comptroller to pay refunds due to an overpayment or erroneous payment under this Act.
- The Alcoholism and Other Drug Abuse and Dependency Act, 20 ILCS 301/50-40(a), establishes a Group Home Loan Revolving Fund and provides that monies in that fund shall be continually appropriated.

**Exhibit B – Judicial Operations**

1. Amounts payable under Public Act 98-0679, Article 38, Sections 5, 10, 15, 20, and 25.
2. Amounts payable under Public Act 98-0679, Article 10, Section 5.

### Exhibit C – Consent Decrees

1. *B.H. v. Tate*, No. 88 C 5599; *Aristotle P. v. Ryder*, No. 88 C 7919; *Burgos v. McEwen*, No. 75 C 3974; *Norman v. McEwen*, No. 89 C 1624; and *Hill v. Erickson*, No. 88 C 296 – all cover DCFS operations.
2. *Beeks v. Bradley*, No. 92 C 4204 – This decree covers: Aid to the Aged, Blind and Disabled (AABD) 305 ILCS 5 / Art. III; Temporary Assistance for Needy Families (TANF). 305 ILCS 5 / Art. IV; Medical Assistance – 305 ILCS 5 / Art. V; and Child Care Assistance Program (CCAP) – 305 ILCS 5/9A-11.
3. *Ligas v. Norwood*, No. 05-4331; *Bogard v. Bradley*, No. 88 C 2414 – covering services and programs for adults with developmental disabilities.
4. *Benson v. Blaser*, No. 80 C 2346 (obligations regarding the Community Care Program operated under the Department on Aging); similar decree in the *McCrimmon* case (Home Services Program operated under the Division of Rehabilitative Services).
5. *Williams v. Rauner*, No. 05 C 4673 – This decree covers community-based services provided to residents of Institutions for Mental Diseases who have diagnoses of serious mental illness and who have moved to community-based settings.
6. *Colbert v. Rauner*, No. 07 C 4737 – This decree covers community-based services provided to former nursing home residents in Cook County who are either mentally ill or physically disabled and are now living in community-based settings.
7. *Hampe v. Norwood*, No. 10 C 3121 – This decree covers services provided to individuals who were covered under but then aged out of the Home and Community Based Waiver for Medically Fragile and Technology Dependent Children.
8. *Jackson v. Maram*, No. 04 C 174 – This decree covers the provision of motorized wheelchairs to residents of Skilled Nursing Facilities who require such wheelchairs.
9. *Memisovski v. Wright*, No. 92 C 1982 – This decree covers all services provided to children in Cook County under the Early and Periodic Screening, Diagnostic and Treatment component of the Medicaid program.
10. *M.H. v. Monreal*, No. 12 C 8523 – This decree covers the provision of counsel to juveniles charged with parole violations.
11. *Rasho v. Walker*, No. 07 C 1298 – This decree covers mental health services provided to IDOC inmates.

FILED APPELLATE COURT  
1<sup>ST</sup> DIST

NO. 15-1877

2015 JUL -8 PM 12:52

IN THE APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICTSTEVEN M. RAVID  
CLERK OF COURT

PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff-Appellee,

v.

LESLIE GEISLER MUNGER, in her  
capacity as Comptroller of the State of Illinois,Defendant-Appellant, *et al.*Appeal from the Circuit Court of Cook  
County, County Department, Chancery  
Division

No. 2015-CH-10243

Honorable Diane J. Larsen  
Judge Presiding

Notice of Appeal filed July 7, 2015

RECEIVED  
JUL 08 2015  
ATTORNEY GENERAL**EMERGENCY MOTION TO STAY THE CIRCUIT COURT'S  
TEMPORARY RESTRAINING ORDER AND TO PRESERVE THE STATUS QUO  
BY ISSUING AN ORDER OF THIS COURT BY 9 A.M. THURSDAY, JULY 9, 2015**

The Appellants, Leslie Geissler Munger, the Comptroller of the State of Illinois ("Comptroller"), and the Illinois Department of Central Management Services ("CMS"), will be irreparably harmed unless this Court provides emergency relief requested in this motion. We therefore respectfully ask that the Court stay the circuit court's July 7, 2015 Temporary Restraining Order ("TRO") (Emer. Mot. Ex. 1 attached) now on appeal and authorize and direct the Comptroller and the payroll managers at CMS and other State agencies to continue processing State payroll for all State employees in its current form during the pendency of this appeal. We seek this immediate, emergency relief prior to **July 9, 2015 at 9:00 am**, when the first payroll in the State's 2016 Fiscal Year must be processed. (Emer. Mot. Ex. 2, Affidavit of Asst. Comptroller Marvin Becker, Ex. A at ¶4.)

While the underlying appeal has been filed pursuant to the expedited interlocutory appeal as of right procedures in Supreme Court Rule 307(d), the sweeping, severe, and potentially irreversible disruption to State employee pay, pension, and health benefits, and automatic payroll deductions, such as child support and home loan payments, caused by the Circuit Court's TRO will occur even before this Court has time to hear and rule on this case under Rule 307(d)'s accelerated timelines. We simply ask this Court to preserve the *status quo* while this important and time-sensitive appeal is heard. There is no dispute that State employees have earned and are entitled to the pay that they would receive from the July 9 payroll process, and therefore, there is no harm – financial or otherwise – to the Attorney General or the State from this short, emergency form of relief.

Additionally, the Attorney General did not seek, and the Circuit Court's TRO does not provide, relief for State agencies to continue to provide essential State services, such as the public safety services provided by the Illinois State Police. This deficiency creates the second emergency situation that would be avoided by staying the TRO.

The Attorney General is aware, and the Circuit Court was informed, that the minimum wage, Fair Labor Standards Act ("FLSA")-compliant payroll that State agencies have been ordered by the TRO to process cannot under any circumstance, even with the best of intentions to fully comply with the TRO, be processed on July 9 because of the State's antiquated electronic payroll systems and the failure of prior constitutional officers to conduct the necessary FLSA employee designations. (Becker Aff. at ¶5). The Circuit Court improperly dismissed this evidence as "not relevant." (Emer. Ex. 3, Tr. at 40:18-22; "the factual issues of the feasibility of compliance are not relevant.") We respectfully disagree. They are highly relevant and contribute to this emergency situation.

Agency directors, such as Illinois State Police Director Leo P. Schmitz, are faced with only two options: (1) order state troopers and support personnel to continue working and process the full payroll to comply with the FLSA in violation of the TRO; or (2) begin shutting down services, order employees to stay home, and direct certain State employees to work without any pay in violation of the FLSA. (Emer. Mot. Ex. 4, Declaration of ISP Director Leo P. Schmitz at ¶12.)<sup>1</sup> Either option is asking the State's chief law enforcement officer to violate the law, and the second option puts the public's safety and welfare at significant risk. The Office of the Attorney General, for its part, acknowledged as early as June 29, 2015 that this would be a problem and that it would seek relief to ensure these services would not be disrupted. (Schmitz Dec. at ¶11.) Nothing, however, in the Circuit Court's TRO addresses how critical State functions, like public safety services, are to continue if State agencies cannot process minimum wage, FLSA-compliant payrolls. (Emer. Mot. Ex. 1, *passim*).

We, therefore, respectfully move the Court to enter a temporary emergency order that would avoid the impending disruption to the pay and benefits of tens of thousands of State employees and the potential interruption of critical services, such as those provided by the Illinois State Police, during the pendency of this expedited appeal. This request is supported by the undisputed factual record in this case and also consistent with the law.

#### **RELEVANT BACKGROUND**

#### **I. Undisputed Facts Confirm that State Agencies and the Comptroller Cannot Comply With the Temporary Restraining Order By July 9**

The facts are not in dispute.

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<sup>1</sup> Despite the fact that the Cook County Circuit Court set the July 7 hearing as a scheduling conference only, the judge denied CMS's request for a full briefing and an opportunity to submit declarations, such as Director Schmitz's, prior to ruling on the TRO. This was especially surprising in light of the fact that the Circuit Court also reached the merits of the preliminary injunction itself without offering CMS the opportunity to submit Schmitz's and other relevant sworn testimony.

On July 1, 2015, the Attorney General filed a Verified Complaint for Declaratory and Injunctive Relief, seeking, among other things, to enjoin the Comptroller from paying State employees more than the minimum required by the FLSA in the absence of appropriations for the current fiscal year. (Emer. Mot. Ex. 5). On July 2, the Attorney General followed up with a Verified Motion for Temporary Restraining Order and Preliminary Injunction. (Emer. Mot. Ex. 6). At a July 2, 2015 hearing, after granting intervention to CMS and several unions representing State employees, the matter was set for a status hearing July 7, 2015, at which point the Circuit Court was to provide the briefing schedule on Plaintiff's motion. (Emer. Mot. Ex. 7).

On July 7, 2015, before the scheduled status hearing, the Comptroller filed a response to Plaintiff's motion. In support, the Comptroller attached the affidavit of Assistant Comptroller Marvin Becker. Becker's affidavit, in sum, demonstrates several features of the State's payroll systems:

- it is impossible to process payrolls replacing each employee's actual rate of pay with the federal \$7.25 minimum wage;
- it is impossible to make proper FLSA determinations for all State employees any sooner than nine to twelve months from now;
- significant pension, health insurance, and payroll taxes calculations for State employees would be greatly distorted if it were possible to pay only the FLSA minimum; and
- various court-ordered obligations such as child support, bankruptcy, and tax levy payments would be missed, distorted, or outright precluded if payroll could have been capped at the FLSA minimum.

(Emer. Mot. Ex. 2, Comptroller Response 2-3 & Ex. A.)

Of note, Becker's affidavit confirmed a key allegation in the Attorney General's own complaint. The Attorney General's pleading acknowledged, and in fact attached, a CMS memorandum explaining that limiting State employee payroll by the FLSA minimum is currently

impossible. (Emer. Mot. Ex. 5, Verified Complaint ¶ 28 & Ex. A.) Not surprisingly, therefore, none of this is in dispute.

After converting, without any notice to the parties, the July 7, 2015 status conference into a full argument on the merits, the Circuit Court granted the Attorney General's TRO. The Circuit Court understood that compliance with the FLSA minimum is currently impossible and heard CMS's offer (consistent with the understanding that the July 7 status hearing would merely set a briefing schedule) to develop further factual record to explain the myriad steps that need to be taken to allow the State to limit payroll to the FLSA minimum. (Emer. Mot. Ex. 3, July 7 Tr. 39:20-40:17.) But the Circuit Court "agree[d] with the Attorney General's position" that "the factual issues of the feasibility of compliance are not relevant." (*Id.* at 40:18-22.) Thus, despite the undisputed evidence that compliance with the FLSA minimum is currently impossible, the Circuit Court enjoined the Comptroller, "in the absence of enacted appropriate legislation, from processing vouchers for payment of state employee payroll except vouchers that comply only with the minimum federal minimum wage and overtime requirements of the federal Fair Labor Standards Act." (Emer. Mot. Ex. 1, TRO p. 2.)

The Comptroller and all intervenors have now appealed the TRO on July 7, 2015, pursuant to the expedited procedures of the Supreme Court Rule 307(d).

The Comptroller and the State face the first payroll deadline in the current fiscal year on July 9, 2015, at 9:00 a.m. (Emer. Mot. Ex.3, July 7 Tr. 6:6-16.) But they are without guidance on how to proceed in light of the TRO that forces it to violate the FLSA because compliance in the minimalist way allowed by the TRO is impossible. Leo Schmitz, the Director of the Illinois State Police, summarizes well the State's predicament. (Emer. Mot. Ex. 4, Schmitz Declaration, Ex C.) Echoing what CMS's memorandum attached to the Attorney General's Verified

Complaint and Associate Comptroller Becker's affidavit explained, Director Schmitz confirms that the Illinois State Police payroll systems do not currently allow it to fashion the minimalist FLSA payroll called for by the TRO. (*Id.* ¶ 5.) And thus he is "faced with the impossible choice to either knowingly violate federal law or to direct employees to stop coming to work in order to avoid violating the TRO and federal law." (*Id.* ¶ 12.) Director Schmitz explains that directing officers and other employees not to report for duty "will interfere with and severely undermine the ability of the Illinois State Police to perform its many, critical public safety functions." (*Id.*) This situation would be avoided with the temporary, emergency relief requested by the Comptroller and CMS.

#### ARGUMENT

If this Court does not act, in less than 24 hours the Comptroller and numerous State agencies will either violate the TRO, violate federal law, or take steps that may jeopardize the operation of critical state services.

Tomorrow is July 9, 2015, the first payroll deadline in the current fiscal year. Tomorrow, by 9:00 a.m., various State agencies must submit payroll for the Comptroller to process. Tomorrow, the agencies and the Comptroller must submit and process payroll in compliance with the federal FLSA. The only way the State can comply is to process payroll in the same way that it always has—by paying each employee what that employee has earned; no more, no less. But now there is a TRO that enjoins the Comptroller, and by extension, the State agencies submitting payroll information, from processing payroll in the only way that the State knows to comply with the FLSA. Tomorrow, the TRO forces the Comptroller and the State to do the impossible, which is to submit and process payroll only at the minimum level required under the FLSA. That means, if the TRO stands and this Court requires strict compliance with the TRO as

it is drafted, tomorrow the Comptroller and the State have to violate federal law that is supposed to be supreme over any Illinois constitutional or statutory requirement to the contrary. That outcome and the severe disruption it would cause creates an emergency crying out for this Court's swift action by granting this motion, staying the TRO pending this appeal, and directing the Comptroller to process payroll in the same way she always has.

**I. The Comptroller and CMS Satisfy the Legal Requirements for Temporary, Emergency Relief**

A motion for a stay is proper before the appellate court where application to the circuit court for a stay is not practical, the circuit court denied the request for stay, or the circuit court has failed to afford the requested relief. Ill. Sup. Ct. Rule 305(d). A stay is "intended to maintain the status quo pending appeal" by postponing the challenged judgment. *In re Marriage of Suriano & LaFeber*, 324 Ill. App. 3d 839, 854 (1st Dist. 2001). Where a clear hardship exists in proceeding with the circuit court order despite any claimed damage to the appellee, a stay should be entered. *See Zurich Insurance Co. v. Raymark Industries, Inc.*, 213 Ill. App. 3d 591, 595 (1st Dist. 1991). These requirements are met in this case.

*First*, the *status quo* should be maintained to prevent the unconscionable result that the Comptroller and State agencies will be forced to violate federal law while this case is pending on appeal. There is no dispute that the FLSA requires that all employees covered by the statute timely receive at least the federal minimum wage and any earned overtime. In addition, all agree that the FLSA is supreme over any Illinois requirement to the contrary. The Circuit Court confirmed as much in its oral ruling. (Emer. Mot. Ex. 3, July 7 Tr. 12-16.) Moreover, the State's inability to change its payroll to pay just the minimum FLSA requirements and only to employees covered by the FLSA is not in dispute. It will take the State nine to twelve months to change its payroll processes to do what the TRO requires by tomorrow morning. In sum, the

Comptroller has no choice but to reject payroll vouchers that don't comply with the TRO, which puts the State in violation of the FLSA.

But that is not all. Numerous federal court orders require the State, as part of the various consent decrees, to pay employees "at a level no less than the levels paid in Fiscal Year 2015." (E.g., Agreed Order to Maintain Compliance with Consent Decree, *Colbert v. Rauner*, No. 07-C-4737 (June 30, 2015), attached as Ex. D to Verified Motion for TRO.) To comply with these directives requires the Comptroller and the State to pay employees in full—or, at the very least, at levels paid as late as June 30, 2015, the last day of Fiscal Year 2015. But the TRO requires the Comptroller and the State to pay only the federal minimum wage and overtime, likely a fraction of an employee's salary, measured today or on June 30, 2015. Hence, an obvious conflict exists between the TRO and federal consent decrees to which the State is a party.

The Circuit Court shrugged off the obvious conflict between her TRO and the federal consent decrees. She merely directed the parties to "go before the federal judge who entered the consent decree." (Emer. Mot. Ex. 3, July 7 Tr. 47:7-10.) Even setting aside the obvious problem with a state court judge essentially declaring that a federal consent decree is not her problem, resolving this conflict by tomorrow morning is impracticable. As a result, the Comptroller and the State are forced tomorrow morning to violate not only the FLSA but numerous federal consent decrees.

All of this is enough to show a clear hardship to the Comptroller and the State, such that the Court need not even consider any alleged hardship to the Attorney General if the TRO is stayed. *See Zurich*, 213 Ill. App. 3d at 595. But even if the Court were to consider hardship to the Attorney General, there would scarcely be any. The very nature of this appeal under Supreme Court Rule 307(d) is that this Court will be issuing a ruling on the merits in a matter of

days. In that timespan, some, but far from all, payroll transactions will be processed. Moreover, full payments to State employees during these payroll transactions will be nothing more than whatever the employees will receive anyway as soon as budget is enacted for the current fiscal year. A short stay to address the emergency facing the Comptroller and the State is thus not only necessary but quite appropriate.

*Second*, the Comptroller is likely to succeed on the merits of her appeal. The parties and the Circuit Court agree that the federal minimum-wage law conflicts with State law, which prohibits the Comptroller from paying wages to most state employees in the absence of an appropriation. They also agree that in such a situation the principles of conflict preemption apply. And finally, they agree that those principles dictate that the federal law preempts the State law, meaning the State must comply with the federal minimum-wage law.

But what the circuit court's TRO ignores is the impossibility of that compliance. To be sure, the court acknowledged, as do the parties, that due to antiquated payroll systems the State cannot produce for many months a payroll system that pays only the federal minimum wage to state employees. Yet, the court found in effect that the impossibility of compliance was irrelevant. The court's legal error arises from its disregard for the impossibility of compliance. In short, the court erroneously adopted the Attorney General's argument that conflict preemption is to be construed narrowly. (Emer. Mot. Ex. 6, Verified Motion 13 (citing *Wimbush v. Wyeth*, 619 F.3d 632, 643 (6th Cir. 2010)).)

The Attorney General is correct that federal statutes are to be construed narrowly to determine whether there is a conflict. In this case, all agree that the narrowest construction of the FLSA requires the payment of the federal minimum wages and overtime. But therein lies the rub. That narrow interpretation still requires compliance with the federal FLSA. And we know

that compliance is impossible in the strictest way directed by the TRO. The only option under the TRO is to violate the federal law. That is no different than construing the FLSA to contain no restrictions, which of course is contrary to everyone's understanding. The Attorney General's logic, implicitly adopted by the Circuit Court, thus took the Court from the narrow construction of the FLSA all the way to the construction that says the FLSA does not exist. The correct way to comply in these circumstances is to allow the Comptroller to process the payroll in full. That compliance would satisfy the minimum requirements of the FLSA in the same way that the Comptroller and the State satisfy these requirements in the ordinary course of business.

*Lastly*, seeking this relief at the Circuit Court in the first place is impracticable and thus excused in this case. To begin, the Circuit Court denied the very relief we seek here, so there is no reason to think the judge would change her mind if we style our request as a stay. Moreover, the judge indicated at the conclusion of the July 7 hearing that she was only filling in for the judge who should have been handling the case but is on vacation. (Emer. Mot. Ex. 3, July 7 Tr. 48:6-15.) The Circuit Court specifically stated that "if there's any issues that comes up, they should be filed before Judge Garcia," who is back from vacation Thursday, July 9. (*Id.*) There is thus no practicable way to see this relief in the first instance at the circuit court.

#### CONCLUSION

The *status quo* should be preserved during the pendency of this appeal, the TRO stayed, and the Comptroller directed to process vouchers for payment of state employee payroll until further order of this Court.



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Firm I.D. No. 71182

Dated: July 8, 2015

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, on July 8, 2015, I caused a true and correct copy of the foregoing EMERGENCY MOTION TO STAY THE CIRCUIT COURT'S TEMPORARY RESTRAINING ORDER AND TO PRESERVE THE STATUS QUO to be served via messenger upon:

Brett E. Legner  
Deputy Solicitor General  
100 West Randolph, 12th Floor  
Chicago, Illinois 60601



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CIRCUIT COURT FOR THE 20TH JUDICIAL CIRCUIT

State of Illinois )  
County of St. Clair ) S.S.

Case Number 15 CH 275

Amount Claimed \_\_\_\_\_

American Federation of State, County and  
Municipal Employees, Council 31; et al.,

State of Illinois and Leslie Geissler Munger in  
Her Official Capacity as Comptroller for the  
State of Illinois,

VS

Plaintiff(s)

Defendant(s)

Classification Prefix \_\_\_\_\_ Code \_\_\_\_\_ Nature of Action \_\_\_\_\_ Code \_\_\_\_\_

CORNFIELD AND FELDMAN LLP  
Pltf. Atty. Stephen A. Yokich, 6181707 Code \_\_\_\_\_  
Address 25 E. Washington St., Suite 1400  
City Chicago, IL 60602-1803 Phone \_\_\_\_\_  
(312) 236-7800 Code \_\_\_\_\_

TO THE SHERIFF: SERVE THIS DEFENDANT AT:

NAME State of Illinois

ADDRESS James R. Thompson Center

100 W. Randolph St., Suite 15-500

CITY & STATE Chicago, IL 60601

SUMMONS COPY

To the above named defendant(s) . . . . .:

A. You are hereby summoned and required to appear before this court at  
(court location) \_\_\_\_\_ at \_\_\_\_\_ M. On \_\_\_\_\_ 20\_\_\_\_  
to answer the complaint in this case, a copy of which is hereto attached. If you fail to do so, a judgment by default may  
be taken against you for the relief asked in the complaint.

B. You are summoned and required to file an answer to the complaint in this case, a copy of which is hereto  
attached, or otherwise file your appearance, in the office of the clerk of this court within 30 days after service of this  
summons, exclusive of the day of service. If you fail to do so, judgment of decree by default may be taken against you  
for the relief prayed in the complaint.

TO THE OFFICER:

This summons must be returned by the officer or other person to whom it was given for service, with  
indorsement thereon of service and fees if any, immediately after service. In the event that paragraph A of this  
summons is applicable this summons may not be served less than three days before the day of appearance. If service  
cannot be made, this summons shall be returned so indorsed.

This summons may not be served later than 30 days after its date.

WITNESS, 7-2 2015  
Kathleen A. Cleary  
Clerk of Court

BY DEPUTY: [Signature]

DATE OF SERVICE: \_\_\_\_\_ 20\_\_\_\_

(To be inserted by officer on copy left with defendant  
or other person)

SEAL

S.R. 67

I certify that I served this summons on defendants as follows:

(a) - (Individual defendants - personal):

By leaving a copy of the summons and a copy of the complaint with each individual defendant personally as follows:

Name of defendant	Date of service

(b) - (Individual defendants - abode):

By leaving a copy of the summons and a copy of the complaint at the usual place of abode of each individual defendant with a person of his family, of the age of 13 years or upwards, informing that person of the contents of the summons, and also by sending a copy of the summons and of the complaint in a sealed envelope with postage fully prepaid, addressed to each individual defendant at his usual place of abode, as follows:

Name of defendant	Person with whom left	Date of service	Date of mailing

(c) - Corporation defendants):

By leaving a copy of the summons and a copy of the complaint with the registered agent office, or agent of each defendant corporation as follows:

Defendant corporation	Registered agent, officer or agent	Date of service

(d) - (Other service):

SHERIFF'S FEES	
Service and return	_____ \$
Miles	_____ \$
Total	_____ \$
Sheriff of _____ County	

\_\_\_\_\_, Sheriff of \_\_\_\_\_ County  
\_\_\_\_\_, Deputy

CIRCUIT COURT FOR THE 20TH JUDICIAL CIRCUIT

State of Illinois )  
County of St. Clair ) S.S.

Case Number 15CH 475

Amount Claimed \_\_\_\_\_

American Federation of State, County and  
Municipal Employees, Council 31; et al.,  
  
  
  
  
  
  
  
  
  
  
Plaintiff(s)

State of Illinois and Leslie Geissler Munger in  
Her Official Capacity as Comptroller for the  
State of Illinois,  
  
  
  
  
  
  
  
  
  
  
Defendant(s)

VS

Classification Prefix \_\_\_\_\_ Code \_\_\_\_\_ Nature of Action \_\_\_\_\_ Code \_\_\_\_\_

Pltf. Atty. CORNFIELD AND FELDMAN LLP  
Stephen A. Yokich, 6181707 Code \_\_\_\_\_  
Address 25 E. Washington St., Suite 1400  
City Chicago, IL 60602-1803 Phone \_\_\_\_\_  
(312) 236-7800 Code \_\_\_\_\_

TO THE SHERIFF: SERVE THIS DEFENDANT AT:  
NAME Leslie Geissler Munger,  
Comptroller - State of Illinois  
ADDRESS James R. Thompson Center  
100 W. Randolph St., Suite 15-500  
CITY & STATE Chicago, IL 60601

SUMMONS COPY

To the above named defendant(s).....:

A. You are hereby summoned and required to appear before this court at  
(court location) \_\_\_\_\_ at \_\_\_\_\_ M. On \_\_\_\_\_ 20\_\_\_\_  
to answer the complaint in this case, a copy of which is hereto attached. If you fail to do so, a judgment by default may  
be taken against you for the relief asked in the complaint.

B. You are summoned and required to file an answer to the complaint in this case, a copy of which is hereto  
attached, or otherwise file your appearance, in the office of the clerk of this court within 30 days after service of this  
summons, exclusive of the day of service. If you fail to do so, judgment of decree by default may be taken against you  
for the relief prayed in the complaint.

TO THE OFFICER:

This summons must be returned by the officer or other person to whom it was given for service, with  
indorsement thereon of service and fees if any, immediately after service. In the event that paragraph A of this  
summons is applicable this summons may not be served less than three days before the day of appearance. If service  
cannot be made, this summons shall be returned so indorsed.

This summons may not be served later than 30 days after its date.

WITNESS, 7-7 2015

Kalalaha A. Clay  
Clerk of Court

BY DEPUTY: [Signature]

DATE OF SERVICE: \_\_\_\_\_ 20\_\_\_\_

(To be inserted by officer on copy left with defendant  
or other person)

SEAL

I certify that I served this summons on defendants as follows:

(a) - (Individual defendants - personal):

By leaving a copy of the summons and a copy of the complaint with each individual defendant personally as follows:

Name of defendant	Date of service
_____	_____
_____	_____
_____	_____
_____	_____

(b) - (Individual defendants - abode):

By leaving a copy of the summons and a copy of the complaint at the usual place of abode of each individual defendant with a person of his family, of the age of 13 years or upwards, informing that person of the contents of the summons, and also by sending a copy of the summons and of the complaint in a sealed envelope with postage fully prepaid, addressed to each individual defendant at his usual place of abode, as follows:

Name of defendant	Person with whom left	Date of service	Date of mailing
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(c) - Corporation defendants):

By leaving a copy of the summons and a copy of the complaint with the registered agent office, or agent of each defendant corporation as follows:

Defendant corporation	Registered agent, officer or agent	Date of service
_____	_____	_____
_____	_____	_____
_____	_____	_____

(d) - (Other service):

SHERIFF'S FEES	
Service and return	_____ \$
Miles	_____ \$
Total	_____ \$
Sheriff of _____ County	

\_\_\_\_\_, Sheriff of \_\_\_\_\_ County  
 \_\_\_\_\_, Deputy

S.R. 70

IN THE CIRCUIT COURT OF THE 20TH JUDICIAL CIRCUIT  
ST. CLAIR COUNTY, ILLINOIS

American Federation of State, County )  
and Municipal Employees, Council 31; )  
Illinois Troopers Lodge No. 41, Fraternal )  
Order of Police; Illinois Nurses Association; )  
Illinois Federation of Public Employees, )  
Local 4408 IFT-AFT; Illinois Federation of )  
Teachers, Local 919; International )  
Brotherhood of Electrical Workers; Illinois )  
Fraternal Order of Police Labor Council; )  
Laborers International Union of North )  
America - ISEA Local 2002; Service )  
Employees International Union, Local 73; )  
SEIU Health Care Illinois & Indiana; )  
SEIU Local 1; Teamsters Local Union )  
No. 705, Affiliated with the International )  
Brotherhood of Teamsters; Conservation )  
Police Lodge of the Police Benevolent )  
and Protective Association, )

Plaintiffs, )

v. )

State of Illinois and Leslie Geissler Munger )  
in Her Official Capacity as Comptroller for )  
the State of Illinois, )

Defendants. )

FILED  
ST. CLAIR COUNTY  
JUL 02 2015  
41

Case No. 15CH475

**VERIFIED COMPLAINT FOR  
DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**

The Plaintiffs, public employees of the State of Illinois, and their exclusive bargaining representatives, complain against the Defendants, State of Illinois and Leslie Geissler Munger, the Comptroller for the State of Illinois as follows:

## I. INTRODUCTION

1. The Plaintiffs in this case are public employees of the State of Illinois and the labor unions which represent them. The Union Plaintiffs represent more than 40,000 State employees who work in the executive branch of the government under the Governor or other constitutional officers. The members of the Unions provide public services to the citizens of Illinois. Among other services, they shield the public from crime, care for the sick, protect the abused from neglect, guard criminals, and maintain the infrastructure necessary to the economy of the State.

2. No State budget is in place for the Fiscal Year beginning July 1, 2016. This means that appropriations for the wages which will soon be owed to State employees for their work do not exist. Nonetheless, State employees have been directed to report to work.

3. The budgetary impasse has placed State employees into an untenable position. They are duty bound to report to work notwithstanding the fact that they do not know when or how they will be paid for their services. This lawsuit seeks a court order which provides legal authorization necessary for the timely payment of wages to State employees. Such payment is required under Article I, Section 16 of the Illinois Constitution.

## II. PARTIES

4. Plaintiff American Federation of State County and Municipal Employees, Council 31 ("AFSCME" or "Council 31") is a union that represents employees of the State of Illinois with respect to their wages, hours, and terms and conditions of employment. AFSCME Council 31 is the exclusive bargaining representative of approximately 38,000 employees of the State who work in

approximately 51 departments, boards, authorities, and/or commissions that are subject to the authority of the Governor.

5. The employees represented by Council 31 work in prisons, mental health facilities, facilities for the developmentally disabled, veterans homes and in the offices that administer State programs such as public aid, unemployment insurance, public health and child welfare. These facilities and offices are located in every part of the State. Nearly every county in the State of Illinois has State employees represented by Council 31 who live or work there. Council 31 represents hundreds of employees who work for the State in St. Clair County at more than a dozen different facilities and offices.

6. Plaintiff AFSCME Council 31 is a party to a Master collective bargaining agreement with the State of Illinois that is effective from July 1, 2012, to June 30, 2015 ("the Master Agreement"). The Master Agreement sets the pay of the employees covered by it. The Master Agreement is currently posted on the Internet website of the Illinois Department of Central Management Services at the following address: [www.illinois.gov/cms/Employees/Personnel/Documents/emp\\_afscme1.pdf](http://www.illinois.gov/cms/Employees/Personnel/Documents/emp_afscme1.pdf)

7. On June 25, 2015, AFSCME and the State entered into a "Tolling Agreement." A true and accurate copy of the Tolling Agreement is attached as Exhibit 1. In the Tolling Agreement, AFSCME promised to refrain from a strike, work stoppage or work slowdown between July 1, 2015 and July 31, 2015. The State promised that it would not lockout employees during that same time. In addition, the tolling agreement states that the parties retain "all legal and contractual rights" that existed on June 30, 2105. The Tolling Agreement therefore establishes a contractual right for

employees subject to the 2012-2015 Master Agreement to be paid a timely basis for their work during the month of July 2015.

8. Plaintiff Illinois Troopers Lodge No. 41, Fraternal Order of Police ("Troopers Lodge 41") has a collective bargaining agreement with the Illinois State Police which covers Police Troopers, Special Agents, and Sergeants. The term of the Agreement runs from July, 1, 2012, to June 30, 2015. The parties to the Agreement have not reached agreement on a successor contract. Under the provisions of the Illinois Public Labor Relations Act, the terms and conditions of employment set by this collective bargaining agreement remain in place until the parties complete a successor agreement or receive a binding interest arbitration award. 5 ILCS 315/14(l). The State Troopers covered by the Agreement therefore have a contractual right to be paid on a timely basis for their work.

9. Plaintiff Local 4408 of the Illinois Federation of Public Employees ("Local 4408") is a labor union and an affiliate of the Illinois Federation of Teachers. Local 4408 has three collective bargaining agreements with the State of Illinois which are subject to the Governor. These are called the RC-29, RC-45 and RC-56 collective bargaining agreements. These Agreements comprehensively cover the wages, hours and other conditions of employment for the employees in these bargaining units. Each Agreement is effective for the term July 1, 2012, to June 30, 2015. Each Agreement can be accessed from the public Internet website of CMS at the address of: <http://www.illinois.gov/cms/Employees/Personnel/Pages/PersonnelLaborRelations.aspx>.

10. On July 1, 2015, Local 4408 and the State entered into a "Tolling Agreement" which covered the employees in RC-29, RC-45 and RC-56. A true and accurate copy of the Tolling Agreement is attached as Exhibit 2. In the Tolling Agreement, Local 4408 promised to refrain from

a strike, work stoppage or work slowdown between July 1, 2015 and July 31, 2015. The State promised that it would not lockout employees during that same time. In addition, the tolling agreement states that the parties retain "all legal and contractual rights" that existed on June 30, 2105. The Tolling Agreement therefore establishes a contractual right for employees subject to the 2012-2015 agreements to be paid on a timely basis for their work during the month of July 2015.

11. In addition to the foregoing bargaining units and collective bargaining agreements which are with agencies subject to the Governor, Local 4408 represents bargaining units of employees with other elected officeholders of the State. Specifically, Local 4408 represents a unit of clerical employees who work for the Attorney General of the State and who have a collective bargaining agreement with her and a unit of employees who work at the office of the Illinois Secretary of State.

12. Plaintiff Illinois Federation of Teachers Local 919 ("IFT Local 919") is a labor union and an affiliate of the Illinois Federation of Teachers. Local 919 represents employees classified as Educators who teach at the Illinois School for the Deaf in Jacksonville, Illinois, and it maintains a collective bargaining agreement with CMS that covers those employees. The Agreement has a term from August 12, 2012, to June 30, 2015. The Agreement is posted on the public Internet website of CMS at the address of: [http://www2.illinois.gov/cms/Employees/Personnel/Documents/emp\\_ift.pdf](http://www2.illinois.gov/cms/Employees/Personnel/Documents/emp_ift.pdf).

13. Plaintiff Illinois Nurses Association ("INA") represents nurses and attorneys employed at State facilities. The INA has collective bargaining agreements for two bargaining units. One unit is called RC-23 and covers nurses who work for the State. The INA also represents a group of attorneys classified as Public Service Administrators in a bargaining unit known as RC-36. The Agreements for these two units cover the period from July 1, 2012, to June 30, 2015. They are

posted on the public Internet website of CMS at the address of: <http://www2.illinois.gov/cms/Employees/Personnel/Pages/PersonnelLaborRelations.aspx>.

14. Plaintiff Service Employees International Union, Local 73 ("SEIU Local 73") represents a bargaining unit of Public Service Administrators who work at the Illinois Department of Natural Resources and a bargaining unit with the Illinois Department of Military Affairs. It has collective bargaining agreements for both of these units with the State of Illinois which have terms from July 1, 2012, to June 30, 2015. These agreements are posted on the public Internet website of CMS at the address of: <http://www.illinois.gov/cms/Employees/Personnel/Pages/PersonnelLaborRelations.aspx>. Local 73 also represents a unit of State employees who work for the Illinois Secretary of State and has a collective bargaining agreement for that unit.

15. Plaintiff Service Employees International Union, Local 1, Fireman and Oilers Division ("SEIU Local 1"), maintains a collective bargaining agreement with the State for prevailing-rate employees of the State in the classifications of Stationary Fireman and Maintenance Worker (Power Plant). The term of the Agreement is from July 1, 2012 to June 30, 2015. This collective bargaining agreement can be accessed from the public Internet website of CMS at the address of: <http://www.illinois.gov/cms/Employees/Personnel/Pages/PersonnelLaborRelations.aspx>.

16. Plaintiff SEIU Health Care of Illinois and Indiana has two collective bargaining agreements with the State. One covers Personal Assistants. The other covers childcare providers. The contract for the Personal Assistants has a term that began in 2012 and ends on June 30, 2015. The contract for the child care providers has a term that began in 2013 and ends on June 30, 2015. In each contract the State is an employer, and the State is responsible for the compensation that is received by the assistant or the provider. Each contract requires the timely payment of compensation

for work. The contracts can be found at the Internet web cite of CMS at the following addresses:

[http://www.illinois.gov/cms/Employees/Personnel/Documents/emp\\_seiuchild.pdf](http://www.illinois.gov/cms/Employees/Personnel/Documents/emp_seiuchild.pdf) and

[http://www.illinois.gov/cms/Employees/Personnel/Documents/emp\\_seiupast.pdf](http://www.illinois.gov/cms/Employees/Personnel/Documents/emp_seiupast.pdf).

17. Plaintiff Plaintiff Laborers International Union of North America – Illinois State Employees Association, Local 2002 of the Southern and Central Laborers District Council of the Laborers International Union of North America (“Laborers Local 2002”) is a labor union and an affiliate of the Southern and Central Illinois Laborers District Council. It is the exclusive bargaining representative of several hundred employees of the State of Illinois in two state-wide bargaining units. One unit is called VR-704 and is a statewide unit containing employees in five State agencies subject to the Governor. The VR-704 contract is effective from July 1, 2012, to June 30, 2015. A second collective bargaining unit is called VR-706 and covers Meat and Poultry Inspector Supervisors, Automotive Shop Supervisors, and Assistant Automotive Shop Supervisors. The VR-706 contract is also effective from July 1, 2012, to June 30, 2015. Both collective bargaining agreements can be accessed from the public Internet website of CMS at the address of: <http://www.illinois.gov/cms/Employees/Personnel/Pages/PersonnelLaborRelations.aspx>.

18. Plaintiff Illinois Fraternal Order of Police Labor Council (“FOP Labor Council”) represents a bargaining unit of employees classified as Conservation Police–Sergeants and Conservation Police–Lieutenants who work in the Illinois Department of Natural Resources. The FOP Labor Council has an agreement with the State that covers the period from July 1, 2012, through June 30, 2015. This agreement is posted on the public Internet website of CMS at the address of: [http://www2.illinois.gov/cms/Employees/Personnel/Documents/emp\\_rc104.PDF](http://www2.illinois.gov/cms/Employees/Personnel/Documents/emp_rc104.PDF).

19. Plaintiff International Brotherhood of Electrical Workers ("IBEW") maintains a collective bargaining agreement with the State for prevailing-rate employees in the classifications of Electrician, Electrician (Foreman), and Electrician (General Foreman). The term of the Agreement is from July 1, 2012 to June 30, 2015. This collective bargaining agreement can be accessed from public Internet website of CMS at the address of: <http://www2.illinois.gov/cms/Employees/Personnel/Pages/PersonnelLaborRelations.aspx>.

20. Plaintiff Teamsters Local Union No. 705, Affiliated with the International Brotherhood of Teamsters, ("Local 705 IBT") represents approximately 35 employees that work under the Agreement between IBT Local 330 and the State. These employees have recourse to the grievance procedures of the IBT Local 330 Agreement and are covered by the fair-share provisions of that Agreement as well. The IBT Local 330 Agreement is posted on the public Internet website of CMS at the address of: [http://www2.illinois.gov/cms/Employees/Personnel/Documents/emp\\_teamstersfv.PDF](http://www2.illinois.gov/cms/Employees/Personnel/Documents/emp_teamstersfv.PDF).

21. Plaintiff Conservation Police Lodge of the Police Benevolent and Protective Association ("Conservation Police Lodge") represents a bargaining unit of employees classified as Conservation Police Officer Trainee and Conservation Police Officer I and II who work at the Illinois Department of Natural Resources. The Lodge has a collective bargaining agreement with the State. The term of this Agreement is from July 1, 2012, to June 30, 2015. The Agreement is posted on the public Internet website of CMS at the address of: [http://www2.illinois.gov/cms/Employees/Personnel/Documents/emp\\_cpl.PDF](http://www2.illinois.gov/cms/Employees/Personnel/Documents/emp_cpl.PDF).

22. Defendant State of Illinois employs the members of the Union Plaintiffs. It maintains a registered agent for the purposes of services at the James R. Thompson Center, 100 W. Randolph,

Suite 15-500, Chicago, Illinois, 60601. The State maintains offices and facilities in St. Clair County, Illinois.

23. Defendant Leslie Geissler Munger is the Comptroller of the State of Illinois. The Comptroller has offices in Chicago and in Springfield. The Local Government Division of the Comptroller works with local governments throughout the State of Illinois, including local governments in St. Clair County. Under Article V, Section 17 of the Illinois Constitution, the Comptroller maintains the State's central fiscal accounts and issues warrants which permit funds to be withdrawn from the State Treasury. Defendant Munger maintains registered agent for the purposes of service of process at 100 W. Randolph, Suite 15-500, Chicago, Illinois, 60601.

24. Defendant Munger is the State payroll officer and is responsible for issuing state payroll warrants. 15 ILCS 405/12. She is also responsible for ensuring that State employees are paid on a timely basis. 15 ILCS 405/13. She has the statutory responsibility to review each voucher submitted to her office to determine whether the voucher and the documentation for the voucher meet all applicable legal requirements. 15 ILCS 405/9(d). She also has the responsibility to review the documentation submitted with each voucher and to determine whether the transaction associated with the voucher took place in accordance with law. 15 ILCS 405/9 (e).

25. In accordance with the foregoing, Defendant Munger's authority as Comptroller includes the authority to insure that State employees are paid properly under state and federal law.

### III. FACTS

26. The wages and salaries of employees of the State are funded primarily by the general revenues of the State of Illinois. The General Assembly and the Governor annually must agree to

a budget for which appropriates money for the payment of wages and salaries from these revenues.

The State fiscal year runs from July 1 to June 30. Thus, the 2015 Fiscal year ends on June 30, 2015, and the 2016 Fiscal Year begins on July 1, 2015.

27. The General Assembly and the Governor have not yet agreed on the vast majority of the State budget for the current fiscal year.

28. The General Assembly and the Governor have not agreed on a measure to fund the operation of State Government for the current fiscal year.

29. Notwithstanding the lack of an appropriations measure for State government, State officeholders have directed employees to continue to work.

30. State employees have continued to work.

31. The Union Plaintiffs in this case have advised the employees that they represent that they should report to work as ordered.

32. State law requires the Comptroller to prepare a schedule to inform State employees when they will be paid. With the exception of State University employees who are not members of the Universities Civil Service System, State law requires that State employees be paid semi-monthly. 15 ILCS 405/13.

33. Most State employees are paid after the period in which they perform their work. These employees will receive their final paycheck for work performed in the 2015 Fiscal Year between July 7, 2015 and July 17, 2015. Their first paychecks for work performed in the 2016 Fiscal Year are due between July 22, 2015 and July 31, 2015.

34. A significant number of State employees are paid concurrently for their work. Those employees will receive their final paychecks for their work in the 2015 Fiscal Year on June 30, 2015.

The next payday for these employees is July 15, 2015.

35. No one knows when the Governor and the General Assembly will agree on a budget.

36. There is no guarantee that the budget will contain sufficient appropriations to pay employees for their work in the new fiscal year at the wages and salaries currently paid to them.

37. Section 9(c) of the Comptroller's Act, 15 ILCS 405/9(c), provides that prior to issuing warrants for state expenditures, the Comptroller must determine whether vouchers submitted to the office are supported by "unencumbered appropriations" or by "unencumbered obligational or expenditure authority other than by appropriations" which are "legally available to incur the obligation or to make the expenditure of public funds."

38. In *Jorgensen v. Blagojevich*, 211 Ill. 2d 286, 315 (2004), the Illinois Supreme Court held that a court order based upon the State Constitution could provide the Comptroller "expenditure authority other than appropriation" to draw warrants for the expenditure of funds from the State Treasury.

39. Defendant Munger will not issue warrants for the payment of State employees for work performed after July 1, 2015 in the absence of a court order authorizing her to do so. As a result, if the current budget impasse continues past July 15, 2015, State employees will not be paid for their work during in the 2016 Fiscal Year.

40. Notwithstanding the lack of budgetary appropriations, the State has sufficient funds to continue to pay State employees for their work.

41. Many State employees rely on their paychecks for the necessities of life. As a consequence delays in the payment of wages for work performed in the current fiscal year will cause grievous harm to State employees and their families.

42. Thousands of State employees perform work that cannot be abandoned. Examples include work in the prisons, in State Mental Health Centers, in State centers for the Developmentally Disabled, the work of social workers on behalf of abused and neglected children, and the work of the State Police. The work is important and in many cases dangerous. The State has made no plan for the provision of this work during an extended budget crisis and there is no guarantee that the employees who perform this work will be paid in full for it. Indeed, the Attorney General has taken the position in other litigation that any such guarantee would undermine the constitutional authority of the General Assembly to set the level and direction of State spending. *State of Illinois v. AFSCME*, 2014 Il App (1st) 130262, *petition for leave to appeal granted*, March 25, 2015.

43. In other words, State employees are now pawns in the political dispute over the State budget. This result is unconscionable given the nature and importance of their work. They and their families deserve better.

### COUNT I – IMPAIRMENT OF CONTRACT

This Count is brought by Plaintiffs against Defendants for violation of the Illinois Constitution.

44. Article I, Section 16 of the Illinois Constitution states, in relevant part, that “No ex post facto law, or law impairing the obligation of contracts . . . shall be passed.”

45. The employees who are covered by the provisions of collective bargaining agreements between the State of Illinois and their unions have a contractual right to be paid in a timely fashion for their work.

46. Defendants' failure to timely pay the wages required by these collective bargaining agreements impairs the obligations in those agreements.

47. Defendants' impairment of the obligations imposed by State employee collective bargaining agreements is not reasonable and necessary to serve an important public purpose.

48. The Personnel Code of the State of Illinois defines the terms and conditions of employment for employees subject to the Governor of the State. The Personnel Code obligates the Director of Central Management Services to promulgate a Pay Plan. The Code and the Pay Plan have the force of law. 20 ILCS 415/8

49. The Code and the Plan require the State to pay fair and reasonable compensation for services rendered 20 ILCS 415/8a. The Pay Plan sets the wage rates for the various classifications of employees subject to the Governor and allows the decrease of those wages in certain narrowly defined circumstances. Pay Plan, Section 310.90. Those circumstances do not include a decrease in pay due to the lack of a budget.

50. The Code and the Pay Plan combined create employment agreements between the State and the employees subject to the Governor. One term of this agreement is the timely payment of wages for the work performed by State employees.

51. The actions of Defendants' have impaired the obligations of the employment agreements created pursuant to the Personnel Code and Pay Plan.

52. The impairment of the employment agreements created pursuant to the Personnel Code and the Pay Plan is not a reasonable and necessary means to accomplish an important public purpose.

WHEREFORE, Plaintiffs respectfully request this Court enter judgment in favor of themselves and the putative class members and against Defendants State of Illinois and State Comptroller Geisseler Munger for the following:

(a) a declaration that:

(1) the refusal of Defendants to pay State employees wages earned in the current fiscal year constitutes an impairment of contract in violation the Illinois Constitution; and

(2) State employees are due full payment for any work performed in the 2016 fiscal year;

(b) the issuance of a preliminary injunction directing the Defendants to pay wages and salaries earned in the current fiscal year on a timely basis;

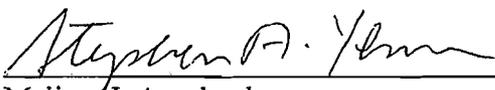
(c) the issuance of a permanent injunction directing the Defendants to pay wages and salaries earned in the current fiscal year on a timely basis;

(d) an order requiring Defendants to pay the costs and reasonable attorneys fees of bringing this cause of action; and

(e) any other relief the Court deems equitable and just.

Respectfully submitted,

CORNFIELD AND FELDMAN LLP

By:   
Melissa J. Auerbach  
Stephen A. Yokich

Attorneys for Plaintiffs AFSCME Council 31

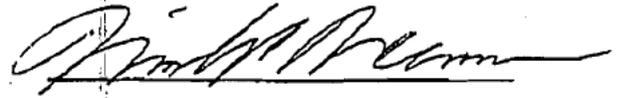
July 2, 2015

CORNFIELD AND FELDMAN LLP  
25 East Washington Street  
Suite 1400  
Chicago, Illinois 60602-1803  
(312) 236-7800  
(312) 236-6686 (fax)

**VERIFICATION**

My name is Michael Newman. I am the Deputy Director of AFSCME Council 31. I am familiar with the allegations of the Complaint in this case.

Under the penalties prescribed by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned verifies that the statements set forth in this Complaint are true and correct, except to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes same to be true.



Michael Newman

**Exhibit 1**

**S.R. 87**

### Tolling Agreement and Declaration

The Parties, American Federation of State, County and Municipal Employees, AFL-CIO, Council 31 (the "Union") and the State of Illinois, Department of Central Management Services (the "State") (collectively, the "Parties"), agree to negotiate in good faith to reach agreement on a successor collective bargaining agreement at the earliest possible date

In the event that, despite the Parties' best efforts, an agreement is not reached by June 30, 2015, and good faith negotiations need to extend beyond that date, the Parties agree to meet and negotiate in good faith for a successor collective bargaining agreement

The Parties further agree that, in the event of negotiations extending beyond June 30, 2015, the Parties will adhere to their statutory obligations regarding good faith negotiations. Neither party will resort to strike, work stoppage, work slowdown, or lockout between July 1, 2015 and July 31, 2015.

The Parties disagree with respect to the Employer's obligation to continue step increases and semi-automatic promotion increases. This Agreement does not prejudice either Party's position on that issue.

The Parties additionally agree that they will abide by all legal obligations each may have, including the obligation to negotiate in good faith for a successor collective bargaining agreement following the expiration of the current collective bargaining agreement.

Unless expressly provided herein, the Parties agree that by entering into this Tolling Agreement, they do not waive any legal rights or entitlements that exist in law but for this agreement and that all legal and contractual rights that exist on June 30, 2015 shall remain in effect during the term of this Agreement.

In the event the Parties have not negotiated and agreed to a successor collective bargaining agreement by July 31, 2015, the Parties agree to meet no later than July 30, 2015 in order to negotiate a renewal of this Tolling Agreement.

---

For the State of Illinois, Department of  
Central Management Services

---

For the American Federation of State,  
County and Municipal Employees, AFL-  
CIO, Council 31

**Exhibit 2**

**S.R. 89**

**Tolling Agreement and Declaration**

The Parties Illinois Federation of Public Employees, IFPE, (the "Union") and the State of Illinois, Department of Central Management Services (the "State") (collectively, the "Parties"), agree to negotiate in good faith to reach agreement on a successor collective bargaining agreement at the earliest possible date

In the event that, despite the Parties' best efforts, an agreement is not reached by June 30, 2015, and good faith negotiations need to extend beyond that date, the Parties agree to meet and negotiate in good faith for a successor collective bargaining agreement

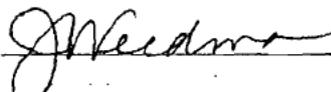
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In the event the Parties have not negotiated and agreed to a successor collective bargaining agreement by July 31, 2015, the Parties agree to meet no later than July 30, 2015 in order to negotiate a renewal of this Tolling Agreement.

  
\_\_\_\_\_  
For the State of Illinois, Department of  
Central Management Services

\_\_\_\_\_  
For the Illinois Federation of Public Employees

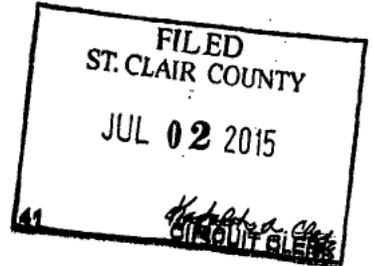
Date 7/1/15  
\_\_\_\_\_

\_\_\_\_\_  
Date

IN THE CIRCUIT COURT FOR THE TWENTIETH JUDICIAL CIRCUIT  
ST. CLAIR COUNTY, ILLINOIS

American Federation of State,  
County and Municipal Employees,  
Plaintiff Council 31, et al., )  
 )  
Vs )  
 )  
State of Illinois, et al., )  
 )  
 )  
Defendant )

Case No. 15CH475



MOTION TO APPOINT SPECIAL OFFICER

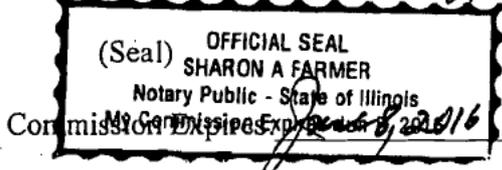
Comes now the Plaintiff AFSCME Council 31 and moves this Court to  
appoint Beye Fyfe as a Special Officer for service of  
summons in the above entitled matter, said person being over the age of 21 and having no  
interest in the above named matter.

CORNFIELD AND FELDMAN LLP  
Stephen A. Yokich

*Stephen A. Yokich*

Attorneys for Plaintiff AFSCME Council 31

Signed and sworn to before me this 2nd day of July, 20 15.



*Sharon A. Farmer*

ORDER

For good cause shown and upon Motion of the Plaintiff, IT IS HEREBY ORDERED that  
\_\_\_\_\_ be and is hereby appointed Special Officer for service of  
process in the above entitled matter.

Entered: 7/2/15  
*[Signature]*  
Judge

IN THE CIRCUIT COURT OF THE 20TH JUDICIAL CIRCUIT  
ST. CLAIR COUNTY, ILLINOIS

American Federation of State, County )  
and Municipal Employees, Council 31; )  
Illinois Troopers Lodge No. 41, Fraternal )  
Order of Police; Illinois Nurses Association; )  
Illinois Federation of Public Employees, )  
Local 4408 IFT-AFT; Illinois Federation of )  
Teachers, Local 919; International )  
Brotherhood of Electrical Workers; Illinois )  
Fraternal Order of Police Labor Council; )  
Laborers International Union of North )  
America – ISEA Local 2002; Service )  
Employees International Union, Local 73; )  
SEIU Health Care Illinois & Indiana; )  
SEIU Local 1; Teamsters Local Union )  
No. 705, Affiliated with the International )  
Brotherhood of Teamsters; Conservation )  
Police Lodge of the Police Benevolent )  
and Protective Association, )

Case No. 15 CH 475

Plaintiffs, )

v. )

State of Illinois and Leslie Geissler Munger )  
in Her Official Capacity as Comptroller for )  
the State of Illinois, )

Defendants. )

**PLAINTIFFS’ MOTION FOR A TEMPORARY RESTRAINING ORDER**

The Plaintiffs in this case are labor unions. They represent public employees of the State. These employees are loyally performing their services for the State. As soon as next week, their wages will be slashed to less than subsistence levels or to zero. The reason: the Defendants are impairing the contracts the employees and their unions have with the State. Such impairment violates the straightforward command of Article I, Section 16 of the Illinois Constitution that the

State shall make no laws that impair the obligation of contracts. The Plaintiffs therefore ask this Court for an order that will prevent this violation of the Illinois Constitution and ensure that State workers will be timely paid in full for their services. In support of the Motion, Plaintiffs allege the following:

**I. FACTS.**

1. The Plaintiffs represent more than 40,000 State employees who work in the executive branch of the government under the Governor or other constitutional officers. Verified Cmplt., Para. 1.

2. No State budget is in place for the Fiscal Year beginning July 1, 2016. Verified Cmplt., Para. 2. This means that appropriations for the wages which will soon be owed to State employees for their work do not exist. No one knows when or how the impasse will end. Verified Cmplt., Para. 35.

3. The State Comptroller has stated that she will not draw warrants for the payment of State employees for their work in the new Fiscal Year without a budget unless ordered to do so by a court. Verified Cmplt., Para. 39. No such order exists.

4. Nonetheless, State employees have been directed to report to work and have honored that directive. Moreover, the Unions that represent those employees have advised them to continue working during the instant budget impasse. Verified Cmplt., Paras. 2, 29-31.

5. Plaintiff AFSCME Council 31 is a party to a Master collective bargaining agreement with the State of Illinois that is effective from July 1, 2012, to June 30, 2015 (“the Master Agreement”). The Master Agreement sets the pay of the employees covered by it. The Master Agreement is currently posted on the Internet website of the Illinois Department of Central Management Services.

Verified Cmplt., Para. 6.

6. On June 25, 2015, AFSCME and the State entered into a "Tolling Agreement." A true and accurate copy of the Tolling Agreement is attached to the Verified Complaint in this case as Exhibit 1. In the Tolling Agreement, AFSCME promised to refrain from a strike, work stoppage or work slowdown between July 1, 2015 and July 31, 2015. The State promised that it would not lockout employees during that same time. In addition, the tolling agreement states that the parties retain "all legal and contractual rights" that existed on June 30, 2105. The Tolling Agreement therefore establishes a contractual right for employees subject to the 2012-2015 Master Agreement to be paid on a timely basis in full for their work during the month of July 2015. Verified Cmplt., Para. 7.

7. Plaintiff Local 4408 of the Illinois Federation of Public Employees ("Local 4408") is a labor union and an affiliate of the Illinois Federation of Teachers. Local 4408 has three collective bargaining agreements with the State of Illinois which are subject to the Governor. These are called the RC-29, RC-45 and RC-56 collective bargaining agreements. These Agreements comprehensively cover the wages, hours and other conditions of employment for the employees in these bargaining units. Each Agreement is effective for the term July 1, 2012, to June 30, 2015. Verified Cmplt., Para. 9.

8. On July 1, 2015, Local 4408 and the State entered into a "Tolling Agreement" which covered the employees in RC-29, RC-45 and RC-56. A true and accurate copy of the Tolling Agreement is attached as Exhibit 2 to the Verified Complaint. In the Tolling Agreement, Local 4408 promised to refrain from a strike, work stoppage or work slowdown between July 1, 2015 and July 31, 2015. The State promised that it would not lockout employees during that same time. In

addition, the tolling agreement states that the parties retain “all legal and contractual rights” that existed on June 30, 2105. The Tolling Agreement therefore establishes a contractual right for employees subject to the 2012-2015 agreements to be paid on a timely basis in full for their work during the month of July 2015. Verified Cmplt., Para.10.

9. In addition to the foregoing bargaining units and collective bargaining agreements which are with agencies subject to the Governor, Local 4408 represents bargaining units of employees with other elected officeholders of the State. Specifically, Local 4408 represents a unit of clerical employees who work for the Attorney General of the State and who have a collective bargaining agreement with her and a unit of employees who work at the office of the Illinois Secretary of State. Verified Cmplt., Para. 11. These contracts have provisions which continue the contracts past their expiration date if a successor contract has not been reached. The employees covered by these contracts have a contractual right to be paid on a timely basis in full for their work in the 2016 Fiscal Year.

10. The employees who are covered the agreements between the other Plaintiff Unions and the State have similar contractual rights to be timely paid in full for their work during the 2016 Fiscal Year. *See Association of Surrogates and Supreme Court Reporters v. New York*, 79 N.Y. 2d 39, 45 (Court of Appeals, 1992)(employees had contract rights because State law required continuation of terms and conditions of employment).

11. Under Article V, Section 17 of the Illinois Constitution, the Comptroller, Defendant Munger, maintains the State’s central fiscal accounts and issues warrants which permit funds to be withdrawn from the State Treasury. Verified Cmplt., Para. 23.

12. Defendant Munger is the State payroll officer and is responsible for issuing state payroll

warrants. 15 ILCS 405/12. She is also responsible for ensuring that State employees are paid on a timely basis. 15 ILCS 405/13. Defendant Munger's authority as Comptroller includes the authority to insure that State employees are paid consistently with state and federal law. Verified Cmplt., Paras. 24-25.

13. The wages and salaries of State employees are funded primarily by the general revenues of the State of Illinois. The General Assembly and the Governor annually must agree to a budget for which appropriates money for the payment of wages and salaries from these revenues. The State fiscal year runs from July 1, to June 30<sup>th</sup>. Thus, the 2015 Fiscal year ends on June 30<sup>th</sup> 2015 and the 2016 Fiscal Year begins on July 1<sup>st</sup>. Verified Cmplt., Para. 26.

14. State law requires the Comptroller to prepare a schedule to inform State employees when they will be paid. With the exception of State University employees who are not members of the Universities Civil Service System, State law requires that State employees be paid semi-monthly. 15 ILCS 405/13. Verified Cmplt., Para. 32.

15. Most State employees are paid after the period in which they perform their work. These employees will receive their final paycheck for work performed in the 2015 Fiscal Year between July 7, 2015 and July 17, 2015. Their first paychecks for work performed in the 2016 Fiscal Year sre due between July 22, 2015 and July 31, 2015. 34. A significant number of State employees are paid concurrently for their work. Those employees will receive their final paychecks for their work in the 2015 Fiscal Year on June 30, 2015. The next payday for these employees is July 15, 2015. Verified Cmplt., Para. 33-34.

16. No one knows when the Governor and the General Assembly will agree on a budget. There is no guarantee that the budget will contain sufficient appropriations to pay employees for their

work in the new fiscal year at the wages and salaries currently paid to them. Verified Cmplt., Paras. 35-36.

17. Notwithstanding the lack of budgetary appropriations, the State has sufficient funds to continue to pay State employees for their work. Verified Cmplt., Para. 40.

18. Many State employees rely on their paychecks for the necessities of life. As a consequence delays in the payment of wages for work performed in the current fiscal year will cause grievous harm to State employees and their families. State employees “are wage earners, not volunteers. They have bills, child support obligations, mortgage payments, insurance premiums and other responsibilities. They have a right to rely on . . . their paychecks.” *University of Hawaii Professional Association v. Cayetano*, 183 F.3d 1096, 1106 (9<sup>th</sup> Cir. 1999).

19. Thousands of State employees perform work that cannot be abandoned. Examples include work in the prisons, in State Mental Health Centers, in State centers for the Developmentally Disabled, the work of social workers on behalf of abused and neglected children and the work of the State Police. The work is important and in many cases dangerous. The State has made no plan for the provision of this work during an extended budget crisis and there is no guarantee that the employees who perform this work will be paid in full for it. Verified Cmplt., Para. 42.

## II. LITIGATION IN COOK COUNTY

20. At 11:59 on Wednesday, July 1, 2015, approximately 16 hours prior to the filing of this suit, the Illinois Attorney General filed a lawsuit against the Comptroller in the Circuit Court of Cook County. That lawsuit sought, among other things, a declaration regarding the wages the State

could legally pay to employees in the absence of a budget for Fiscal Year 2016.<sup>1</sup> The next day, the Attorney General filed a Motion for a Temporary Restraining Order.

21. The Attorney General concedes that the federal Fair Labor Standards Act requires the state to timely pay minimum wages and overtime compensation to State employees even in the absence of budgetary appropriations. *People v. Munger*, No. 15 CH 10243, Verified Complaint at Para. 27. Accord: *AFSCME Council 13 v. Pennsylvania*, 986 A.2d 63, 76-78 (Penn. S.Ct. 2009); *White v. Davis*, 68 P. 3d 74, 105-08 (Cal. S.Ct. 2003).

22. The Comptroller maintains, with the support of the Illinois Department of Central Management Services, that it is literally impossible to process a payroll compliant with the FLSA without processing the full wages and salaries of state employees. This argument is based upon both the mechanics of the State payroll system and the fact that the State has no system in place to determine which employees are subject to the overtime provisions of the FLSA and which are not.

23. The evidence presented by the Comptroller indicated that State agencies would have to manually revise the wage rates of all State employees in order to process payroll based upon the federal minimum wage. Moreover, the downward revision of wage rates would wreak havoc with employment benefits and with the payroll deductions that have been authorized by State employees.

24. The evidence presented by the Comptroller also indicated that it would take the State several months to determine who was covered by the FLSA and who was not. See Exhibit 1, attached hereto.

25. Judge Larsen issued an order which granted the Attorney General's request for a

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<sup>1</sup> A copy of this lawsuit, *People v. Munger*, No. 15 CH 10243, is attached to the Defendants' Motion to Dismiss in this case.

temporary restraining order. It enjoined the Comptroller from processing vouchers for payment of state employee payroll except for vouchers that complied with the minimum wage and overtime requirements of the FLSA. Exhibit 2, attached hereto. That order has been appealed. Exhibit 3, attached hereto.

26. Based upon the evidence, therefore, it may well be that State employees will not be paid for their work until the budget impasse is resolved. At best, under the terms of Judge Larsen's order, they will receive the federal minimum wage of \$7.25 an hour, or approximately \$1,250 a month, before taxes. Moreover, there is no legal guarantee that they will receive full compensation for this work once a budget is enacted.

### III. ARGUMENT

27. Article I, Section 16 of the Illinois Constitution states, in relevant part, that "No ex post facto law, or law impairing the obligation of contracts . . . shall be passed." In the recent opinion regarding pensions for State employees, the Illinois Supreme Court re-affirmed the importance and vitality of this constitutional provision. It noted it has only rarely upheld legislation which undermined contracts and that legislation impairing the States' own contracts is subject to particular scrutiny. *In re Pension Reform Litigation*, 2015 Ill 118585, Paras. 61 & 63.

28. The Courts have held that state statutes that delay the payment of wages to State employees impair the obligation of contracts. *University of Hawaii Professional Association v. Cayetano*, 183 F.3d 1096, 1104 (9<sup>th</sup> Cir. 1999); *Association of Surrogates & Supreme Court Reporters v. New York*, 940 F.2d 766, 772 (2d Cir. 1991).

29. The courts have also held that the failure to appropriate funds to compensate employees for work performed under a collective bargaining agreement conflicts with the constitutional

guarantee against the impairment of contracts. *See, e.g., AFSCME/ Iowa Council 61 v. State*, 484 N.W. 2d 390, 394 (Iowa S. Ct. 1990)(policy forbidding the impairment of contracts supports Court's ruling that State must pay wage increases required by arbitration award despite Governor's veto of legislation funding increases); *Carlstrom v. State*, 694 P. 2d 1, 4 (Wash. S. Ct. 1985)(legislative deferral of salary increase in community college contract constituted repudiation and impairment of contract)

30. In a case involving an arbitrator's award requiring the State of Illinois to pay raises set forth in a collective bargaining agreement, the Appellate Court for the First District recently held:

We hold that the arbitrator's award comports with the overriding public policy of permitting the State to negotiate enforceable multiyear collective bargaining agreements with unions of state employees and the award furthers the express constitutional policy forbidding the General Assembly from passing any acts, including insufficient appropriations bills, that impair the obligation of contracts.

*State v. AFSCME Council 31*, 2014 IL App (1<sup>st</sup>) 130262, Para. 40 (2014).<sup>2</sup> *Cf. White v. Davis*, 68 P.3d 74, 98-102 (2003)(finding that failure to appropriate money to fund employee salaries during a State budget impasse violated impairment clause of the California Constitution but holding that payment was not required until State enacted appropriations).

31. Additionally, State employees have contract rights by virtue of the State statutes which provide and set their compensation. *See, e.g., Duldulao v. St. Mary Nazareth Hospital*, 115 Ill. 2d 482 (1987) (provisions of employee handbook created employment agreement). As with an employee handbook, the Personnel Code of the State sets the terms and conditions of employment

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<sup>2</sup> The Supreme Court has granted the State's petition for leave to appeal in *State v. AFSCME*. It goes without saying, however, that the Appellate Court's opinion is binding on the Circuit Courts until overruled by the Illinois Supreme Court. *People v. Carpenter*, 228 Ill. 2d 250, 259-60 (2008).

for employees subject to the Governor of the State. Jurisdiction A of the Personnel Code obligates the Director of Central Management Services to promulgate a Pay Plan. The Pay Plan has the force of law. See 20 ILCS 415/8. Both the Code and the Plan require the State to pay fair and reasonable compensation for services rendered 20 ILCS 415/8a. The Pay Plan specifically sets the wages for the various classifications of employees subject to the Governor and allows the decrease of those wages in certain narrowly defined circumstances. Pay Plan, Section 310.90. Those circumstances do not include a decrease in pay due to the lack of a budget.

32. In *Jorgensen v. Blagojevich*, 211 Ill. 2d 286, 315 (2004), the Illinois Supreme Court held that a court order based upon the State Constitution could provide the Comptroller authority to draw warrants for the expenditure of funds from the State Treasury in the absence of a legislative appropriation.

33. Thus, this court has the authority to issue an award requiring the Comptroller to process the full amount of the payrolls submitted to her in order to avoid the impairment of contracts that would otherwise result from the failure of the State to pass a budget.

34. Defendant rely heavily the precedent of *AFSCME v. Netsch*, 216 Ill. App. 3d 556 (4<sup>th</sup> Dist. 1991). This case has been superceded by more recent precedent. First, the Plaintiffs in *AFSCME v. Netsch* did not raise, and the Court did not decide, any constitutional claims based upon the impairment of contract clause contained in Article I, Section 16 of the Illinois Constitution. Thus, this case is far more similar to *State v. AFSCME*, cited above, where the Court held that the failure to appropriate funds to meet contractual obligations undermined the policy of the contracts clause of the Illinois Constitution. Second, *AFSCME v. Netsch* preceded the Illinois Supreme Court's decision in *Jorgensen v. Blagojevich*, which explicitly held that a Court may direct the

Comptroller to draw warrants for the payment of judicial salaries absent an appropriation. Appellate Court decisions since *Jorgensen* have relied on it to support similar claims by other public officials in the absence of explicit State appropriations. *Illinois County Treasurers Assoc. v. Hamer*, 2014 Il App (4<sup>th</sup>) 130386, Para. 29 (court may compel payment of county treasurers' stipends when failure to pay violates the Illinois Constitution); *Wilson v. Quinn*, 2013 Il App (5<sup>th</sup>) 120337 (allowing claim to compel the payment of mandated stipends to county sheriffs)

35. The employees who are covered by the provisions of collective bargaining agreements between the State of Illinois and their unions have a contractual right to be paid in a timely fashion for their work. Verified Cmplt., Paras. 7,8,10,16.

36. Defendants' impairment of the obligations imposed by State employee collective bargaining agreements is not reasonable and necessary to serve an important public purpose. As set forth above, there is no dispute that the State Treasury has sufficient funds for the payrolls in question. The Courts have been very clear that the salaries of public employees should not be a "political football" when executives and legislatures cannot easily agree on a budget. *See, e.g., University of Hawaii Professional Association v. Cayetano, supra*, 183 F.3d 1096 at 1107 (upholding trial court finding that impairment was unconstitutional because many, albeit "perhaps politically more difficult" alternatives existed to raise revenues); *Association of Surrogates & Supreme Court Reporters v. New York*, 940 F.2d 766, 773 (2d Cir. 1991)(holding impairment of contract unconstitutional where state could have funded program by shifting resources or raising taxes, even though neither alternative was popular among legislators); *Opinion of the Justices (Furlough)*, 135 N.H. 625, 609 A.2d 1204 (N.H. 1992)(holding that imposition of unpaid furlough day program constituted impairment of contract and noting that legislature could have chosen less

“politically feasible” alternatives such as reducing other services or increasing taxes); *Association of Surrogates and Court Reporters Within the City of New York v. State of New York*, 79 N.Y. 2d 39, 47, 588 N.E. 2d 51 (N.Y. Court of Appeals, 1992)(“The choice of which revenue-raising or revenue-saving devices should be used is for others, but the menu of alternatives does not include impairing contract rights to obtain forced loans to the State from its employees.”).

#### IV. STANDARDS FOR PRELIMINARY INJUNCTIVE RELIEF

37. Preliminary injunctive relief is proper if the moving party can demonstrate: (1) that it has a clearly ascertained right that needs protection; (2) that it will suffer irreparable harm without the injunction; (3) that it has no adequate remedy at law; (4) that there is a likelihood of success on the merits of the underlying suit; and (5) that the benefits of granting preliminary relief outweigh the injury to the defendant. *Travelport LP v. American Airlines*, 2011 Il App (1st) 111761 ¶32; *Scheffel & Company, P.C. v. Fessler*, 356 Ill. App. 3d 308, 313 (5th Dist. 2005).

38. While the movant must make a prima facie showing on each of these elements, the showing is less than what is needed to ultimately prevail at trial. Instead, the moving party must only raise a fair question as to the existence of the rights claimed, which is sufficient to support the finding that the party will probably be entitled to the relief sought if it sustains its allegations. *E.g. People ex rel. Klaren II v Village of Lisle*, 202 Ill. 2d 164 (2002); *Lifetec v. Edwards*, 377 Ill. App. 3d 260 (4<sup>th</sup> Dist. 2007); *Peters Const. v. Tri-City Reg. Port Dist.*, 281 Ill. App. 3d 41, 47 (5<sup>th</sup> Dist. 1996).

39. The Plaintiffs have demonstrated clear rights needing protection. They have rights based upon their collective bargaining agreements. Such contractual rights may be used to support preliminary injunctive relief. *E.g. Scheffel & Company, P.C., v. Fessler, supra*, 356 Ill. App. 3d at

314 (protectible interest based upon restrictive covenant in employment agreement); *AFSCME v. Schwartz*, 343 Ill. App. 3d . 553, 560 (5th Dist. 2003)(upholding injunctive relief based upon rights in collective bargaining agreement).

40. In addition, the Plaintiffs have a clear right to the protections of the Constitution from the ultra vires acts of public officials. It is well established that a party is entitled to protection against the affirmative illegal action of public officials. *Senn Park Nursing Center v. Miller*, 104 Ill. 2d 169, 189 (1984) (plaintiffs had protectible legal interest against Director of Public Aid acting in excess of his statutory authority to change inflation adjustment contained in reimbursement rate for services); *Bio-Medical Laboratories v. Trainor*, 68 Ill. 2d 540, 548 (1977)(plaintiffs had protectible legal interest against actions in excess of delegated authority by the Director of Public Aid). Here, it is the failure to act. The Comptroller has refused process payroll vouchers for work that has already been performed. This refusal impairs contractual obligations in violation of the Illinois Constitution. The Courts have found protected legal interests in cases where public officials have failed to carry out their duties. *County of Cook v. Oglivie*, 50 Ill.2d 379 (1972) (enjoining defendants from withholding disbursements for welfare recipients); *Wilson v. Quinn*, 2013 Il App (5<sup>th</sup>) 120337 (2013)(plaintiffs had clear legal right based upon allegations that defendants had violated Illinois Constitution and statutes and that they had acted in excess of their statutory authority by failing to pay salary)

41. Once a party shows a clear right needing protection, the Courts generally presume that irreparable harm will occur without preliminary relief. *Tyler Enterprises of Elmwood v. Shafer*, 214 Ill. App. 3d 145, 151 (3<sup>rd</sup> Dist. 1991); *Cameron v. Bartels*, 214 Ill. App. 3d 69, 73 (4<sup>th</sup> Dist. 1991). This presumption applies with special force to public officials who act outside their statutory or

constitutional authority. *See, e.g., Village of Westmont v. Lenihan*, 301 Ill. App. 3d 1050, 1060 (2<sup>nd</sup> Dist. 1998)(Court presumes irreparable harm where legislative branch usurps powers of the executive branch); *Local 1894 v. Holsapple*, 201 Ill. App. 3d 1040,1046-47 (4<sup>th</sup> Dist. 1991)(irreparable harm occurs when public officials violate statute).

42. Irreparable harm does not mean injury that is beyond repair or compensation in damages. Instead, it denotes continuing damaging conduct. *Hadley v. Department of Corrections*, 362 Ill. App. 3d 680 (4<sup>th</sup> Dist. 2005) *aff'd* 224 Ill. 2d 365 (2007)(recurring \$2 charge for medical services); *Cameron v. Bartels*, 214 Ill. App. 3d 69, 74 (4<sup>th</sup> Dist. 1991) (recurring trespass and cutting of timber); *Local 1894 v. Holsapple*, 201 Ill. App. 3d 1040, 1047 (4<sup>th</sup> Dist. 1991) (recurring violations of statute limiting the use of auxiliary deputies); *Oppor. Center for S.E. Ill v. Bernardi*, 145 Ill. App. 3d 899, 904 (5<sup>th</sup> Dist. 1986) (continuing exercise of jurisdiction of administrative agency in violation of agency's statutory authority); *SSA Foods Inc. v. Giannotti*, 105 Ill. App. 3d 424, 427-28 (1<sup>st</sup> Dist. 1982) (irreparable harm does not mean injury that is beyond repair or beyond compensation in damages – it means transgressions of a continuing nature).

43. In this case, it is obvious that the failure of the Defendants to timely pay State employees constitutes irreparable harm. Lack of a paycheck, or a paycheck calculated based upon the minimum wage will severely harm many employees and their families. Group Exhibit 4. This harm is particularly severe because it is occurring in violation of constitutional requirements. And, it will continue absent an order of the court.

44. A remedy at law is adequate if it is “clear, complete and as practical and efficient to the ends of justice and its prompt administration as the equitable remedy.” *Bio-Medical Laboratories, Inc. v. Trainor*, 68 Ill. 2d 540,549 (1977); *Lucas v. Peters*, 318 Ill. App. 3d 1, 16 (1<sup>st</sup> Dist. 2000).

In this case, there is no guarantee that the eventual budget will contain funding for full back pay for employees who do not timely receive their wages. An order requiring the Comptroller to process the payroll vouchers for work performed this year, therefore, is much superior than an after the fact legal remedy.

45. The balance of equities strongly supports the relief requested here. If the Comptroller processes the vouchers, employees will work and get paid. Government operations will continue. This is as it should be. On the other hand, if the Comptroller persists in her refusal to process vouchers for payment, State employees and their families will suffer great financial harm.

46. The public interest also supports the relief requested here. Otherwise, the State may be liable for millions of dollars in damages under the Fair Labor Standards Act. *See Martin v. United States*, 117 Fed. Cl. 611 (2014)(granting liquidated damages to federal government employees who worked during governmental shutdown).

47. The Court has the authority to direct public officials to fulfill statutory and constitutional obligations, even if it will require the expenditure of public funds. E.g. *Jorgenson v. Blagojevich*, 211 Ill. 2d 286 (2004)(directing Comptroller to process vouchers for payment of cost of living allowances for judges, even in the absence of appropriation for allowances); *People ex rel. Am. Fed of St. Emp. v. Walker*, 61 Ill. 2d 112 (1975)(upholding issuance of writ of mandamus to compel Governor to spend funds appropriated for State employee salary increases). It should do so here.

WHEREFORE, Plaintiffs respectfully request this Court enter grant the following relief against Defendants State of Illinois and State Comptroller Geisseler Munger:

a. a declaration that:

(1) the refusal of Defendants to pay State employees wages earned in the

current fiscal year constitutes an impairment of contract in violation the Illinois Constitution; and

(2) State employees are due full payment for any work performed in the 2016 fiscal year;

b. the issuance of a temporary restraining order directing the Defendants to pay wages and salaries earned in the current fiscal year on a timely basis;

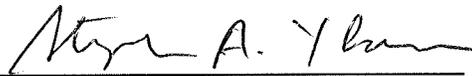
c. the issuance of a permanent injunction directing the Defendants to pay wages and salaries earned in the current fiscal year on a timely basis

d. an order requiring Defendants to pay the costs and reasonable attorneys fees of bringing this cause of action;

e. any other relief the Court deems equitable and just.

Respectfully Submitted,

CORNFIELD AND FELDMAN

BY 

MELISSA AUERBACH, Esq..  
STEPHEN A. YOKICH, Esq.

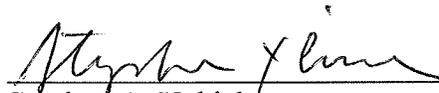
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**CERTIFICATE OF SERVICE**

Stephen A. Yokich, an attorney, hereby certifies that he caused a true and accurate copy of the foregoing **Motion for Temporary Restraining Order** to be served upon Defendants via e-mail on July 8, 2015 at the following address:

Brent E. Legner, No 6256268  
Deputy Solicitor general  
100 West Randolph, 12<sup>th</sup> Floor  
Chicago, Illinois 60601  
312-814-2146  
[blegner@atg.state.il.us](mailto:blegner@atg.state.il.us)

  
\_\_\_\_\_  
Stephen A. Yokich

**Exhibit 1**

**S.R. 109**

**AFFIDAVIT  
OF  
MARVIN BECKER**

State of Illinois        )  
                                  )  
County of Cook         )

I, Marvin Becker, being duly sworn, solemnly swear that:

1. I am the Assistant Comptroller over the processing of all State of Illinois accounting transactions.
2. My duties include managing the processing of State of Illinois employee payrolls.
3. There are approximately ten State of Illinois payroll processing agencies which prepare payroll information for submission to the Comptroller. These payrolls cover approximately 65,000 employees of the State of Illinois.
4. As part of the Comptroller's statutory duty to establish the schedule for payroll for State of Illinois employees, the Comptroller has established July 9 at 9:00 A.M. Central Standard Time as the due date for employee payrolls for a pay date of July 15, 2015.
5. The State of Illinois agencies can not develop the appropriate systems to address the problems identified herein in time for agencies to submit correct payroll information by 9:00 A.M. Central Standard Time on July 9.
6. In order to comply with the Attorney General's proposed order, State of Illinois agencies would need to determine which employees are covered by Fair Labor Standards Act ("FLSA") and submit payment vouchers for those employees to the Comptroller's office by the July 9 due date. The Comptroller understands that this is not practically possible before the vouchers are to be submitted to the Comptroller later this week.
7. Based on my knowledge of the systems used by the payroll processing agencies and my experience working with them, the agencies' systems are not currently capable of generating a payroll record in strict compliance with the FLSA.
8. Representatives of the payroll processing agencies have informed the Comptroller's office that, even if they could quickly identify those employees covered by the FLSA, which they can not, they could not create in a timely manner an accurate payroll limited to the payment of minimum wage and required overtime.
9. If the State of Illinois agencies were required to pay only covered employees the required minimum wage and overtime, they would need to exclude all insurance, retirement, child support, garnishments, levies, bankruptcies, and all other miscellaneous payroll deductions, i.e., union dues and deferred compensation.

10. Even if the State agencies were somehow able to process an FLSA-compliant payroll that excludes the withholdings as detailed in paragraph nine (9) above, which they are unable to do, the Comptroller would reject the payroll for non-compliance with legally required withholdings.

11. For example, State law requires the deduction from the pay of State employees the employees' contributions for State retirement purposes. The payment of minimum wage without the required employee contribution to the State retirement systems would cause the Comptroller to reject the payroll. If the balance of the payroll were processed after a budget is enacted, the payment of the remainder of the salary would include deductions for retirement purposes applicable to the previously paid minimum wage. This would create another error and rejection by the Comptroller, as the amount of withholding would exceed the amount specified by State law.

12. Similarly, the Comptroller is required to apply all orders for withholding against State employees for garnishments, levies, child support and administrative offsets. State agencies would not be able to apply any withholding orders against the partial payments of salary mandated by the FLSA.

13. The payment of partial salary under the FLSA, followed by payment of the remainder of the amount due upon enactment of the budget would also jeopardize the reporting and crediting of Social Security wages for affected employees. Quarterly payroll records would be in error for employees who received partial salary under the FLSA within a quarter and then receive the balance of their salary in a later quarter.

14. Given the systems limitations in both the payroll processing at the State of Illinois agencies and the Comptroller's office, the practical effect of entry of the order requested by the Attorney General is that *no* State of Illinois employees could be paid on July 15 or thereafter until extensive systems modifications are implemented, estimated by the Illinois Department of Central Management Service to take no less than nine to twelve months.

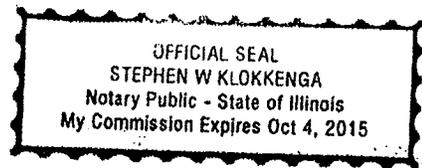
I know and understand the contents of this Affidavit, and all statements herein are true and correct.

Further Affiant sayeth naught.

*Mark Becker*  
\_\_\_\_\_  
Signature of Affiant

Subscribed and sworn before  
me this 6 day of July, 2015.

*Stephen W. Klockenga*  
\_\_\_\_\_  
Notary Public



My Commission Expires: 10-4-2015

# Exhibit 2

S.R. 112

Order

(2/24/05) CCG N002

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

People of the State of Ill., Plaintiff

v.

No. 2015 CH 10243

Leslie Geissler Munger, Defendant

ORDER (page 1 of 2)

This matter having come before the Court on Plaintiff's motion for a temporary restraining order ("TRO") and preliminary injunction; Plaintiff, Defendant, the intervening unions and Illinois Department of Central Management Services ("CMS") having appeared and presented argument, and the Court having considered Plaintiff's verified complaint, verified motion, and supporting memorandum, as well as Defendant's response and attachments, and being fully advised in the premises; It is hereby ordered:

Plaintiff's motion for a TRO is granted. The Court finds that Plaintiff has a protectible right in clear need of protection, has shown an inadequate remedy at law and irreparable injury in the absence of injunctive relief, and a likelihood of success on the merits. For the reasons stated at record, it is hereby ordered as follows: (continued on p.2)

Atty. No.: \_\_\_\_\_

Name: Lisa Modigan / Brett Legner

Atty. for: Plaintiff

Address: 100 W. Randolph, 12<sup>th</sup> Floor

City/State/Zip: Chicago, IL 60601

Telephone: (312) 814-2146

ENTERED:

Dated: \_\_\_\_\_

ENTERED  
JUDGE DIANE J. LARSEN-177  
JUL 07 2015  
DOROTHY BROWN  
CLERK OF THE CIRCUIT COURT  
OF COOK COUNTY  
DEPUTY CLERK

Judge's No. \_\_\_\_\_

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Copy Distribution - White: 1. ORIGINAL - COURT FILE Canary: 2. COPY Pink: 3. COPY

S.R. 113

Order

(2/24/05) CCG N002

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

People of the State of Illinois, Plaintiff

v.

Leslie Geissler Nungar, Defendant

No. 2015 CH 10243

ORDER (page 2 of 2)

Defendant is enjoined, in the absence of enacted appropriations legislation, from processing vouchers for payment of state employee payroll except vouchers that comply only with the minimum federal minimum wage and overtime requirements of the Federal Fair Labor Standards Act.

Atty. No.: 999000

Name: Lisa Madigan/Brett Logner

ENTERED:

Atty. for: Plaintiff

Dated:

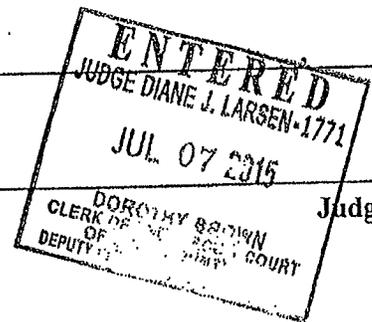
Address: 100 W. Randolph, 12th Floor

City/State/Zip: Chicago, IL 60601

Telephone: (312) 814-2146

Judge

Judge's No.



DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Copy Distribution - White: 1. ORIGINAL - COURT FILE Canary: 2. COPY Pink: 3. COPY

S.R. 114

**Exhibit 3**

**S.R. 115**

APPEAL TO THE APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

from the

CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

People of the State of Illinois, )  
 )  
 Plaintiffs-Appellees, )  
 v. )  
 )  
 Leslie Geissler Munger, in her capacity as )  
 Comptroller of the State of Illinois, )  
 )  
 Defendant-Appellant, )  
 and )  
 )  
 Illinois Department of Central Management )  
 Services, )  
 Intervenor-Appellant, )  
 and )  
 )  
 AFSCME Council 31; Illinois Federation of )  
 Public Employees Local 4408, IFT-AFT; )  
 Local 919, IFT-AFT; Local 4407, IFT-AFT; )  
 Local 4051, IFT; Illinois Troopers Lodge No. 41 )  
 Fraternal Order of Police; Service Employees )  
 International Union Local 73; Conservation )  
 Police Lodge of the Police Benevolent Protective )  
 Association, )  
 )  
 Union Intervenors-Appellants. )

On Appeal from an Order in the Circuit Court of Cook County, Illinois

Case No. 2015 CH 10243

The Hon. Diane J. Larsen  
Therein Presiding

FILED  
 CIRCUIT COURT OF COOK  
 COUNTY, ILLINOIS  
 2015 JUL -8 PM 1:03  
 CIVIL APPEALS DIVISION  
 CLERK  
 DOROTHY BROWN

NOTICE OF JOINING INTERLOCUTORY APPEAL

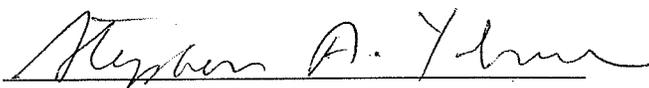
AFSCME Council 31; Illinois Federation of Public Employees, Local 4408, IFT-AFT; Locals 919, 4407, and 4051 hereby appeal the order of the Circuit Court of Cook County on July 7, 2014, granting a Temporary Restraining Order to the People. Union-Intervenors pray that this Order be

reversed and that the Court enter an Order authorizing Defendant Munger to process the full payroll for State employees until further order of the Court.

Union-Intervenors join in the Notice of Appeal filed by Intervenor Illinois Department of Central Management Services in Case No. 151877.

Respectfully submitted,

CORNFIELD AND FELDMAN LLP

By:   
Stephen A. Yokich

Attorneys for Union Intervenors-Appellants AFSCME Council 31; Illinois Federation of Public Employees, Local 4408; and IFT Local 919, 4407, and 4051

Dated: July 8, 2015

CORNFIELD AND FELDMAN LLP  
Suite 1400  
25 East Washington Street  
Chicago, IL 60602-1803  
(312) 236-7800  
(312) 236-6686 (fax)  
ARDC No. 6181707

**CERTIFICATE OF FILING AND SERVICE**

Stephen A Yokich, an attorney, hereby certifies that on July 8, 2015, he caused the foregoing **Notice of Joining Interlocutory Appeal** to be filed with the Clerk of the Circuit Court of Cook County, Chicago Illinois, by hand delivery, and true and accurate copies of the same to be served upon counsel by hand delivery to the addresses shown below:

Brent D. Stratton  
Chief Deputy Attorney General  
OFFICE OF THE ILLINOIS ATTORNEY GENERAL  
100 West Randolph Street, 12th Floor  
Chicago, Illinois 60601

Brett E. Legner  
Deputy Solicitor General  
OFFICE OF THE ILLINOIS ATTORNEY GENERAL  
100 West Randolph Street, 12th Floor  
Chicago, Illinois 60601

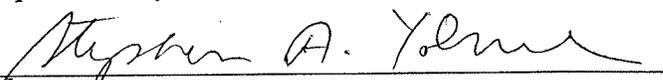
*Attorneys for the People of the State of Illinois*

Jill C. Anderson, Esq.  
David C. Gustman, Esq.  
Michael J. Kelly, Esq.  
FREEBORN & PETERS LLP  
Suite 3000  
311 South Wacker Drive  
Chicago, Illinois 60606-6677

*Attorneys for Comptroller Munger*

Mike Basil, General Counsel  
Illinois Department of Central Management Services  
Suite 4-500  
100 West Randolph Street  
Chicago, IL 60601

*Attorneys for Illinois Department of Central Management*

  
\_\_\_\_\_  
Stephen A. Yokich

**Exhibit 4**

**S.R. 119**

IN THE CIRCUIT COURT OF THE 20<sup>TH</sup> JUDICIAL CIRCUIT  
ST. CLAIR COUNTY, ILLINOIS

American Federation of State, County	)	
and Municipal Employees, council 31;	)	
Illinois Troopers Lodge No. 41, Fraternal	)	
Order of police; Illinois Nurses Association;	)	
Illinois federation of Public Employees,	)	
Local 4408 IFT-AFT; Illinois Federation of	)	
Teachers, Local 919; International	)	
Brotherhood of Electrical workers; Illinois	)	
Fraternal Order of Police Labor Council;	)	
Laborers International Union of North	)	
America – ISEA Local 2002; Service	)	No.
Employees International Union, Local 73;	)	
SEIU Health Care Illinois & Indiana;	)	
SEIU Local 1; Teamsters Local Union	)	
No. 705m Affiliated with the International	)	
Brotherhood of Teamsters; Conservation	)	
Police Lodge of the Police Benevolent	)	
and Protective Association,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
State of Illinois and Leslie Geissler Munger	)	
in Her Official Capacity as Comptroller for	)	
the State of Illinois,	)	
	)	
Defendants.	)	

**AFFIDAVIT**

Joe Moon under oath deposes and states as follows:

1. I am the elected Vice President of Fraternal Order of Police Troopers Lodge No. 41, which is the exclusive bargaining representative of Troopers, Special Agents, Sergeants, Lieutenants and Captains of the Illinois State Police.
2. My monthly expenses currently are in excess of the monthly wage I would receive when I am paid the minimum wage. The expenses consist of a mortgage, two car payments,

purchases for food, clothes, utility bills, medical and dental bills, household expenses of a normal nature, and education expenses are substantially in excess of \$1,320.00 per month. I have four children and a spouse, and the raising these children is very expensive. I've been informed that on July 1, 2015, the State of Illinois will reduce my wage rate to \$8.25 per hour, the current minimum wage. This will reduce my monthly income to approximately \$1,320.00.

3. Under the reduced wages, I will be unable to meet my financial obligations, run the risk of having my home going into foreclosure and being unable to pay additional expenses.
4. As Vice President of Troopers Lodge 41, I am aware that prior to July 1, 2015, the Lodge filed with the Illinois Labor Relations Board and the Illinois Department of State Police, notice to seek the assistance of mediation to help resolve any collective bargaining disputes that will arise during the current ongoing negotiations between the Illinois State Police and Troopers Lodge 41.
5. This request for mediation was filed in order for the Lodge to invoke the status quo provisions of 14(l) of the Illinois Labor Relations Act under which wages, hours and working conditions are to be maintained at status quo once the new fiscal year starts as of July 1, 2015.
6. We have been advised that the minimum wage will be implemented and that we will therefore have a major change in wages, hours and working conditions for employees in the bargaining units Troopers Lodge 41 represents.



*[Handwritten Signature]*  
 \_\_\_\_\_  
 Signature

Subscribed and sworn to before me this 8<sup>th</sup> day of July, 2015.

Gene A. D'Alto Notary Public  
 My Commission Expires: 7/07/19

IN THE CIRCUIT COURT OF THE 20<sup>TH</sup> JUDICIAL CIRCUIT  
ST. CLAIR COUNTY, ILLINOIS

American Federation of State, County	)	
and Municipal Employees, council 31;	)	
Illinois Troopers Lodge No. 41, Fraternal	)	
Order of police; Illinois Nurses Association;	)	
Illinois federation of Public Employees.	)	
Local 4408 IFT-AFT; Illinois Federation of	)	
Teachers, Local 919; International	)	
Brotherhood of Electrical workers; Illinois	)	
Fraternal Order of Police Labor Council;	)	
Laborers International Union of North	)	
America -- ISEA Local 2002; Service	)	No.
Employees International Union, Local 73;	)	
SEIU Health Care Illinois & Indiana;	)	
SEIU Local 1; Teamsters Local Union	)	
No. 705m Affiliated with the International	)	
Brotherhood of Teamsters; Conservation	)	
Police Lodge of the Police Benevolent	)	
and Protective Association,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
State of Illinois and Leslie Geissler Munger	)	
in Her Official Capacity as Comptroller for	)	
the State of Illinois,	)	
	)	
Defendants,	)	

**AFFIDAVIT**

Steve Clemente under oath deposes and states as follows:

1. I am the elected President of Fraternal Order of Police Troopers Lodge No. 41, which is the exclusive bargaining representative of Troopers, Special Agents, Sergeants, Lieutenants and Captains of the Illinois State Police.
2. My monthly expenses currently are in excess of the monthly wage I would receive when I am paid the minimum wage.

3. I've been informed that on July 1, 2015, the State of Illinois will reduce my wage rate to \$8.25 per hour, the current minimum wage. This will reduce my monthly income to approximately \$1,320.00.
4. Under the reduced wages, I will be unable to meet my financial obligations, run the risk of having my home going into foreclosure and being unable to pay additional expenses.
5. As President of Troopers Lodge 41, I am aware that prior to July 1, 2015, the Lodge filed with the Illinois Labor Relations Board and the Illinois Department of State Police, notice to seek the assistance of mediation to help resolve any collective bargaining disputes that will arise during the current ongoing negotiations between the Illinois State Police and Troopers Lodge 41.
6. This request for mediation was filed in order for the Lodge to invoke the status quo provisions of 14(1) of the Illinois Labor Relations Act under which wages, hours and working conditions are to be maintained at status quo once the new fiscal year starts as of July 1, 2015.
7. We have been advised that the minimum wage will be implemented and that we will therefore have a major change in wages, hours and working conditions for employees in the bargaining units Troopers Lodge 41 represents.

*Shawn M. Clemente*  
Signature

Subscribed and sworn to before me this 6<sup>th</sup> day of July, 2015.

*Jud A. D'Almeida* Notary Public

My Commission Expires: 7/8/15

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT  
ST. CLAIR COUNTY, ILLINOIS

THE AMERICAN FEDERATION OF STATE, )  
COUNTY AND MUNICIPAL EMPLOYEES, )  
AFL-CIO, COUNCIL 31, *et al.*, )

Plaintiffs, )

v. )

CASE NO. 2015-CH-475

STATE OF ILLINOIS and LESLIE )  
GEISSLER MUNGER, in her official capacity )  
as Comptroller for the State of Illinois, )

Defendants. )

**MOTION TO DISQUALIFY ATTORNEY GENERAL  
AND TO APPOINT PRIVATE COUNSEL**

NOW COMES Defendant, **Leslie Geissler Munger**, in her official capacity as Comptroller for the State of Illinois (the "Comptroller"), by and through her attorney, Alissa J. Camp, General Counsel to the Comptroller for the State of Illinois, and as and for her Motion to Disqualify Attorney General (the "AG") as counsel for the Comptroller and to Appoint Private Counsel states as follows:

1. The Comptroller is an elected State official who has been sued in that capacity in the instant action.
2. Pursuant to the State Employee Indemnification Act, the Comptroller is entitled to retain her own attorney, "provided that said attorney shall be reasonably acceptable to the Attorney General." 5 ILCS 350/2.
3. In that event the State shall pay the elected State official's court costs, litigation expenses, and attorneys' fees, to the extent approved by the Attorney General as reasonable, as they are incurred." *Id.*

4. The Comptroller desires to retain Lorilea Buerkett ("Buerkett") of Brown, Hay, & Stephens, LLP, Springfield, Illinois, as part of the legal team representing her in this matter. Buerkett has informed the Comptroller that the AG approved her to act in the capacity of Special Assistant Attorney General as recently as August 2013. (See Affidavit of Alissa J. Camp, General Counsel to the Comptroller, attached hereto as Exhibit A and incorporated herein.)

5. It appears that the AG has already found Buerkett to be "reasonably acceptable" to the AG but nonetheless denied the Comptroller's request to have her appointed in *People of the State of Illinois v. Leslie Geissler Munger, in her capacity as Comptroller of the State of Illinois*, Circuit Court of Cook County, Illinois, Chancery Division, Case No. 2015-CH-10243. (*Id.*) The AG did, however, approve the Comptroller's utilization of Buerkett on a consulting basis in the Cook County matter.

6. The Comptroller has formally requested that the AG appoint private counsel to represent her in this matter and has included Buerkett as part of that request. (*Id.*) The AG has not yet responded to the Comptroller's request.

7. If Buerkett may act as a consultant in legal matters to the Comptroller and was previously appointed as a Special Assistant Attorney General, it is only logical to infer that the AG finds her "reasonably acceptable" as an attorney.

8. Further, an irreconcilable conflict regarding the legal argument to be advanced in this matter has arisen between the Comptroller and the AG as a result of the lawsuit brought by the AG against the Comptroller in Cook County. The AG argued legal theories in that case diametrically opposed to those asserted by the Comptroller in

her defense, as plainly evidenced by the fact that the AG represented the Plaintiff *People* against the Comptroller as Defendant.

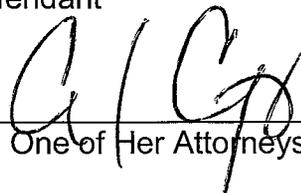
9. Further, appointment of private counsel is warranted and even mandated by the Rules of Professional Conduct by which all attorneys, including the AG, are governed.

10. For the foregoing reasons and as more fully set forth in the Memorandum in Support of this Motion filed herewith and incorporated herein, the Comptroller seeks the disqualification of the AG from her representation in this matter and the appointment of private counsel, including Buerkett, for all such purposes.

WHEREFORE, Defendant, **Leslie Geissler Munger**, in her official capacity as Comptroller for the State of Illinois, prays that this Honorable Court enter an order disqualifying Lisa Madigan, Attorney General of the State of Illinois, as her attorney in the instant matter and appointing Lorilea Buerkett of Brown, Hay, & Stephens, LLP, Springfield, Illinois, in her stead and granting such other and further relief as this Court deems just and proper.

**Leslie Geissler Munger**, in her official capacity as Comptroller for the State of Illinois, Defendant

By: \_\_\_\_\_

  
One of Her Attorneys

Alissa J. Camp  
Registration No. 6215846  
General Counsel  
Office of the Comptroller  
201 State Capitol Building  
401 South Second Street  
Springfield, IL 62706-1001  
campaj@mail.ioc.state.il.us

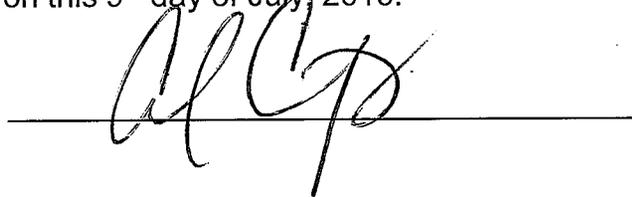
**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing instrument was served upon:

Melissa Auerbach  
Stephen A. Yokich  
Cornfield and Feldman  
25 East Washington Street, Suite 1400  
Chicago, IL 60602-1803  
VIA E-MAIL(mauerbach@cornfieldandfeldman.com)  
VIA E-MAIL (syokich@cornfieldandfeldman.com)

Brent E. Legner  
Deputy Solicitor General  
100 West Randolph Street, 12<sup>th</sup> Floor  
Chicago, IL 60601  
VIA E-MAIL (blegner@atg.state.il.us)

via e-mail and by hand-delivering the same on this 9<sup>th</sup> day of July, 2015.



IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT  
ST. CLAIR COUNTY, ILLINOIS

THE AMERICAN FEDERATION OF STATE, )  
COUNTY AND MUNICIPAL EMPLOYEES, )  
AFL-CIO, COUNCIL 31, *et al.*, )

Plaintiffs, )

v. )

CASE NO. 2015-CH-475

STATE OF ILLINOIS and LESLIE )  
GEISSLER MUNGER, in her official capacity )  
as Comptroller for the State of Illinois, )

Defendants. )

**AFFIDAVIT**

STATE OF ILLINOIS )  
COUNTY OF SANGAMON )

SS.

The undersigned, Alissa J. Camp, being first duly sworn, states that:

1. I am of lawful age, firm mind, and otherwise of full legal capacity.

2. I am General Counsel to the Comptroller for the State of Illinois and as such I am familiar with the instant action and with the lawsuit entitled *People of the State of Illinois v. Leslie Geissler Munger, in her capacity as Comptroller of the State of Illinois*, Circuit Court of Cook County Illinois, Chancery Division, Case No. 2015-CH-10243.

3. In my capacity as General Counsel and at the direction of the Comptroller, I advised the Attorney General's ("AG") office verbally that the Comptroller wished to have Lorilea Buerkett ("Buerkett") of Brown, Hay, & Stephens, LLP, Springfield, Illinois, as part of her legal representation in the Cook County case.

4. I was advised by the AG's office that Buerkett would not be appointed as part of the team representing the Comptroller but that the Comptroller could utilize Buerkett's legal services in a "consulting" capacity.

5. Due to the very short time constraints in the Cook County case, the Comptroller did not file a motion to have Buerkett appointed as part of her legal team in that case.

6. On July 6, 2015, I forwarded a list of outside counsel the Comptroller wished to have represent her via e-mail to Brent Stratton ("Stratton") of the AG's office. (See a copy of such e-mail attached hereto as Exhibit 1 and incorporated herein.)

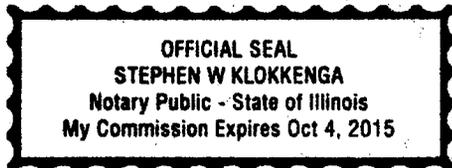
7. Subsequently I forwarded an e-mail to Stratton on July 7, 2015, formally requesting that outside counsel represent the Comptroller in the instant action. (See a copy of such email attached hereto as Exhibit 2 and incorporated herein.)

8. To date, the AG has not advised that the Comptroller's choice of private counsel is approved, has given no reason why Buerkett was not approved in the Cook County case, and has filed a Motion to Dismiss purportedly on behalf of the Comptroller without consultation with or review by the Comptroller or any of her legal staff.

9. Buerkett has informed me that she was appointed by the AG's office as a Special Assistant Attorney General representing another constitutional officer in a case before the Appellate Court as recently as 2013 and that she continued in such capacity into late fall 2014.

  
\_\_\_\_\_  
Alissa J. Camp

Subscribed and sworn to before me this 9 day of July, 2015.



  
\_\_\_\_\_  
Notary Public

---

**From:** Camp, Alissa J.  
**Sent:** Monday, July 06, 2015 11:13 AM  
**To:** Stratton, Brent (bstratton@atg.state.il.us)  
**Subject:** outside counsel

FREEBORN AND PETERS:

David C Gustman  
Jill C Anderson  
Michael J Kelly; and  
John E Stevens

BROWN HAY AND STEVENS:

Lorilea Buerkett

---

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---

**From:** Camp, Alissa J.  
**Sent:** Tuesday, July 07, 2015 4:50 PM  
**To:** Stratton, Brent (bstratton@atg.state.il.us)  
**Subject:** Request

Brent,  
I apologize that we did not connect by phone today. At this time we are formally requesting outside appointed counsel for the matter pending in St. Clair County. I will send you a list of candidates that we are currently considering as soon as possible.  
Do not hesitate to call me with questions, of course you have my cell, as I do not plan on leaving the office the rest of the week, Alissa.

---

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IN THE CIRCUIT COURT OF THE 20TH JUDICIAL CIRCUIT  
ST. CLAIR COUNTY, ILLINOIS

American Federation of State, County )  
and Municipal Employees, Council 31; )  
Illinois Troopers Lodge No. 41, Fraternal )  
Order of Police; Illinois Nurses Association; )  
Illinois Federation of Public Employees, )  
Local 4408 IFT-AFT; Illinois Federation of )  
Teachers, Local 919; International )  
Brotherhood of Electrical Workers; Illinois )  
Fraternal Order of Police Labor Council; )  
Laborers International Union of North )  
America – ISEA Local 2002; Service )  
Employees International Union, Local 73; )  
SEIU Health Care Illinois & Indiana; )  
SEIU Local 1; Teamsters Local Union )  
No. 705, Affiliated with the International )  
Brotherhood of Teamsters; Conservation )  
Police Lodge of the Police Benevolent )  
and Protective Association, )

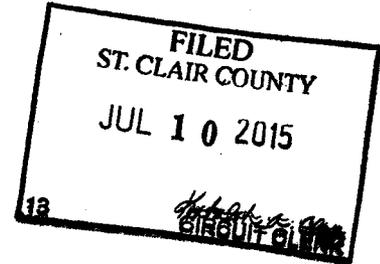
Plaintiffs, )

v. )

State of Illinois and Leslie Geissler Munger )  
in Her Official Capacity as Comptroller for )  
the State of Illinois, )

Defendants. )

Case No. 15CA475



TEMPORARY RESTRAINING ORDER WITH NOTICE

Cause coming before the court on Plaintiffs' Motion for Temporary Restraining Order, the responses of the Attorney General for the State of Illinois and the Comptroller in her Official Capacity (State) and on Motion of the Comptroller (Comptroller) to Disqualify the Attorney General as Counsel for the Comptroller. The court has reviewed the pleadings and heard the argument of counsel and finds as follows:

- 1) Notice of Plaintiffs' Motion for TRO has been given to the Defendants, the Attorney General of the State of Illinois appears for the State of Illinois and for the Comptroller in her Official Capacity and attorneys of Brown, Hay and Stephens, LLP, appear for Leslie Geissler Munger, Comptroller of the State of Illinois;
- 2) The Comptroller's Motion to Disqualify is taken under advisement;

- 3) The State's Motion to Dismiss, in which the Comptroller does not join, on the grounds of sovereign immunity is denied as to Comptroller and allowed as to the State of Illinois. Plaintiffs' Motion seeks to have the Comptroller perform her job — that she stands ready and willing to do. The Comptroller is not a nominal party sued as a cutout for a claim that correctly belongs in the Court of Claims. The court properly takes subject matter jurisdiction to hear Plaintiffs request for an order of court to direct the Comptroller to exercise her clearly defined official authority and to insure that State employees are paid in such a manner as not to impair Plaintiffs' members rights under their respective Collective Bargaining Agreements as guaranteed by the Statutes and the Constitution of the State of the Illinois.
- 4) The AG also contends that Plaintiffs' Complaint does not state a cause of action against the Comptroller. However, the Comptroller, by separate counsel, agrees that Plaintiffs' have stated a case. Further, the Comptroller moves that this court authorize the Comptroller to process pay checks and direct deposits in order to meet the July 15, 2015, payday for the members of the Plaintiff labor organizations *and* all other employees of the State who are paid twice a month.

The AG's Motion to Dismiss for failure to state a cause of action is denied. To go into some detail, Section 2(a) of Article VIII of the Illinois Constitution (Ill. Const., art. VIII, § 2(a)) requires the Governor to submit a budget in accordance with State law and Section 8 of Article IV (Ill. Const., art. IV, § 8) requires the Speaker of the House and the President of the Senate to "certify that the procedural requirements for passage have been met" for each bill that passes both houses.

In this case, the executive and legislative branches of state government have failed to reach an agreement on the budget and appropriations are frozen beginning July 1, 2015. Payment for work performed and to be performed will be withheld. This inaction threatens the financial survival of the employees of the State of Illinois. The Illinois Supreme Court recognizes judicial authority to assure that the action or inaction of the executive and legislative branches do not deprive workers of wages earned and owing under the statutes and by the Constitution. *Dixon Ass'n v. Thompson*, 91 Ill.2d 518, 440 N.E.2d 117 (1982). The Supreme Court has also held that a court order based upon the State Constitution could provide the Comptroller "expenditure authority other than appropriation" to draw warrants for the expenditure of funds from the State Treasury. *Jorgensen v. Blagojevich*, 211 Ill. Ed 286, 315 (2004). The court finds that Plaintiffs' have stated a proper cause of action for impairment of contract.

- 5) Plaintiffs' Motion for a TRO with notice is granted. Plaintiffs' members have a clear right under their respective collective bargaining agreements. Rights guaranteed by the Public Labor Relations Act that mandates the Comptroller to maintain the status quo, as to the personnel code pay plan. Plaintiffs' members also have a constitutional right that bars impairment of their employment contracts pursuant to Article I, Section 16 of the Illinois Constitution

- 6) In addition, Plaintiffs' members, among others, have no adequate remedy at law. The process to collect economic damages from the State in the Illinois Court of Claims dooms to financial ruin the ever expanding number of employees living paycheck to paycheck. Furthermore, the burden and hardship of missed paychecks imposed on the workers and their families are separate noneconomic losses, for which there is no recovery.
- 7) The AG's motions aside, none of the parties assert that people who work for the State should not be paid. Nor has the AG suggested that it is error based on the record as established on the afternoon of July 9, 2015 for the court to decide the issue in this TRO of whether the failure of the executive and legislative branches of government to provide an appropriation to pay wages to Plaintiffs' members constitutes an impairment of contract under Article I, Section 16 of the Illinois Constitution. The court concludes that the failure to provide the appropriation to pay workers who are required to go to work constitutes an impairment of contract. The court concludes that the Plaintiffs have demonstrated a likelihood of success on the merits.
- 8) The balance of equities clearly favors the members of the Plaintiff labor organizations. Families should not suffer while the legislature and the executive vie for a result favorable to their political agenda. Additionally, the denial of the relief requested could expose the State to great liability because of remedies available to employees under the Fair Labor Standards Act that include economic loss, interest, liquidated damages and attorney fees.

Based upon the factors that justify preliminary relief, the court hereby orders that the Comptroller draw and issue warrants accomplishing payment of wages to the Plaintiffs' members at their normal rates of pay. Further, at the request of the Comptroller, the court finds that this order authorizing payment is applicable to all other state employees at their normal rates of pay until further order of court. The AG's Motion for Stay of this order is denied.

July 10, 2015



Robert P. LeChien, Circuit Judge

c.c All attorneys



conceding that the State was violating the Constitution. The Comptroller's actions demonstrate the Supreme Court's warning that "[t]o allow the numerous State agencies the liberty to employ private counsel without the approval of the Attorney General would be to invite chaos into the area of legal representation of the State." *Environmental Protection Agency v. Pollution Control Bd.*, 69 Ill. 2d 394, 401 (1977) ("*EPA v. PCB*"). The Comptroller's Motion should be denied.

## II. Factual Background

### A. Cook County Case

On July 1, 2015, the Attorney General filed a lawsuit in Cook County styled *People v. Munger*, No. 2015 CH 10243 ("the Cook County case") to ensure compliance with the Appropriations Clause of the Illinois Constitution and the Appellate Court's decision in *AFSCME v. Netsch*, 216 Ill. App. 3d 566, 568 (4<sup>th</sup> Dist. 1991). Pursuant to that controlling authority, the Attorney General sought to clarify what payments the State can make, and the Comptroller can process, in the absence of enacted appropriations legislation. The Attorney General specifically sought a declaration and injunction ordering the Comptroller to process payments pursuant to, *inter alia*, the requirements of the federal Fair Labor Standards Act ("FLSA"). To the extent it was not feasible for the Comptroller to process payment vouchers limited to the FLSA requirements, the Attorney General sought to enjoin the Comptroller from paying the full State employee payroll.

On July 2, 2015, the Chief Deputy Attorney General at the Office of the Attorney General ("OAG") told the Comptroller's Office that the Attorney General would appoint Special Assistant Attorneys General ("SPAAGs") to represent the Comptroller in the Cook County case because (1) the Attorney General sued the Comptroller (solely in her official capacity) under the Attorney General Act ("AG Act"), and (2) the Comptroller had expressed her desire to obtain a court order authorizing the State to pay the full employee payroll based on her view that her office did not have the technical capacity to process FLSA-compliant payments. (Affidavit of Brent D. Stratton, ¶ 3, attached as Exhibit 1.) The

OAG asked the Comptroller's Office to identify specific attorneys that the Comptroller wished the Attorney General to appoint to represent her in the case. (*Id.* ¶ 4.)

Later on July 2, the Comptroller's Office emailed the OAG that the Comptroller wished to have Freeborn & Peters appointed in the Cook County case. (*Id.* ¶ 4.) The OAG immediately responded: "Thanks. We'll need the names of the individual attorneys." (*Id.* ¶ 4.) On July 6, the Comptroller's Office requested the appointment of four attorneys from Freeborn & Peters, plus Lorilea Buerkett, from the Springfield office of Brown, Hay & Stevens. (*Id.* ¶ 5.)

In a telephone conversation later on July 6, the OAG told the Comptroller's Office that the Attorney General would appoint the four Freeborn attorneys but not Ms. Buerkett. (*Id.* ¶ 6.) The OAG explained that, because the Attorney General was appointing three Freeborn attorneys from Chicago, plus a Freeborn attorney from Springfield, there was no need to appoint an additional Springfield attorney to represent the Comptroller in a case in Cook County. (*Id.*) The Comptroller's Office did not object. The OAG also explained that, if the Comptroller wished to retain Ms. Buerkett to consult with her, she could do that without requesting Ms. Buerkett's appointment as a SPAAG. (*Id.* ¶ 6.) The Attorney General appointed the four Freeborn attorneys on July 6. (*Id.* ¶ 7.)

In the Cook County case, the Comptroller did not take issue with the Attorney General's arguments that: (1) the Appropriations Clause prohibits the Comptroller from paying wages to state employees in the absence of an annual appropriations statute; (2) when the State faced the same circumstances in 1991, the *Netsch* Court rejected AFSCME's claim that the State must pay state employees even in the absence of an appropriation, and that case has never been questioned or overruled by another court; and (3) the Supremacy Clause of the U.S. Constitution nonetheless requires the State to comply with the FLSA regardless of the Illinois Constitution and laws requiring an appropriation. (*Id.* ¶ 8.) Instead, the Comptroller described the technical feasibility of FLSA compliance and, based on her view that her office could not comply with the FLSA's minimum

requirements, argued that the law allows the entry of an order directing the Comptroller to comply with the FLSA by paying all state employees their full wages. (*Id.* ¶ 8.)

### **B. St. Clair County Case**

On July 2, 2015, several unions filed their complaint in this case (“the St. Clair County case”) – one count alleging an unconstitutional impairment of contract. The complaint does not contain any FLSA-related allegations, as in the Cook County case. On July 6, the OAG called the Comptroller’s Office to advise that the OAG would be filing an appearance and motion to dismiss on behalf of the State of Illinois and the Comptroller, explaining that the motion to dismiss was based on (1) the court’s lack of jurisdiction because claims against the State based on contract are barred by sovereign immunity, and (2) extensive case law establishing that the unions’ breach of contract allegations cannot state a constitutional claim for impairment of contract. (*Id.* ¶ 10.) The Comptroller’s Office never asked to review drafts of any future filings. (*Id.* ¶ 10.) On July 7, the Comptroller’s Office asked for appointed counsel in this case, stating: “I will send you a list of candidates that we are currently considering as soon as possible.” (*Id.* ¶ 11.)

On July 8, at 3:21 p.m., the unions sent the OAG their motion for a temporary restraining order (“TRO”), which was noticed for a hearing at 1:30 p.m. on July 9. (*Id.* ¶ 13.) The OAG called the Comptroller’s Office on July 8 to discuss the TRO hearing and to follow up on the Comptroller’s request for appointment of counsel. (*Id.* ¶ 14.) During that call, because the Comptroller’s Office had not expressed any concerns regarding the arguments made in the motion to dismiss (and because the Comptroller had not challenged any of those arguments in the Cook County case), the OAG specifically asked the Comptroller’s Office if there was any argument the Comptroller wanted to make at the TRO hearing that would be different from or in addition to the Attorney General’s arguments, as reflected in the motion to dismiss. (*Id.* ¶ 14.) The Comptroller’s Office replied that they were still working on it and would get back to the OAG the next morning. (*Id.* ¶ 14.)

Despite telling the OAG on July 7 that it would identify specific attorneys to be considered for appointment, the Comptroller's Office did not ask the OAG *at any time* to appoint Ms. Buerkett or any other attorney in this case. (*Id.* ¶ 15.) Moreover, in the July 8 call, the OAG did not deny the Comptroller's request to appoint SPAAGs for the St. Clair County case. (*Id.* ¶ 15.) Also during the July 8 call, the Comptroller's Office did not request to review a draft of the OAG's response to the TRO motion, to be filed the next day, and did not identify any arguments different from the Attorney General's that it wanted to present, either by the Attorney General or by SPAAGs. (*Id.* ¶ 15.)

Although the Comptroller's Office promised to get back to the OAG on the morning of July 9 with the names of specific attorneys and with a response to the OAG's specific question regarding what arguments, if any, the Comptroller wanted to raise that would differ from or add to the Attorney General's arguments, the Comptroller's Office never got back to the OAG. (*Id.* ¶ 16.) Instead, *without any prior notice to or approval from the Attorney General*, the Comptroller's in-house attorneys appeared for the Comptroller, filed her Motion to Disqualify, and presented arguments.

In her Motion to Disqualify, the Comptroller states that she "has included Buerkett as part of [her] request" that the Attorney General appoint private counsel to represent the Comptroller in the St. Clair County case. (Motion at ¶6.) That statement is false. As noted above, the Comptroller's Office requested that Ms. Buerkett be appointed *only* in the Cook County case. (Ex. 1 ¶ 5.)

The Comptroller also states that the Attorney General "has not responded to the Comptroller's request" to appoint SPAAGs. (Motion at ¶6.) That statement also is false and misleading. The Comptroller's Office never answered the OAG's question about potentially different arguments and never identified specific attorneys, so the OAG could not respond. (Ex. 1, ¶ 16.)

Ms. Camp states in her affidavit (par. 6) that she forwarded a list of outside counsel the Comptroller wished to have appointed. That statement is false in the context in which it is made. Ms. Camp sent the OAG a list of requested counsel *for the Cook County case only*. (*Id.* ¶ 5.) The OAG approved four of the requested attorneys and explained why it would not appoint Ms. Buerkett. (*Id.* ¶

7.) As to this case, Ms. Camp said she would “send [the OAG] a list of candidates that we are currently considering as soon as possible” but she never sent that list. (*Id.* ¶¶ 11, 16.)

In her affidavit (par. 8), Ms. Camp also states that “the AG has not advised that the Comptroller’s choice of private counsel is approved [and] has given no reason why Buerkett was not approved in the Cook County case....” That statement is partly misleading and partly false. The Attorney General did not – and could not – approve the Comptroller’s choice of counsel because the Comptroller’s Office *never identified any specific attorney* that she wished to be appointed for the St. Clair County case. (*Id.* ¶ 16.) And, the OAG explained to the Comptroller’s Office why Ms. Buerkett would not be appointed in the Cook County case. (*Id.* ¶ 6.) Moreover, when the OAG asked the Comptroller to identify different or additional arguments the Comptroller’s Office wanted made so as to determine whether those arguments could be made by the Attorney General or outside counsel, the Comptroller’s Office committed to provide a response but never did so. (*Id.* ¶ 16.)

### III. Argument

The questions presented by the Motion to Disqualify are (1) whether the Attorney General unreasonably denied the Comptroller’s request for the appointment of attorneys to represent her in this case, and (2) whether the supposed conflict between the Comptroller and the Attorney General requires the appointment of separate counsel under the State Employee Indemnification Act (“the Act”). The first question is answered on the facts: the Comptroller’s Office never identified specific attorneys – either in-house or outside counsel – who the Comptroller wanted to be appointed, so there was no denial of a request, unreasonable or otherwise.

The second question is answered by one hundred years of Supreme Court decisions and a simple reading of the Act. Under the Constitution, when the State is the real party in interest in a case, the Attorney General has the exclusive authority to represent the State and to control all aspects of the litigation. *Scachitti v. UBS Fin. Servs.*, 215 Ill. 2d 484, 509-16 (2005); *Lyons v. Ryan*, 201 Ill. 2d 529, 535-40 (2002). In these cases, the Attorney General is responsible for “serving . . . the

broader interests of the State,” rather than the particular interests of individual agencies or officers, and the Attorney General is not subject to the conflict of interest rules governing private attorneys. *EPA v. PCB*, 69 Ill. 2d at 401-02. (Indeed, the Attorney General may even represent “opposing” state officials or agencies in the same case. *Id.* at 401.) Giving those agencies or officials the power to retain their own lawyers and control their own representation, the Supreme Court has warned, would “invite chaos into the area of legal representation of the State.” *Id.* at 402.

The Attorney General’s exclusive authority to represent a state officer where the State is the real party in interest (*i.e.*, when an officer is sued in her official capacity) is therefore subject to only two narrow exceptions: (1) when the Attorney General is “an actual party to the action,” either suing or being sued by a state official or agency whom she would otherwise represent, and (2) when the Attorney General is “interested as a private individual” (*i.e.*, has an interest unrelated to her official functions). *EPA v. PCB*, 69 Ill. 2d at 400-01. Neither exception is present here. The Attorney General is not an “actual party to the action,” either suing or being sued by a state official or agency. And, the Attorney General is not interested in this case as a private individual.

There is no question that the State is the real party in interest here. For cases involving state officers, the State is the real party in interest when the state officer is sued in his or her official capacity (and not for wrongful acts outside the official’s authority), or the plaintiff seeks relief that would operate to control the actions of state government itself. *Posinski v. The Chicago, Milwaukee, St. Paul & Pacific R.R. Co.*, 376 Ill. 346, 351 (1941) (“where the rights of the State are directly and adversely affected by the judgment or decree sought against the officer of the State, the suit is against the State”); *Hudgens v. Dean*, 75 Ill. 2d 353, 355-57 (1979).<sup>1</sup>

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<sup>1</sup> In contrast, suits against an official in her personal capacity are usually for money damages, enforceable against that person individually, with liability following the person even after she leaves office. See *Doe v. Calumet City*, 161 Ill. 2d 374, 400 (1994). Because the individual may be personally liable, the State has committed to indemnify its officials and employees in such cases, which is when the State Employee Indemnification Act comes into play.

The State Employee Indemnification Act does not even apply here. The Comptroller relies on Section 2(b) of the Act, which states that when “the defendant . . . is an elected State official, . . . , [that] official may retain his or her attorney, provided that said attorney shall be reasonably acceptable to the Attorney General.” 5 ILCS 350/2(b). That provision does not apply here because she is sued in her official capacity only, and thus the State, not Comptroller Munger personally, is the real party in interest.<sup>2</sup> Consistent with the Attorney General’s constitutional authority, the Attorney General’s duties include “defend[ing] all actions and proceedings against any State officer, *in his official capacity*, in any of the courts of this State or the United States.” 15 ILCS 5/4 (emphasis added). Thus, Section 4 of the AG Act and the Attorney General’s constitutional authority dictate that the Attorney General defends State officials in official capacity suits, and Section 2(b) of the Act is inapplicable.<sup>3</sup>

The Comptroller also argues that she is entitled to separate counsel under the Act because of an irreconcilable conflict between her position and the Attorney General’s. See Mem. in Support at 4-6. The Comptroller does not and cannot identify that conflict in her Motion or argue that the supposed conflict fits within one of the two conflict exceptions recognized by the Supreme Court (Attorney General as actual party or interested as a private individual). Moreover, the OAG specifically asked the Comptroller’s Office to identify what arguments the Comptroller wished to make that would be

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<sup>2</sup> Even if the claims in the case were against Comptroller Munger in her personal capacity and thus triggered the Act, she was appointed, not elected, to the office of Comptroller. Because the entitlement to separate counsel under Section 2(b) of the Act applies to *elected* State officials, that entitlement would not apply to Comptroller Munger in any event.

<sup>3</sup> The Comptroller cites none of the controlling Illinois Supreme Court decisions in her Motion. Instead, she cites *Tully v. Edgar*, 286 Ill. App. 3d 838 (1st Dist. 1997), and *Suburban Cook County Regional Office of Education v. Cook County Board*, 282 Ill.App.3d 560 (1<sup>st</sup> Dist. 1996) (“*SCCROE*”). *Tully* is inapposite and distinguishable because it effectively involved a personal capacity claim relating to the official’s personal right to occupy the disputed office. The *SCCROE* case also is distinguishable. First, that case involved a State’s Attorney, not the Attorney General, which is dispositive because there is no *EPA v. PCB* doctrine for State’s Attorneys — meaning that the clear principles that case set forth regarding conflicts for Attorneys General do not apply to State’s Attorneys. Second, the *SCCROE* court reversed the circuit court’s appointment of a Special Attorney General, 282 Ill.App.3d at 569-70, and the question presented by that case – whether the Attorney General or the State’s Attorney had a duty to file a civil mandamus complaint on behalf of a government official, *id.* at 564 – has no bearing here. Third, the State’s Attorney in *SCCROE* did not provide the county official with representation, which required the official to retain his own counsel.

different from or in addition to the Attorney General's arguments. Instead of answering that question or advising the OAG before the TRO hearing that the Comptroller believed a conflict existed, the Comptroller filed the motion to disqualify and had separate counsel appear on her behalf.

Although the Attorney General and the Comptroller took different positions in the Cook County case, that case and this one present different issues and the existence of the Cook County case does not create a conflict here. In the Cook County case, the relevant issue was the extent to which the Appropriations Clause is subject to limited exceptions, including FLSA compliance. The Attorney General filed that suit against the Comptroller on behalf of the People of Illinois and agreed to appoint counsel to represent the Comptroller because the Comptroller's Office had advised the OAG that the Comptroller's Office would not be technically able to process an FLSA-compliant payroll and needed direction from the court as to the Comptroller's legal obligations during a budget impasse.

Here, by contrast, the unions allege an unconstitutional impairment of their contracts with the State, and the Attorney General's motion to dismiss and response to the TRO motion asserts that (1) the defense of sovereign immunity bars this case, (2) the Appropriations Clause precludes payment of wages in the absence of an appropriation statute, and (3) the failure to enact an appropriation statute by the start of the new fiscal year does not state a claim for impairment of contract under the Illinois Constitution. Because those three defenses are all on behalf of the State, which includes a state official in her official capacity, the Attorney General has the exclusive constitutional authority to assert those defenses and the Comptroller has no legal authority to take a different position. Thus, even if the Comptroller had a well-founded basis to disagree with the Attorney General's litigation strategy, that disagreement is not a conflict that requires separate counsel. See *Whitlow v. Martin*, 2006 WL 6654879, \*2 (C.D. Ill. Aug. 28, 2006).

Finally, the Comptroller argues that the Rules of Professional Conduct ("RPCs") require appointment of separate counsel. Although the Attorney General and her assistants are generally governed by the RPCs, the RPCs make clear that the loyalty and conflict rules that apply to private

attorneys do not all apply to government attorneys. See Rules 1.0(c), 1.10 (d), 1.11.<sup>4</sup> The Supreme Court also has made clear that the Attorney General plays a unique role in our legal system that is unlike the role of private counsel in a number of significant respects: “[A]lthough an attorney-client relationship exists between a State agency and the Attorney General, it cannot be said that the role of the Attorney General apropos of a State agency is precisely akin to the traditional role of private counsel apropos of a client.” *EPA v. PCB*, 69 Ill. 2d at 401. Thus, although private attorneys must “abide by a client’s decisions concerning the objectives of representation,” that does not apply to the Attorney General’s representation of a State officer in her official capacity. The Attorney General’s constitutional authority includes the authority to control the conduct of litigation involving State officials. See, e.g., *People v. Massarella*, 72 Ill. 2d 531, 534 (1978).

As the Illinois Supreme Court has recognized, the Attorney General is the sole legal officer for the State so that there is coherent representation of the State’s interests and not chaos in litigation. The very narrow exceptions to this rule do not apply here. To allow the Comptroller to have unauthorized attorneys embrace the Plaintiffs’ positions, waive sovereign immunity, and effectively concede error is to allow a blatant disregard for the law and to countenance collusion.

WHEREFORE, for all of these reasons, this Court should deny the Comptroller’s Motion.

Respectfully submitted,

LISA MADIGAN, Illinois Attorney General

BY: /s/ Brett E. Legner  
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 Deputy Solicitor General  
 100 West Randolph, 12th Floor  
 Chicago, Illinois 60601  
 (312) 814-2146  
*Blegner@atg.state.il.us*

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<sup>4</sup> For example, Comment 2 to Rule 1.11 states: “Because of the special problems raised by imputation within a government agency, paragraph (d) does not impute the conflicts of a lawyer currently serving as an officer or employee of the government to other associated government officers or employees....”

IN THE CIRCUIT COURT OF THE  
TWENTIETH JUDICIAL CIRCUIT  
ST. CLAIR COUNTY, ILLINOIS

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THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO, COUNCIL 31, <i>et al.</i> ,	)	
	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 15 CH 475
	)	
STATE OF ILLINOIS and LESLIE GEISSLER MUNGER, in her official capacity as Comptroller for the State of Illinois,	)	
	)	
Defendants.	)	

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**AFFIDAVIT**

STATE OF ILLINOIS	)	
	)	SS.
COUNTY OF COOK	)	

The undersigned, Brent D. Stratton, being first duly sworn, states:

1. I am of lawful age and of full legal capacity. I have been a member of the Illinois Bar since November 16, 1984.
2. I am the Chief Deputy Attorney General in the Office of the Illinois Attorney General ("OAG"). In that capacity, I have personal knowledge of the OAG's involvement in the instant case ("the St. Clair County case") and in *People v. Munger*, No. 2015 CH 10243 ("the Cook County case"). I have personal knowledge of the matters addressed in this affidavit.
3. On July 2, 2015, I told Alissa Camp, the General Counsel to the Comptroller that the Attorney General would appoint Special Assistant Attorneys General ("SPAAGs") to represent the Comptroller in the Cook County case because (1) the Attorney General sued the Comptroller (solely in her official capacity) under the Attorney General Act ("AG Act"), and (2) the Comptroller

had said that, because her office did not have the technical capacity to process FLSA-compliant payments, she wanted a court order allowing her to process the full state employee payroll. I asked Ms. Camp to identify specific attorneys that the Comptroller wished the Attorney General to appoint.

4. Later on July 2, Ms. Camp emailed me that the Comptroller wished to have Freeborn & Peters appointed in the Cook County case. (Ex. A) One minute later, I responded via email: "Thanks. We'll need the names of the individual attorneys." (Ex. B)

5. On July 6, Ms. Camp emailed me the Comptroller's request that the Attorney General appoint four attorneys from Freeborn & Peters, plus Lorilea Buerkett, from the Springfield office of Brown, Hay & Stevens. (Ex. C)

6. In a telephone conversation later on July 6, I told Ms. Camp that the Attorney General would appoint the four Freeborn attorneys but would not appoint Ms. Buerkett. I explained that, because the Attorney General was appointing three Freeborn attorneys from Chicago, plus a Freeborn attorney from Springfield, there was no need to appoint an additional Springfield attorney to represent the Comptroller in a case in Cook County. Ms. Camp did not object or insist that Ms. Buerkett be appointed. I also explained to Ms. Camp that, if the Comptroller wished to retain Ms. Buerkett to consult with the Comptroller, the Comptroller could do that without requesting that the Attorney General approve and appoint Ms. Buerkett as a SPAAG.

7. The Attorney General appointed the four Freeborn attorneys on July 6, and those attorneys filed an appearance for the Comptroller on July 7, represented the Comptroller at the July 7 hearing and continue to represent the Comptroller on appeal.

8. At the July 7 hearing in the Cook County Circuit case, which I attended, the SPAAGs representing the Comptroller did not take issue with the Attorney General's arguments that: (1) the Appropriations Clause of the Illinois Constitution prohibits the Comptroller from paying wages to state employees in the absence of an annual appropriations statute; (2) when the State faced the

same circumstances in 1991, the Illinois Appellate Court rejected AFSCME's claim that the State must pay state employees even in the absence of an appropriation, *AFSCME v. Netsch*, 216 Ill.App.3d 566, 568 (4<sup>th</sup> Dist. 1991); and (3) the Supremacy Clause of the U.S. Constitution nonetheless requires the State to comply with the FLSA regardless of the Illinois Constitution and laws requiring an appropriation. Instead, the Comptroller described the technical feasibility of FLSA compliance and, based on her view that her office could not comply with the FLSA's minimum requirements, argued that the law allows the entry of an order directing the Comptroller to comply with the FLSA by paying all state employees their full wages.

9. On July 2, 2015, several unions filed their complaint in this case ("the St. Clair County case"), alleging one count of unconstitutional impairment of contract. The complaint does not contain any allegations concerning the preparation of an FLSA-compliant payroll, as in the Cook County case.

10. On July 6, I called Ms. Camp to advise that the OAG would be filing an appearance and motion to dismiss on behalf of the State of Illinois and the Comptroller, explaining that the motion to dismiss was based on the court's lack of jurisdiction because of sovereign immunity and the extensive case law establishing that the unions cannot state a constitutional claim for impairment of contract. Later that day, I emailed copies of the filings to Ms. Camp. (Ex. D) During our call, Ms. Camp did not complain that the Comptroller's Office had not reviewed drafts of the OAG's filings in advance and did not ask to review drafts of any future filings.

11. On July 7, Ms. Camp emailed me a request to appoint outside counsel in the St. Clair County case, stating: "I will send you a list of candidates that we are currently considering as soon as possible." (Ex.E.)

12. At no time did Ms. Camp ask for the appointment of any of the Comptroller's in-house attorneys to represent the Comptroller in the St. Clair County case, despite the Comptroller's

Office's knowledge that the Attorney General had appointed in-house attorneys at the Illinois Department of Central Management Services (CMS) to represent CMS in the Cook County case.

13. On July 8, at 3:21 p.m., the unions sent the OAG their motion for a temporary restraining order ("TRO"), which was noticed for a hearing at 1:30 p.m. on July 9.

14. Later on July 8, I called Ms. Camp to discuss the TRO hearing and the Comptroller's request for appointment of counsel. Roger Flahaven, Deputy Attorney General for Civil Litigation, joined me on this call. During the call, because the Comptroller's Office had not expressed any concerns regarding the arguments made in the motion to dismiss, Mr. Flahaven and I specifically asked Ms. Camp if there was any position the Comptroller wanted to take at the TRO hearing that would be different from or in addition to the positions the Attorney General intended to take on the Comptroller's behalf, as reflected in the motion to dismiss. Ms. Camp responded that the Comptroller's Office was still working on that and she would get back to me the next morning. At no time thereafter did she identify for me any such positions or issues.

15. Despite Ms. Camp telling me via email on July 7 that the Comptroller's Office would identify specific attorneys to be considered for appointment to represent the Comptroller in the St. Clair County case, Ms. Camp did not ask me or Mr. Flahaven during our July 8 call or *at any time thereafter* to appoint Ms. Buerkett or any other attorney. At no time during the July 8 call did Ms. Camp ask whether the Attorney General had denied or would deny the Comptroller's request to appoint SPAAGs for the St. Clair County case. And, at no time during the July 8 call did Mr. Flahaven or I tell Ms. Camp that the Attorney General had denied or would deny the Comptroller's request to appoint SPAAGs for the St. Clair County case. Also during the July 8 call, Ms. Camp did not request to review a draft of the OAG's response to the TRO motion, to be filed the next day, and did not identify any concerns with the Attorney General's arguments in the motion to dismiss and positions to be taken in response to the TRO motion.

16. Although Ms. Camp told me and Mr. Flahaven that she would get back to us on the morning of July 9 with a response to our specific question regarding what arguments, if any, the Comptroller wanted to raise that would differ from or add to the Attorney General's arguments, Ms. Camp never got back to us. And, despite telling me on July 7 that she would send me a list of specific attorneys that the Comptroller's Office would request be appointed to represent the Comptroller in the St. Clair County case, Ms. Camp never sent me a list or any other communication on that subject. Ms. Camp also never requested that the Attorney General appoint her or any other in-house attorney as SPAAGs.

17. In her Motion to Disqualify, Ms. Camp states that she "has included Buerkett as part of [her] request" that the Attorney General appoint private counsel to represent the Comptroller in the St. Clair County case. (Motion at par. 6.) That statement is false. As noted above, Ms. Camp requested that Ms. Buerkett be appointed only in the Cook County case.

18. Ms. Camp also states in her Motion that the Attorney General "has not responded to the Comptroller's request" to appoint SPAAGs. (Motion at par. 6.) That statement also is false. I promptly responded to Ms. Camp's request by asking her for the names of specific attorneys to be considered for appointment, which names she never provided.

19. Ms. Camp states in her affidavit (par. 6) that she forwarded a list of outside counsel the Comptroller wished to have appointed. That statement is false in the context in which it is made. Ms. Camp sent me a list of requested counsel to the OAG for the Cook County case only. (Ex. A) On behalf of the Attorney General, I promptly approved four of the requested attorneys and explained to Ms. Camp in a telephone call why the Attorney General would not appoint Ms. Buerkett in the Cook County case.

20. As to the request to appoint SPAAGs to represent the Comptroller in the St. Clair County case, Ms. Camp emailed me that she would "send [me] a list of candidates that we are currently

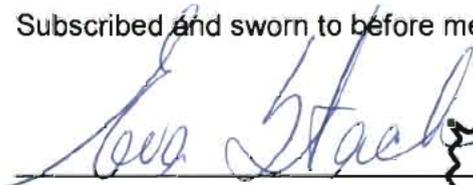
considering as soon as possible." (Ex.E) She never sent me a list or communicated with me in any way as to possible candidates for appointment.

21. In paragraph 8 of her affidavit, Ms. Camp also states that "the AG has not advised that the Comptroller's choice of private counsel is approved [and] has given no reason why Buerkett was not approved in the Cook County case...." That statement is partly misleading and partly false. The Attorney General did not and could not approve the Comptroller's choice of counsel because the Comptroller's Office never identified any specific attorney that the Comptroller wanted to be appointed for the St. Clair County case. And, as described above, I explained to Ms. Camp in a July 6 telephone call why Ms. Buerkett would not be appointed in the Cook County case. Ms. Camp never objected to or disagreed with my explanation.



Brent D. Stratton

Subscribed and sworn to before me this 13th day of July, 2015.



Notary Public



**Stratton, Brent**

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**From:** Camp, Alissa J. <CampAJ@mail.ioc.state.il.us>  
**Sent:** Thursday, July 02, 2015 3:42 PM  
**To:** Stratton, Brent  
**Cc:** camp.alissa@yahoo.com  
**Subject:** RE: People v. Munger motion

Brent at this time we would like to formally request that outside counsel be appointed to act on our behalf in this matter. We ask to designate Freeborn and Peters. If you need additional information please do not hesitate to contact me. I have copied myself on personal e-mail for that reason as hopefully shortly I will not have access to office e-mail.

---

**From:** Stratton, Brent [<mailto:bstratton@atg.state.il.us>]  
**Sent:** Thursday, July 02, 2015 1:31 PM  
**To:** Camp, Alissa J.  
**Subject:** People v. Munger motion

We will send you a file stamped copy once we get one back from the clerk.

Brent

Brent D. Stratton  
Chief Deputy Attorney General  
Office of the Illinois Attorney General  
100 W. Randolph Street, 12th Floor  
Chicago, Illinois 60601  
tel: 312-814-4499  
fax: 312-814-5024  
[bstratton@atg.state.il.us](mailto:bstratton@atg.state.il.us)

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**Stratton, Brent**

---

**From:** Stratton, Brent  
**Sent:** Thursday, July 02, 2015 3:43 PM  
**To:** 'CampAJ@mail.ioc.state.il.us'  
**Cc:** 'camp.alissa@yahoo.com'  
**Subject:** Re: People v. Munger motion

Thanks. We'll need the names of the individual attorneys.

---

**From:** Camp, Alissa J. [<mailto:CampAJ@mail.ioc.state.il.us>]  
**Sent:** Thursday, July 02, 2015 03:41 PM Central Standard Time  
**To:** Stratton, Brent  
**Cc:** [camp.alissa@yahoo.com](mailto:camp.alissa@yahoo.com) <[camp.alissa@yahoo.com](mailto:camp.alissa@yahoo.com)>  
**Subject:** RE: People v. Munger motion

Brent at this time we would like to formally request that outside counsel be appointed to act on our behalf in this matter. We ask to designate Freeborn and Peters. If you need additional information please do not hesitate to contact me. I have copied myself on personal e-mail for that reason as hopefully shortly I will not have access to office e-mail.

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**Sent:** Thursday, July 02, 2015 1:31 PM  
**To:** Camp, Alissa J.  
**Subject:** People v. Munger motion

We will send you a file stamped copy once we get one back from the clerk.

Brent

Brent D. Stratton  
 Chief Deputy Attorney General  
 Office of the Illinois Attorney General  
 100 W. Randolph Street, 12th Floor  
 Chicago, Illinois 60601  
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**Stratton, Brent**

---

**From:** Stratton, Brent  
**Sent:** Thursday, July 02, 2015 4:15 PM  
**To:** 'Camp, Alissa J.'  
**Subject:** FW: copy of order  
**Attachments:** Order 7-2-15.pdf

Brent D. Stratton  
Chief Deputy Attorney General  
Office of the Illinois Attorney General  
100 W. Randolph Street, 12th Floor  
Chicago, Illinois 60601  
tel: 312-814-4499  
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**Stratton, Brent**

---

**From:** Camp, Alissa J. <CampAJ@mail.ioc.state.il.us>  
**Sent:** Monday, July 06, 2015 11:15 AM  
**To:** Stratton, Brent  
**Subject:** outside counsel

FREEBORN AND PETERS:

David C Gustman  
Jill C Anderson  
Michael J Kelly; and  
John E Stevens

BROWN HAY AND STEVENS:

Lorilea Buerkett

---

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**Stratton, Brent**

---

**From:** Stratton, Brent  
**Sent:** Monday, July 06, 2015 11:33 AM  
**To:** 'Camp, Alissa J.'  
**Subject:** RE: outside counsel

Quick question when you have a minute.

---

**From:** Camp, Alissa J. [<mailto:CampAJ@mail.ioc.state.il.us>]  
**Sent:** Monday, July 06, 2015 11:15 AM  
**To:** Stratton, Brent  
**Subject:** outside counsel

FREEBORN AND PETERS:

David C Gustman  
Jill C Anderson  
Michael J Kelly; and  
John E Stevens

BROWN HAY AND STEVENS:

Lorilea Buerkett

---

---

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**Stratton, Brent**

---

**From:** Stratton, Brent  
**Sent:** Monday, July 06, 2015 4:29 PM  
**To:** 'CampAJ@mail.ioc.state.il.us'  
**Subject:** AFSCME v State - St. Clair County  
**Attachments:** 15 CH 475 Appearance.pdf; 15 ch 475 Motion to Dismiss.pdf; 15 CH 475 Memorandum in Support of Motion to Dismiss Final.pdf

Alissa,

Attached are what we filed today in the new St. Clair County case. We'll send you file-stamped copies once we receive them.

Thanks.

Brent

Brent D. Stratton  
Chief Deputy Attorney General  
Office of the Illinois Attorney General  
100 W. Randolph Street, 12th Floor  
Chicago, Illinois 60601  
tel: 312-814-4499  
fax: 312-814-5024  
[bstratton@atg.state.il.us](mailto:bstratton@atg.state.il.us)

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**Stratton, Brent**

---

**From:** Camp, Alissa J. <CampAJ@mail.ioc.state.il.us>  
**Sent:** Tuesday, July 07, 2015 4:52 PM  
**To:** Stratton, Brent  
**Subject:** Request

Brent,

I apologize that we did not connect by phone today. At this time we are formally requesting outside appointed counsel for the matter pending in St. Clair County. I will send you a list of candidates that we are currently considering as soon as possible.

Do not hesitate to call me with questions, of course you have my cell, as I do not plan on leaving the office the rest of the week, Alissa.

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This electronic mail message and any attached files contain information intended for the exclusive use of the individual or entity to whom it is addressed and these privileges are not waived by virtue of having been sent by e-mail. Information contained within this e-mail should be treated as proprietary, privileged, confidential and/or exempt from disclosure under applicable law. If the person actually receiving this e-mail or any other reader of the e-mail is not the named recipient, any use, dissemination, distribution or copying of the communication is strictly prohibited. If you have received this communication in error, please immediately notify the sender by telephone and delete the e-mail entirely from your system.

**Certificate of Filing and Service**

The undersigned, an attorney, certifies that on July 13, 2015, he caused the foregoing Attorney General's Response to Comptroller's Motion to Disqualify Attorney General and to Appoint Private Counsel to be electronically filed with the Clerk of the Circuit Court of St. Clair County, and an electronic copy to be served by e-mail and a hard copy to be personally served on:

Stephen A. Yokich  
Melissa Auerbach  
Cornfield & Feldman, LLP  
25 E. Washington St., Suite 1400  
Chicago, IL 60602-1803  
*syokich@cornfieldandfeldman.com*  
*mauerbach@cornfieldandfeldman.com*

Alissa J. Camp  
General Counsel  
Office of the Comptroller  
201 State Capitol Building  
401 South Second Street  
Springfield, IL 62706-1001  
*campaj@mail.ioc.state.il.us*

/s/ Brett E. Legner

Brett E. Legner

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT  
ST. CLAIR COUNTY, ILLINOIS

---

THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO, COUNCIL 31, <i>et al.</i> ,	)	
	)	
	)	
	)	
Plaintiffs,	)	
	)	No. 15 CH 475
v.	)	
	)	
THE STATE OF ILLIOIS and LESLIE GEISSLER MUNGER, in her capacity as Comptroller of the State of Illinois,	)	
	)	
Defendants,	)	

---

**MOTION TO STRIKE ATTORNEY APPEARANCE AND ARGUMENT**

At the July 9, 2015 hearing on the plaintiff unions’ motion for temporary restraining order, attorneys without legal authority to represent the Comptroller in this litigation attended the hearing, argued on her behalf, and improperly consented to the entry of relief against her.

The attorneys who appeared and argued on behalf of the Comptroller committed multiple errors that are harmful to the State’s interests. The attorneys knew that the Attorney General had not authorized them to represent the Comptroller in this litigation, where the State is the only real party in interest. The attorneys also knew they had no permission or authority to waive sovereign immunity and consent to the Court’s entry of the order directing the Comptroller to process payroll for all State employees in the absence of enacted appropriations statutes for the current fiscal year.

Because the Comptroller’s attorneys had no authority to seek and obtain an order that is contrary to the Illinois Constitution, controlling Illinois law, and orders of the Circuit Court of Cook County and the Appellate Court of Illinois, the Attorney General moves this Court to strike

any appearances and arguments of the attorneys who appeared and argued at the hearing for the Comptroller. In support of this motion, the Attorney General states as follows:

1. Under Article V, §15 of the Illinois Constitution, the Attorney General is the chief legal officer of the State. As the chief legal officer, the Attorney General has the exclusive power to direct the legal affairs of the State. *Environmental Protection Agency v. Pollution Control Board* (“*EPA v. PCB*”), 69 Ill. 2d 394, 398–99 (1977). As the Supreme Court stated in *Lyons v. Ryan*, 201 Ill. 2d 529, 535–40 (2002): “the Attorney General possesses the *exclusive* constitutional power and prerogative to conduct the state’s legal affairs.” *Accord Scachitti v. UBS Financial Services*, 215 Ill. 2d 484, 497–500, 504, 514–15 (2005); *EPA v. PCB*, 69 Ill. 2d at 398–99 (1977); *People v. Briceland*, 65 Ill. 2d 485 (1976). Accordingly, the Attorney General is the only officer empowered to represent the State or any of its officials in litigation in which the State is the real party in interest. *Id.*

2. When, like here, a lawsuit is filed against an Illinois state official acting in his or her official capacity, the State is the real party in interest. *Loman v. Freeman*, 229 Ill. 2d 104, 112 (2008). Identifying the real party in interest depends on the nature of the relief sought. *Id.* “[W]here the rights of the State are directly and adversely affected by the judgment or decree sought against the officer of the State, the suit is against the State.” *Posinski v. The Chicago, Milwaukee, St. Paul & Pacific R.R. Co.*, 376 Ill. 346, 351 (1941); *accord Hudgens v. Dean*, 75 Ill. 2d 353, 355–57 (1979). In contrast, suits against an official *in her personal capacity* are usually for money damages, enforceable against that person individually, with liability following the person even after she leaves office. *Doe v. Calumet City*, 161 Ill. 2d 374, 400 (1994). This action contains one claim for impairment of contract in which the Plaintiffs are seeking to have the State pay public

funds for union members' full wages in the absence of enacted appropriations statutes. The Comptroller is named in this suit purely because, in her official capacity, she may be required to effectuate any payments to union members by drawing warrants on vouchers submitted by other government offices and agencies. Because the consequences of a judgment will control the actions of the State and subject it to liability, there is no question that the State, and only the State, is the real party in interest.

3. The Attorney General's exclusive authority over litigation against the State and its officials is reinforced by Section 4 of the Attorney General Act, 15 ILCS 205/4, which provides that the "duties of the attorney general shall be . . . [t]o defend all actions and proceedings against any state officer, in his official capacity, in any of the courts of this state or the United States. . . ." There is no dispute that this is the situation here.

4. In *EPA v. PCB*, 69 Ill. 2d at 398 (1977), the Illinois Supreme Court confirmed that "this court has consistently held, under both the 1870 and 1970 constitutions, that the Attorney General is the chief legal officer of the State; that is, he or she is 'the law officer of the people, as represented in the State government, and its only legal representative in the courts.'" The court went on to state that "[a]s the chief legal officer of the State, the Attorney General has the constitutional duty of acting as legal adviser to all legal representatives of State agencies. He or she has the prerogative of conducting legal affairs for the State." *Id.* at 399.

5. Similarly, in *Briceland*, 65 Ill. 2d at 499, the Illinois Supreme Court explained that unless the constitution or a constitutional statute provides otherwise, the Attorney General is the only officer empowered to represent the executive officers, boards, commissions, departments and agencies of government when the State is the real party in interest. The Court noted that although

the executive branch officers might employ “in house counsel,” the “Attorney General is ‘the only officer empowered to represent the people *in any suit or proceeding* in which the State is the real party in interest . . .’” *Id.* (emphasis added) (citing *Fergus v. Russel*, 270 Ill. 304, 342 (1915)).

Thus, while the Comptroller is entitled to employ lawyers and receive their counsel, those lawyers are not authorized to appear or take any legal positions for the Comptroller in litigation unless the Attorney General has authorized them to do so.

6. Because the State is the real party in interest in litigation against a public official related to conduct in his or her official capacity, the Attorney General controls the litigation. In doing so, the Attorney General may decide whether to represent the official through attorneys at the Attorney General’s office, or to appoint an outside attorney to act as a special assistant attorney general to represent the official. Even when appointing outside counsel to serve as a special assistant attorney general, however, the Attorney General retains the ultimate control over the litigation. *Scachitti*, 215 Ill. 2d at 514–16.

7. The Illinois Supreme Court specifically has held that the discretion and power to appoint outside counsel does not belong to the state official or agency because “[t]o allow the numerous State agencies the liberty to employ private counsel without the consent of the Attorney General would be to invite chaos into the area of legal representation of the State.” *EPA v. PCB*, 69 Ill. 2d at 402. That chaos is acutely demonstrated here.

8. While the Attorney General retains the right to appoint special attorneys to aid in carrying out its authority, *People v. Illinois State Toll Highway Comm’n*, 3 Ill. 2d 218, 237 (1954), *Saxby v. Sonnemann*, 318 Ill. 600, 606 (1925), she need not do so outside the narrow circumstances “where the Attorney General is an actual party to the action” against a state official,

or “where the Attorney General is interested” in the litigation “as a private individual.” *EPA v. PCB*, 69 Ill. 2d at 400–01; *Briceland*, 65 Ill. 2d at 499. As discussed below, those circumstances do not exist in this action, where the State and the Comptroller are co-defendants and the State is the only real party in interest.

9. An attorney’s lack of authority to appear and represent a party in litigation renders any action taken by the attorney on the party’s behalf a nullity that should be stricken. *See, e.g., United States v. Martin-Trigona*, 684 F.2d 485, 490–91 (7th Cir. 1982) (trial court abused its discretion in failing to confirm whether attorneys who appeared and argued for party were authorized to do so); *FDIC v. Oaklawn Apts.*, 959 F.2d 170, 175–76 (10th Cir. 1992) (trial court erred in accepting attorney’s “belief” that he was authorized to represent party in court). This is yet another reason why the lack of authority of the Comptroller’s in-house attorneys to appear and argue for the Comptroller in this action cannot be disregarded or discounted.

10. At the July 9 hearing on the temporary restraining order, several attorneys from the Comptroller’s office appeared for the Comptroller and took positions without authority to do so, and over the objections of the Attorney General stated at the hearing. Those attorneys were not appointed or otherwise authorized by the Attorney General to represent the Comptroller in this litigation, let alone take positions that are directly contrary to the Constitution, controlling case law, prior court orders, and the interests of the State—the real party in interest.<sup>1</sup>

11. The Comptroller’s attorneys knew that they had not been appointed or authorized to appear for the Comptroller in this litigation, yet they acted as if they had such authority. Before the unions filed this litigation, the Attorney General, on behalf of the People of the State of Illinois,

---

<sup>1</sup> Private attorneys from Brown, Hay & Stephens LLP attended the hearing but did not appear for the Comptroller, even though paragraph 1 of the Court’s temporary restraining order entered July 10, 2015 says otherwise.

filed an action in the Circuit Court of Cook County seeking an order concerning the State's authority to expend public funds in the absence of necessary appropriations statutes. The Attorney General named the Comptroller as a defendant in that action as the official charged with "ordering payments into and out of the funds held by the State Treasurer" pursuant to vouchers for payment presented to the Comptroller by the officers, boards, commissions, departments and agencies of the State government. 15 ILCS 405/2 and 9(b). Because the Attorney General filed the case on behalf of the People as plaintiff and named the Comptroller as a defendant, the Attorney General agreed to allow special assistant attorneys general to appear for the Comptroller *in that action*. (See Attorney General's Response to Comptroller's Motion to Disqualify Attorney General and Appoint Private Counsel, filed concurrently with this motion.) Specifically, that appointment allowed the Comptroller to present arguments as to the State's technical capability to process wage payments to state employees that comply only with the requirements of the federal Fair Labor Standards Act—an issue the union plaintiffs did not raise in this action.

12. In this action, a group of unions sued the State and the Comptroller as co-defendants. The Attorney General has not authorized any special attorney (either from a private firm or employed as in-house counsel by the Comptroller) to appear on the Comptroller's behalf because, as co-defendants, the State and Comptroller are on the same side in this action, which presents legal issues that are entirely different from those presented in the Cook County action. The distinct issues here include whether the unions' claim seeking the payment of State funds is barred by sovereign immunity, and whether the State's failure to enact an appropriations statute authorizing payment of wages to union members at the start of the fiscal year can constitute an impairment of contract in violation of the Illinois Constitution.

13. In any event, any disagreement between the Attorney General and the Comptroller on the position to be taken in litigation seeking the payment of funds from the State treasury is not a legitimate reason to allow the Comptroller to have separate counsel to assert her views. As discussed above, the Illinois Supreme Court repeatedly has made clear that the Attorney General has the exclusive power to direct the legal affairs of the State and represent the State in litigation in which it is the real party in interest. “That is so because the Attorney General serves the broader interests of the State rather than the particular interest of any agency” or official. *People ex rel. Sklodowski v. State of Illinois*, 162 Ill. 2d 117, 127 (1994); *EPA v. PCB*, 69 Ill. 2d at 401 (“The Attorney General’s responsibility is not limited to serving or representing the particular interests of State agencies, . . . but embraces serving or representing the broader interests of the State.”)

14. Before the TRO hearing, the Comptroller’s attorneys did not express any disagreement with the Attorney General’s legal arguments in this action, and never suggested that they would appear at the TRO hearing to waive sovereign immunity and effectively confess judgment by conceding that the failure to enact an appropriations statute in time for the start of the fiscal year constitutes a violation of the Illinois Constitution’s Contracts Clause. (*See* Response to Motion to Disqualify.) Yet, as the Court proceeded with arguments, the Comptroller’s in-house lawyers, over the Attorney General’s objections, repeatedly agreed with the arguments advanced by the unions and disagreed with the arguments advanced by the Attorney General. This culminated with the Comptroller’s attorneys consenting to the temporary restraining order, and even asking the Court for affirmative relief that the union plaintiffs had not asked for, and that the Comptroller had not moved for and had no authority to seek—an order that requires the Comptroller to draw and issue warrants to pay *all* state employees at their normal rates of pay—an

order that, as noted, is contrary to the Appropriations Clause of the Illinois Constitution, contrary to controlling appellate court precedent, and contrary to the orders on the same subject entered by the Circuit Court of Cook County and the Appellate Court of Illinois, First Judicial District.

WHEREFORE, because the Attorney General did not authorize special attorneys to act on behalf of the Comptroller in this litigation, the attorneys who appeared and argued for the Comptroller at the temporary restraining order hearing had no legal authority to do so.

Accordingly, their (formal or informal) appearance for the Comptroller and their arguments should be stricken.

Respectfully submitted,

LISA MADIGAN  
Illinois Attorney General

BY:                   /s/ Brett E. Legner                    
BRETT E. LEGNER, No. 6256268  
Deputy Solicitor General  
100 West Randolph, 12th Floor  
Chicago, Illinois 60601  
(312) 814-2146  
*blegner@atg.state.il.us*

July 13, 2015

**CERTIFICATE OF SERVICE**

The undersigned certifies that on July 13, 2015, I caused a true and correct copy of the foregoing MOTION TO STRIKE ATTORNEY APPEARANCE AND ARGUMENT to be served by hand-delivery and electronic mail upon:

Stephen A. Yokich  
Melissa Auerbach  
Cornfield & Feldman, LLP  
25 E. Washington St., Suite 1400  
Chicago, IL 60602-1803  
  
*syokich@cornfieldandfeldman.com*  
*mauerbach@cornfieldandfeldman.com*

Alissa J. Camp  
General Counsel  
Office of the Comptroller  
201 State Capitol Building  
401 South Second Street  
Springfield, IL 62706-1001  
*campaj@mail.ioc.state.il.us*

/s/ Brett E. Legner

APPEAL TO THE APPELLATE COURT OF ILLINOIS  
FIFTH JUDICIAL DISTRICT

FROM THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT  
ST. CLAIR COUNTY, ILLINOIS

THE AMERICAN FEDERATION OF STATE, )  
COUNTY AND MUNICIPAL EMPLOYEES, )  
AFL-CIO, COUNCIL 31, *et al.*, )

Plaintiffs-Appellees, )

v. )

STATE OF ILLINOIS and LESLIE )  
GEISSLER MUNGER, in her official capacity )  
as Comptroller for the State of Illinois, )

Defendants-Appellants. )

No. 15 CH 475

<p>FILED ST. CLAIR COUNTY JUL 13 2015 <i>Helen A. Clay</i> CIRCUIT CLERK</p>
--

**NOTICE OF INTERLOCUTORY APPEAL**

Defendants State of Illinois and Leslie Geissler Munger, in her official capacity as Comptroller of the State of Illinois, by and through Lisa Madigan, Attorney General of the State of Illinois, appeal to the Appellate Court of Illinois, Fifth Judicial District, pursuant to Illinois Supreme Court Rule 307(d) from the order of the Circuit Court of the Twentieth Judicial Circuit, St. Clair County, Illinois, entered on July 10, 2015, granting plaintiffs' motion for a temporary restraining order.

By this appeal, the State of Illinois requests that this court reverse and vacate the circuit court's order, dissolve the temporary restraining order entered by the circuit court on July 10, 2015, and grant other appropriate relief.

Respectfully submitted,

LISA MADIGAN

Attorney General  
State of Illinois

By: \_\_\_\_\_

Brett E. Legner, No. 6256268  
Deputy Solicitor General  
100 West Randolph, 12th Floor  
Chicago, Illinois 60601  
(312) 814-2146  
*blegner@atg.state.il.us*



William H. Phillips, No: 6298620  
Assistant Attorney General  
201 West Pointe Drive, Ste. 7  
Swansea, Illinois 62226

**Certificate of Filing and Service**

The undersigned, an attorney, certifies that on July 13, 2015, he caused the foregoing Notice of Interlocutory Appeal to be filed with the Clerk of the Circuit Court of St. Clair County, Illinois, 10 Public Square, Belleville, Illinois 62220-1623 by hand delivery and an electronic copy to be served by e-mail and a hard copy to be personally served on:

Stephen A. Yokich  
Melissa Auerbach  
Cornfield & Feldman, LLP  
25 E. Washington St., Suite 1400  
Chicago, IL 60602-1803

*syokich@cornfieldandfeldman.com*  
*mauerbach@cornfieldandfeldman.com*

Alissa J. Camp  
General Counsel  
Office of the Comptroller  
201 State Capitol  
Building  
401 South Second Street  
Springfield, IL  
62706-1001  
*campaj@mail.ioc.state.il.us*

---

Brett E. Legner



William H. Phillips

STATE OF ILLINOIS    )  
                                  )    SS.  
COUNTY OF C O O K    )

AFFIDAVIT

BRETT E. LEGNER, being first duly sworn upon oath, states as follows:

1.    I am Deputy Solicitor General in the Office of the Illinois Attorney General.
2.    I am familiar with the record in the cases that are the subject of the motion.
3.    The documents included in the Supporting Record are true and accurate copies of documents filed with the circuit and appellate courts in these cases.




---

BRETT E. LEGNER

SUBSCRIBED and SWORN to before me  
this 13th day of July, 2015.



NOTARY PUBLIC



APPEAL TO THE  
ILLINOIS APPELLATE COURT, FIRST DISTRICT  
FROM THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff,

v.

LESLIE GEISLER MUNGER, in her  
capacity as Comptroller of the State of Illinois,  
ILLINOIS DEPARTMENT OF CENTRAL  
MANAGEMENT SERVICES, Intervenor-  
Defendant, and AMERICAN FEDERATION  
OF STATE, COUNTY AND MUNICIPAL  
EMPLOYEES, COUNCIL 31, Intervenor-  
Defendant

Defendants.

Case No. 2015-CH-10243

Judge Diane J. Larsen

3174

NOTICE OF INTERLOCUTORY APPEAL

Notice is hereby given pursuant to Supreme Court Rule 307 that Intervenor-Defendant Illinois Department of Central Management Services appeals to the Illinois Appellate Court, First District, from the Circuit Court of Cook County's Order of July 7, 2015, which order granted Plaintiffs' Temporary Restraining Order. A true and correct copy of that order is attached hereto. Intervenor-Defendant Illinois Department of Central Management Services seeks reversal of the Circuit Court's Order and remand to the Circuit Court for further proceedings consistent with this reversal.

Dated July 7, 2015

Respectfully submitted,

ILLINOIS DEPARTMENT OF CENTRAL  
MANAGEMENT SERVICES

By:   
Michael Basil  
General Counsel, Illinois Department of  
Central Management Services

FILED - 2015 JUL - 7 PM 4:53  
COURT OF ILLINOIS  
COUNTY OF COOK  
CHANCERY DIVISION  
GREGORY BROWN

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, on July 7, 2015, I caused a true and correct copy of the foregoing Notice of Appeal to be served via messenger upon:

Brett E. Legner  
Deputy Solicitor General  
100 West Randolph, 12th Floor  
Chicago, Illinois 60601



---

Order

(2/24/05) CCG N002

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

People of the State of Ill., Plaintiff

v.

No. 2015 CH 10243

Leslie Geissler Mungler, Defendant

ORDER (page 1 of 2)

This matter having come before the Court on Plaintiff's motion for a temporary restraining order ("TRO") and preliminary injunction; Plaintiff, Defendant, the intervening unions and Illinois Department of Central Management Services ("CMS") having appeared and presented argument, and the Court having considered Plaintiff's verified Complaint, Verified Motion, and Supporting Memorandum, as well as Defendant's Response and attachments, and being fully advised in the premises; It is hereby Ordered:

Plaintiff's motion for a TRO is granted. The Court finds that Plaintiff has a protectible right in clear need of protection, has shown an inadequate remedy at law and irreparable injury in the absence of injunctive relief, and a likelihood of success on the merits. For the reasons stated at record, it is hereby ordered as follows: (continued on p. 2)

Atty. No.: \_\_\_\_\_

Name: Lisa Modigan / Brett Legner

Atty. for: Plaintiff

Address: 100 W. Randolph, 12<sup>th</sup> Floor

City/State/Zip: Chicago, IL 60601

Telephone: (312) 814-2146

ENTERED:

Dated: \_\_\_\_\_

Judge \_\_\_\_\_

Judge's No. \_\_\_\_\_

ENTERED  
JUDGE DIANE LARSEN-J  
JUL 07 2015  
DOROTHY BROWN  
CLERK OF THE CIRCUIT  
OF COOK COUNTY  
DEPUTY CLERK

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

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S.R. 174

C00090

Order

(2/24/05) CCG N002

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

People of the State of Illinois, Plaintiff

v.

No. 2015 CH 10243

Leslie Geissler Nungar, Defendant

ORDER (page 2 of 2)

Defendant is enjoined, in the absence of enacted appropriations legislation, from processing vouchers for payment of state employee payroll except vouchers that comply only with the minimum federal minimum wage and overtime requirements of the federal Fair Labor Standards Act.

Atty. No.: 997000

Name: Lisa Modigan/Brett Logner

Atty. for: Plaintiff

Address: 100 W. Randolph, 12th Floor

City/State/Zip: Chicago, IL 60601

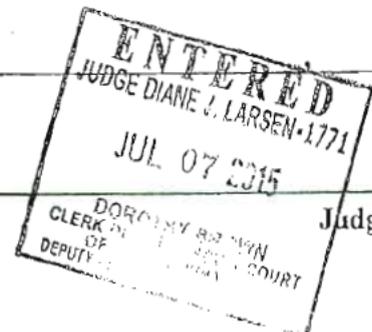
Telephone: (312) 814-2146

ENTERED:

Dated: \_\_\_\_\_

Judge \_\_\_\_\_

Judge's No. \_\_\_\_\_



DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

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S.R. 175

C00091

2871 3174 #71182  
A.P. ANN.

APPEAL TO THE  
ILLINOIS APPELLATE COURT, FIRST DISTRICT  
FROM THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff,

v.

LESLIE GEISLER MUNGER, in her  
capacity as Comptroller of the State of Illinois,  
Defendant,

and

ILLINOIS DEPARTMENT OF CENTRAL  
MANAGEMENT SERVICES, AMERICAN  
FEDERATION OF STATE, COUNTY AND  
MUNICIPAL EMPLOYEES, COUNCIL 31;  
ILLINOIS FEDERATION OF PUBLIC  
EMPLOYEES, LOCAL 4408, IFT-AFT-;  
LOCAL 919, IFT-AFT; LOCAL 4407, IFT-  
AFT; AND LOCAL 4051, IFT-AFT;  
ILLINOIS TROOPERS LODGE NO. 41,  
FRATERNAL ORDER OF POLICE;  
SERVICE EMPLOYEES INTERNATIONAL  
UNION, LOCAL 73; CONSERVATION  
POLICE LODGE OF THE POLICE  
BENEVOLENT AND PROTECTIVE  
ASSOCIATION,

Defendants-Intervenors.

Case No. 2015-CH-10243

Judge Diane J. Larsen

FILED  
CIRCUIT COURT OF COOK  
COUNTY, ILLINOIS  
2015 JUL -8 AM 11:08  
CIVIL APPEALS DIVISION  
DOROTHY BROWN CLERK

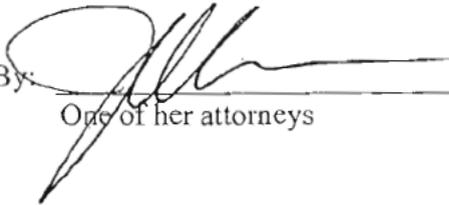
NOTICE OF JOINDER IN INTERLOCUTORY APPEAL

Pursuant to Illinois Supreme Court Rule 307, Defendant Leslie Geissler Munger, in her capacity as Comptroller of the State of Illinois (the "Comptroller"), hereby joins in the appeal of the Illinois Department of Central Management Services to the Illinois Appellate Court for the First Judicial District from the July 7, 2015 order of the Circuit Court of Cook County, Judge Diane Larsen presiding, granting Plaintiff's motion for a temporary restraining order and

preliminary injunction. That appeal is assigned the number 15-1877. A copy of the July 7, 2015 order is attached here as Exhibit A. The Comptroller joins the Illinois Department of Central Management Services in requesting that the Appellate Court reverse the July 7, 2015 order and remand to the circuit court with instructions consistent with this reversal.

Respectfully submitted,

LESLIE GEISLER MUNGER, in her  
capacity as Comptroller of the State of Illinois

By:   
One of her attorneys

David C. Gustman  
Michael J. Kelly  
John E. Stevens  
Jill C. Anderson  
FREEBORN & PETERS LLP  
311 South Wacker Drive  
Suite 3000  
Chicago, IL 60606-6677  
312.360.6000  
Firm I.D. No. 71182

Dated: July 8, 2015

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on July 8, 2015, I caused a true and correct copy of the foregoing notice of interlocutory appeal to be served via messenger upon:

Brett E. Legner  
Deputy Solicitor General  
100 West Randolph, 12th Floor  
Chicago, Illinois 60601

Stephen Yokich  
Cornfield & Feldman  
25 E. Washington Street, Suite 1400  
Chicago, IL 60602-1708

Michael Basil  
General Counsel  
Illinois Department of Central  
Management Services  
100 West Randolph Street, Suite 4-500  
Chicago, IL 60601

A handwritten signature in black ink, appearing to read 'M. Basil', is written over a horizontal line.

A

Order

(2/24/05) CCG N002

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

People of the State of Ill., Plaintiff

v.

No. 2015 CH 10243

Leslie Geissler Munger, Defendant

ORDER (page 1 of 2)

This matter having come before the Court on Plaintiff's motion for a temporary restraining order ("TRO") and preliminary injunction; Plaintiff, Defendant, the intervening unions and Illinois Department of Central Management Services ("MS") having appeared and presented argument, and the Court having considered Plaintiff's verified Complaint, Verified Motion, and Supporting Memorandum, as well as Defendant's Response and attachments, and being fully advised in the premises; It is hereby Ordered:

Plaintiff's motion for a TRO is granted. The Court finds that Plaintiff has a protectible right in clear need of protection, has shown an inadequate remedy at law and irreparable injury in the absence of injunctive relief, and a likelihood of success on the merits. For the reasons stated at record, it is hereby ordered as follows: (continued on p. 2)

Atty. No.: \_\_\_\_\_

Name: Lisa Modigan / Brett Legner

Atty. for: Plaintiff

Address: 100 W. Randolph 12<sup>th</sup> Floor

City/State/Zip: Chicago, IL 60601

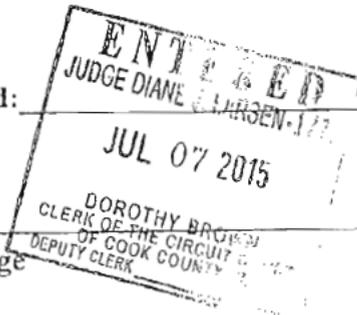
Telephone: (312) 814-2146

ENTERED:

Dated: \_\_\_\_\_

Judge \_\_\_\_\_

Judge's No. \_\_\_\_\_



DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

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S.R. 180

C00097

Order

(2/24/05) CCG N002

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

People of the State of Illinois, Plaintiff

v.

No. 2015 CH 10243

Leslie Geissler Nungor, Defendant

ORDER (page 2 of 2)

Defendant is enjoined, in the absence of enacted appropriations legislation, from processing vouchers for payment of state employee payroll except vouchers that comply only with the minimum federal minimum wage and overtime requirements of the federal Fair Labor Standards Act.

Atty. No.: 999000

Name: Lisa Modigan/Brett Legner

ENTERED:

Atty. for: Plaintiff

Dated: \_\_\_\_\_

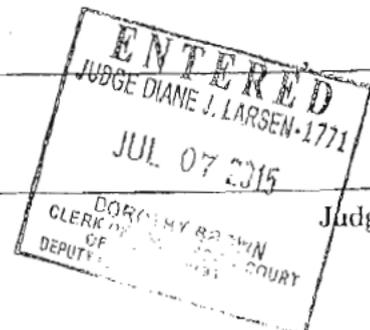
Address: 100 W. Randolph, 12th Floor

City/State/Zip: Chicago, IL 60601

Judge

Judge's No.

Telephone: (312) 814-2146



DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

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S.R. 181

C00098



**Pursuant to Supreme Court Rule 302(b) and Other Relief** with the Clerk of the Supreme Court of Illinois, Supreme Court Building, 200 East Capitol Avenue, Springfield, Illinois 62701, via the electronic filing system of the Supreme Court of Illinois. A copy of said motion is hereby served on you.

Respectfully submitted,

LISA MADIGAN  
Attorney General  
State of Illinois

By:     /s/ Brett E. Legner      
BRETT E. LEGNER  
Deputy Solicitor General  
100 West Randolph Street  
12th Floor  
Chicago, Illinois 60601  
(312) 814-2146

Service List

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*TPalella@illinoiscourts.gov*

STATE OF ILLINOIS     )  
   )  
 COUNTY OF COOK        )     SS.

### CERTIFICATE OF FILING AND SERVICE

The undersigned certifies that on July 13, 2015, the attached Notice of Filing by Electronic Means, Supporting Record for Emergency Motion for Direct Appeal Pursuant to Supreme Court Rule 302(b) and Other Relief, were filed with the Clerk of the Supreme Court of Illinois, Supreme Court Building, 200 East Capitol Avenue, Springfield, Illinois 62701, using the electronic filing system of the Supreme Court of Illinois; and that one copy of said motion was served on each person named below on July 13, 2015, by electronic mail and hand delivery.

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 John E. Stevens  
 Jill C. Anderson  
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14th & Main Streets  
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*JFlood@illinoiscourts.gov*

/s/ Brett E. Legner  
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