

**IN THE CIRCUIT COURT
FOR THE FOURTH JUDICIAL CIRCUIT
CLAY COUNTY, ILLINOIS**

Darren Bailey,)	
)	
)	
Plaintiff,)	
)	
vs.)	Case No. 2020-CH-06
)	
Governor Jay Robert Pritzker,)	
in his official capacity.)	
)	
Defendant.)	

RESPONSE TO DEFENDANTS MOTION TO DISMISS

COMES NOW Plaintiff, Darren Bailey, (hereinafter referred to as “Bailey”) by and through his attorneys, Thomas G. DeVore, Erik Hyam, and DeVore Law Offices, LLC, and for his response to, Governor Jay Robert Pritzker (hereinafter referred to as “Pritzker”), motion to dismiss, hereby states as follows:

1. On July 02, 2020, this Court granted Bailey summary judgment on Counts II and Counts III.
2. On July 07, 2020, Pritzker moved this Court to dismiss Count I for failure to state a claim as well as for Count 1 allegedly being moot.

COUNT I IS NOT MOOT

3. Pritzker argues Count I is moot due to the Court ruling in favor of Bailey in Counts II and Counts III that Pritzker’s executive orders, in whole or in part, are void.
4. As such, Pritzker suggest any relief in Bailey’s favor in Count I would not have any practical effect on the existing controversy.

5. Such a proposition could not be further from the truth if one takes the time to review the prayers for relief in each count.
6. The relief granted in Count II declared Pritzker's emergency powers under Section 7 of the IEMAA lapsed as of April 08, 2020.
7. The relief in Count II further declared any executive orders in effect after April 08, 2020 were void.
8. The relief granted in Count III declared the Constitution and Section 4 of the IEMAA provided Pritzker no authority to restrict a citizen's movement or close a business as the same had been expressly delegated to the IDPH.
9. The relief requested in Count I had nothing to do with the propriety of executive orders issued pursuant to Section 7 of the IEMAA and was seeking a declaration as to the validity of a proclamation of disaster as defined under Section 4 of the IEMAA.
10. The relief sought a much broader declaration which would have practically eliminated Pritzker's authority to act in any capacity under the IEMAA and not just utilization of emergency powers under Section 7 as was addressed in Counts II and III.
11. For these reasons, Count I is not moot.

COUNT I STATES A CLAIM

12. Pritzker in his motion to dismiss throws a request to dismiss for failure to state a claim against the wall to see if it will stick by bootstrapping a generic oral argument made in a related case on the same matter.
13. Given such a vague argument is made in Pritzker's motion, Bailey is unable to provide an intelligent response to such an argument.
14. Bailey reserves the right to respond to this basis for dismissal at the upcoming hearing.

15. Having said that Bailey argues his Count 1 states a cognizable cause of action.

Respectfully submitted,

By: /s/ Thomas Devore

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CERTIFICATE OF SERVICE

PLEASE TAKE NOTICE that, the undersigned hereby certifies, that a true and correct copy of the foregoing was served via the electronic filing system, this 22th Day of July, 2020, to:

Thomas J. Verticchio
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and that the original was filed with the Clerk of the Court in which said cause is pending.

/s/ Thomas DeVore

Thomas DeVore