

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

Kevin Promenschenkel and Peggy
Promenschenkel dba Poopy's Pub & Grub,

Plaintiff,

v.

Governor Jay Robert Pritzker, in his official
capacity,

Defendant.

No. 20 C 50166

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant Governor JB Pritzker ("Governor") hereby removes to this Court the State Court Action described below.

1. On May 11, 2020, Plaintiffs commenced an action in the Circuit Court for the Fifteenth Judicial Circuit, Carroll County, Illinois, captioned *Kevin Promenschenkel and Peggy Promenschenkel dba Poopy's Pub & Grub v. Governor Jay Robert Pritzker, in his official capacity*, No. 2020 CH 8 ("State Court Action"). Plaintiffs' *Verified Complaint for Declaratory Judgment and Injunctive Relief Against Governor Jay Robert Pritzker* ("Complaint") filed in the State Court Action on May 11, 2020, is attached as Exhibit 1.

2. The Governor is the only defendant named in the State Court Action. The Governor received a copy of the Complaint on May 11, 2020. The Governor's Notice of Removal is therefore timely pursuant to 28 U.S.C. § 1446(b)(1) because it is filed in this Court within 30 days of receiving a copy of the Complaint.

3. The State Court Action is removable pursuant to 28 U.S.C. § 1441(a) because it arises under the Constitution, laws, or treaties of the United States and therefore the Court has

original jurisdiction over it pursuant to 28 U.S.C. § 1331. The State Court Action arises under the Constitution, laws, or treaties of the United States because Plaintiffs allege that Executive Order 2020-32—which they claim has required them to close their business—“violates [their] fundamental liberty interest and offers no procedural or substantive due process as required by [the] United States and Illinois Constitutions.” Complaint ¶¶ 7, 52. Plaintiffs further allege that any interpretation of Illinois law that would allow the Governor to issue Executive Order 2020-32 would be prohibited by the U.S. Constitution. *Id.* ¶¶ 52, 60–61. Consistent with these allegations, Plaintiffs seek a declaration “that to the extent any provision of the [Illinois Emergency Management Agency Act, 20 ILCS 3305] allowed [the Governor] to forcibly close [Plaintiffs’] business premises, such provision of [Executive Order 2020-32] is void as it violates a fundamental right without due process as required by the United States and Illinois Constitutions.” Complaint Count I prayer for relief ¶ F.

For all these reasons, the Governor removes the State Court Action to this Court.

Date: May 11, 2020

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Respectfully submitted,

/s/ R. Douglas Rees

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CERTIFICATE OF SERVICE

I certify that on May 11, 2020, I caused a copy of the foregoing *Notice of Removal* to be served on the following counsel of record for Plaintiff in the State Court Action via the email addresses listed below:

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