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

COOK COUNTY REPUBLICAN PARTY, Plaintiff, v. J.B. PRITZKER et al., Defendants.	No. 1:20-cv-4676 The Honorable Robert M. Dow, Jr. **Plaintiff's Joint Reply in Support of its Motion for Preliminary Injunction**

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INTRODUCTION

The Cook County Republican Party files this Joint Reply in Support of its Motion for Preliminary Injunction (Dkt. 6) and asks the Court to enjoin enforcement of SB 1863 because it has shown a likelihood of success on the merits. Illinois law already allowed all voters to vote by mail for any reason, so the justification offered by Defendants in their response briefs that SB 1863 was needed to allow safe voting during a pandemic rings hollow. COVID-19 did not require a change in Illinois law to allow ballot harvesting, to require three of three election judges to throw out ballots with fraudulent signatures, to publish the names and addresses of those requesting ballots by mail, or to extend the time to cure provisional ballots. These provisions were enacted to harm the Cook County Republican Party, its candidates, and its voters, and Plaintiff has shown it is entitled to an injunction against their enforcement in the November election.[1]

ARGUMENT

I. Plaintiff has properly alleged that it will suffer an injury absent an injunction.

As Plaintiff explained in its Complaint and Motion for Preliminary Injunction, there is no do-over in an election. *League of Women Voters of N. Carolina v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014). Plaintiff, its

[1] Defendants' Responses in Opposition to the Motion for Preliminary Injunction also raise the issue of lack of standing and laches. To preserve the Court's resources, Plaintiff will not repeat in this Reply its responses to arguments on standing or laches but will, instead, include them in its Response to Defendants' Motions to Dismiss. However, Plaintiff hereby incorporates such arguments and preserves them for this Motion for Preliminary Injunction.

candidates, and its voters will be irrevocably harmed if an election is allowed to proceed without the safeguards that SB 1863 eliminates.

DCCC and Pritzker argue that Plaintiff must "demonstrate that irreparable injury is *likely* in the absence of an injunction." DCCC Br. at 13, quoting *Winter v. NRDC, Inc.,* 555 U.S. 7, 22 (2008); *see also* Pritzker Br. at 33. As set forth in Plaintiff's Motion, this is not the standard utilized by the Seventh Circuit. *See* Cook Co. Republican Party ("CCRP") Br. at 7. The Seventh Circuit requires only that Plaintiff "show that it has a better than negligible chance of success on the merits of at least one of its claims," *Girl Scouts of Manitou Council, Inc. v. Girl Scouts of the U.S.A., Inc.*, 549 F.3d 1079, 1096 (7th Cir. 2008) (internal quotation marks omitted). Under either standard, Plaintiff has met its burden because Plaintiff has shown that, absent an injunction, Illinois *likely* will suffer the same vote fraud – specifically ballot-harvesting fraud – that other states have endured.

In order to argue otherwise, the Defendants try to deflect the plain evidence of vote fraud – and particularly ballot-harvesting vote fraud – that Plaintiff has already presented to the Court. In trying to downplay the specter of ballot harvesting and related fraud, DCCC acknowledges that Plaintiff has produced "a handful of news articles" and a 2005 report from the Commission on Federal Election Reform (DCCC Br. at 13; *see also* Pritzker Br. at 35), but ignores the fact that Plaintiff has also cited the United States Postal Service's own report, issued this summer, that identifies several steps that states can take to secure the

integrity of their mailed ballots – steps that Illinois has pointedly declined to take. Complaint ¶¶ 31-36; Memo at 2-3.

Defendants have provided no evidence that they have the capability of administering an election that will occur mostly by mail. SB 1863 goes from zero to 100 in a few short months, transforming the Illinois election process from one occurring mostly in person with some mail-in ballots with safeguards in place for collecting and counting them to an election with five million mail-in ballot applications sent to voters and many election fraud safeguards removed. This unnecessary transformation will lead to both mismanagement and election fraud. As Plaintiff mentioned in its motion, the Seventh Circuit has already recognized the problem this will cause: "Oregon, for example, has switched to a system of all-mail voting. O.R.S. § 254.465. But what works in the state of Oregon doesn't necessarily work in Illinois, especially in light of the colorful history of vote fraud we've seen." *Nader v. Keith*, 385 F.3d 729, 734 (7th Cir. 2004) (internal quotations omitted).

Perhaps most obtusely, Defendants complain that Plaintiff has only produced evidence of "past instances" (as though Plaintiff can produce evidence of *future* instances) of ballot-harvesting fraud "in jurisdictions *outside* Illinois," conveniently ignoring that this is the first time Illinois law will allow widespread ballot harvesting – which is precisely why Plaintiff *brought this action.* DCCC Br. at 14 (emphasis in original); *see also* Pritzker Br. at 35.

Plaintiff has demonstrated that voter fraud occurs where opportunities arise, that ballot harvesting is a particularly pernicious form of voter fraud, and that the

provisions of SB 1863 open the door to ballot harvesting. Yes, Plaintiff is forced to speculate because Plaintiff cannot see the future. But Defendants have not offered any evidence to suggest that the same sort of ballot harvesting fraud readily found in other states that haphazardly institute mail-in voting schemes will magically be absent in Illinois.

In an effort to discredit this case, Defendants have erected a straw man that they utilize in other cases, saying there is no evidence of widespread voter fraud in the U.S. (DCCC Br. at 14.) Plaintiff is not alleging that. Plaintiff is alleging that voter fraud occurs in limited circumstances and is used in an effort to tilt the balance in close races.[2] While county-wide races in Cook County may not be close enough to be swayed by voter fraud, many district-level races will be close. Because there are several close district races among candidates of the Cook County Republican Party, voters for those candidates will have their votes diluted by the provisions of SB 1863 that are utilized in those races, and the candidates themselves will suffer harm. Furthermore, national counsel ignores the fact that, unlike other states, Illinois does have a history of voter fraud, and the Seventh Circuit Court of Appeals has made this finding, which is controlling on this Court's analysis. *Nader*, 385 F.3d at 733-734.

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[2] Counsel for DCCC knows this well, given their representation of the congressional candidate who successfully overturned the election in North Carolina's 9th district that they claim is so rare. See Doug Bock Clark, "The Tearful Drama of North Carolina's Election-Fraud Hearings," *New Yorker*, Feb. 24, 2019, available at https://www.newyorker.com/news/dispatch/the-tearful-drama-of-north-carolinas-election-fraud-hearings (retrieved Sept. 9, 2020).

Defendant Pritzker acknowledges that voter fraud does happen, citing to a Heritage Foundation study showing at least 1,296 cases of voter fraud in the United States in the past forty years.[3] Pritzker Memo at 36. Defendant Pritzker further acknowledges that a remarkable 16 cases of voter fraud have been successfully prosecuted in Illinois since 2004. *Id.* Several of these convictions are for multiple counts, representing an untold number of fraudulent ballots cast. The injury that will occur to Plaintiff, its candidates, and its voters is very real.

II. Plaintiff has demonstrated a likelihood of success on the merits.

Plaintiff needs demonstrate only "a better than negligible chance of success on the merits." *Girl Scouts of Manitou Council, Inc.,* 594 F.3d at 1096 (internal quotation marks omitted). Despite Defendants' protestations, this threshold has been ably met.

A. This Court should review SB 1863 under the *Anderson-Burdick* standard, not rational basis as Defendants suggest.

Defendants improperly ask this Court to review the election scheme, which infringes the right to vote, under rational basis. DCCC Br. 15-16. Pritzker Br. at 23-26. This framework was rejected by the Supreme Court more than half a century ago when it applied a "stricter standard" in *Harper v. Virginia Bd. of Elections,* 383 U.S. 663 (1966). *Crawford v. Marion County Election Bd.* 553 U.S. 181, 189 (2008). Reviewing *Harper* in *Crawford,* the Court noted that "[a]lthough the State's justification for the tax was rational, it was invidious because it was irrelevant to

[3] Available at heritage.org/voterfraud (retrieved Sept. 9, 2020).

the voter's qualifications." 533 U.S. at 189. The proper standard is the one enunciated in *Anderson v. Celebrezze,* 460 U.S. 780 (1983) and *Burdick v. Takushi,* 504 U.S. 428 (1992): "a court evaluating a constitutional challenge to an election regulation weigh[s] the asserted injury to the right to vote against the precise interests put forward by the state as justifications for the burden imposed by its rule." *Crawford,* 533 U.S. at 190 (quote and citation omitted). DCCC even admits that *Anderson-Burdick* is the proper test, DCCC Br. at 15, and Pritzker acknowledges that it might be, Pritzker Br. at 26. But then DCCC goes on to use circular logic to state that the *Anderson-Burdick* test does not apply because plaintiff has not shown that SB 1863 "hinder[s] . . . exercise of the franchise." *Id.* For this proposition, DCCC quotes a District Court opinion from the Eastern District of Pennsylvania, which has no controlling authority in this Court. *See Republican Party of Pa. v. Cortés*, 218 F. Supp. 3d 396, 407–09 (E.D. Pa. 2016). Pritzker, instead, asserts that the proper test is *Jacobson v. Massachusetts*, 197 U.S. 11 (1905), a case that was decided before the right to vote was even declared to be a fundamental right. Pritzker Br. at 23-26. Respectfully, a case about smallpox vaccinations does not require Illinois to allow ballot-harvesting. As the Supreme Court reiterated in 2008, in the voting context, the correct test is the *Anderson-Burdick* test that Defendants almost admit to using. *Crawford,* 533 U.S. at 190.

As explained below, the reasons given by the Defendants for SB 1863 do not remotely justify the burden it imposes.

B. There is no rational relationship between the COVID-19 crisis and the provisions of SB 1863.

Prior to SB 1863, Illinois law already allowed any person to vote by mail for any reason in any election. 10 ILCS 5/19-1; Cmplt. ¶ 16; Pritzker Br. at 6. Therefore, the COVID-19 pandemic cannot serve as a rational basis for allowing something that was already allowed. *See* DCCC Br. at 15-16. Instead, Defendants must justify to this Court why Pritzker needed to sign into law the specific provisions of SB 1863: allowing ballot harvesting, making it harder for election judges to disqualify ballots whose signatures do not match those on file, giving campaigns the names and addresses of those requesting ballots by mail, extending the time to cure provisional ballots, etc. After the Court considers these injuries asserted by the Plaintiff, the Court "must identify and evaluate the precise interests put forward by the State as justifications for the burden imposed by its rule." *Anderson*, 460 U.S. at 789.

i. Ballot Harvesting

When it evaluates the merits of ballot harvesting, the Court will see that ballot harvesting does not further the asserted purpose of SB 1863 "to protect the safety, health, and rights of the people of Illinois." 10 ILCS 5/2B-1; *see also* Pritzker Br. at 6. Ballot harvesting is the process of sending paid, political operatives to collect ballots from voters and turn them in bundled together. Sending strangers door-to-door to collect ballots in the middle of a pandemic is the opposite of protecting the safety, health, and rights of the people of Illinois. These super-spreaders will carry germs and potentially infection from one door to the next. This

process is not rationally related to the "interests put forward by the State" and, in fact, impairs them. *Anderson*, 460 U.S. at 789. Therefore, it is not a proper "justification[] for the burden imposed" on Plaintiff of encouraging voter fraud. *Id.*

Despite Defendants' protestations, ballot harvesting is not speculative but is real. DCCC counsel used it to overturn a congressional election last cycle. After Plaintiff filed its motion, the *New York Post* published an interview with a "Bernie Sanders die-hard with no horse in the presidential race" who "felt compelled to come forward in the hope that states would act now to fix the glaring security problems present in mail-in ballots" – problems that the whistleblower confessed to having exploited in past elections. Jon Levine, "Confessions of a Voter Fraud: I was a Master at Fixing Mail-In Ballots," *New York Post,* Aug. 29, 2020, attached to this Reply as Exhibit A.[4] The story that the whistleblower tells mirrors exactly the harms Plaintiff detailed to this Court in its motion for preliminary injunction that Defendants dismiss as a "conspiracy theory," Pritzker Br. at 22; *see also* DCCC Br. at 1, 22. The whistleblower and his operatives would throw Republican ballots in the trash, collect and change others, ensure election judges count mismatched ballot signatures, and send fake voters to the polls in person. Levine, "Confessions."

The whistleblower explains how to accomplish the direct voter disenfranchisement that constitutes Count II of this Complaint:

> You have a postman who is a rabid anti-Trump guy and he's working in Bedminster [New Jersey] or some Republican stronghold … He can

[4] Available at: https://nypost.com/2020/08/29/political-insider-explains-voter-fraud-with-mail-in-ballots/

> take those [filled-out] ballots, and knowing 95% are going to a Republican, he can just throw those in the garbage.

Levine, "Confessions." Pritzker claims this type of voter fraud could never be successful because the ballot harvester would have to open the ballots to determine for whom the voters voted. Pritzker Br. at 18. But Pritzker fails to recognize the obvious fact that most Americans live in neighborhoods with people who vote the same way they do. As Chief Justice Roberts recently wrote, "Our review is deferential, but we are 'not required to exhibit a naiveté from which ordinary citizens are free.'" *Dep't of Commerce v. New York*, 139 S. Ct. 2551, 2575 (U.S. 2019) (quoting *U.S. v. Stanchich*, 550 F. 2d 1294, 1300 (CA2 1977) (Friendly, J.).

For the vote dilution disenfranchisement in Count I, the process is more involved but just as effective. The whistleblower confesses that he and his operatives would convince voters to give him their ballots; then, he "would remove the real ballot, place [a] counterfeit ballot inside the signed certificate, and reseal the envelope." Levine, "Confessions." Allowing this ballot harvesting process to occur has no relation whatsoever to protecting the public from COVID-19.

ii. Requiring 3 of 3 Election Judges to Disqualify a Signature

The change to the ballot disqualification process also has no rational relationship to the COVID-19 pandemic. Defendants admit that SB 1863 changed the process to throw out a ballot for a fraudulent signature from allowing a majority of a 3-judge panel to do so (10 ILCS 5/19-8(g-5)) to requiring all three to do so: "The signature shall be presumed to match unless 3 out of 3 election judges determine that the 2 signatures do not match." 10 ILCS 5/2B-20(c); *see also* Pritzker Br. at 19.

Because "no more than 2 [election judges] shall be from the same political party," this process ensures that one Democratic election judge can qualify every single fraudulent signature that comes before him. 10 ILCS 5/2B-20(c).

Once again, Pritzker claims this type of voter fraud "would be impossible" because the signature verification process occurs prior to opening the ballot; therefore, the election judge would have to open the ballots to determine for whom the voters voted. Pritzker Br. at 19. Pritzker ignores that in 2016, 75% of voters in Cook County voted for the Democratic candidate for president and only 21% voted for Plaintiff's candidate. *See* Illinois State Board of Elections, Election Results, 2016 General Election, Cook County.[5] Therefore, every fraudulent signature accepted by a partisan election judge has a three-fourths chance of injuring Plaintiff. And at the precinct level, the partisan divide is even more stark.

The New York Post's whistleblower explains another way to ensure that fraudulent partisan ballots are approved: secretly mark the outside of the ballots. He and his organization would "ben[d a] corner along the voter certificate . . . so Democratic Board of Election counters would know the fix was in and not to object." Levine, "Confessions." "It doesn't say bent, but you can tell it's been bent," he goes on to explain. *Id*. Allowing for this type of voter fraud harms the Plaintiff while having no rational connection to the COVID-19 pandemic, and it should be enjoined.

[5] Available at https://elections.il.gov/ElectionOperations/ElectionVoteTotalsCounty.aspx?ID=FhPpJRJbDMg%3d&T=637352375592656794 (retrieved Sept. 9, 2020).

iii. Publishing the Names and Addresses of Those who Request a Ballot by Mail

As Plaintiff explained in its opening brief, SB 1863 allows any political committee to receive a list of the names and addresses of all voters who return the vote-by-mail application. Memo at 4; 10 ILCS 5/2B-55(d). Defendants did not even attempt to offer a rational basis for this provision. *See* DCCC Br. at 18-19; Pritzker Br. at 20-21. Therefore, the Court should enjoin it under any standard.[6]

"The only way to preserve the secrecy of the ballot is to limit access to the area around the voter." *Burson v. Freeman*, 504 U.S. 191, 207-08 (1992). The area around the voter for a mail-in ballot includes the physical address from which voters fill out the ballot. SB 1863 violates the secrecy of the ballot because it makes the names and home addresses of voters requesting a mail-in ballot available to political operatives, who will then go "house to house, convincing voters to let them mail completed ballots on their behalf." Levine, "Confessions." In addition, "[h]itting up assisted-living facilities and 'helping' the elderly fill out their absentee ballots was a gold mine of votes, the insider said." *Id.*

The protection found in the Illinois Constitution for the secrecy of the ballot is even greater than protections found in the U.S. Constitution. When a protected

[6] Defendants also assert that Count III is somehow barred by the 11th Amendment. DCCC Br. at 11-12; Pritzker Br. at 31-32. But, of course, federal courts have supplemental jurisdiction "over all other claims that are so related to claims in the action within such original jurisdiction" (here Counts I and II) "that they form part of the same case or controversy." 28 U.S.C. § 1367(a). Plaintiff will address this point more fully in its Response in Opposition to Motions to Dismiss and hereby incorporates and preserves those arguments in this Reply.

right is mentioned explicitly in a state constitution and only implicitly in the U.S. Constitution, the protection of that right is even greater. Joshua A. Douglas, "The Right to Vote Under State Constitutions," 67 Vand. L. Rev. 89, 120–124 (2014).

iv. Extending the Time to Cure Provisional Ballots

The change to certify provisional ballots from seven days to fourteen is also not rationally related to stopping the spread of COVID-19. But it does, however, give vote-riggers more time to impersonate voters to make up any deficits in tight races. The *New York Post*'s whisteblower explained this scheme too: "You fill out these index cards with [a registered voter]'s name and district and you go around the city and say, 'You're going to be him, you're going to be him.'" Levine, "Confessions." The imposters would then "recreate the signature that already appears on the voter roll" when they went to vote. *Id*. The whistleblower acknowledges that a small number of these imposters will be impersonating people who have already voted in person, but he doesn't care: "the impersonator would just chalk it up to an innocent mistake and bolt." *Id*.

The problem with massive voting by mail is that some of the voters will have already voted by mail, yet they or their impersonators will show up to vote in person. This harm is real and was detailed, once again, in an action which occurred after Plaintiff filed its motion. Georgia Secretary of State Brad Raffensperger announced yesterday that he is investigating 1,000 potential felons for voting twice in the June 9 primary, once by mail and once in person: "'A double-voter knows exactly what they're doing, diluting the votes of each and every voter that follows

the law,' Raffensperger said during a press conference at the state Capitol." Mark Niesse, "1,000 People Double-Voted in Georgia Primary, Says Secretary of State," *Atlanta Journal-Constitution*, Sept. 8, 2020.[7]

Furthermore, Defendants reveal the real connection between the seemingly disparate provision of SB 1863 regarding provisional ballots and the remainder of SB 1863 regarding mail-in ballots. A voter whose mail-in ballot is disqualified for an invalid signature can, under SB 1863, "submit a statement the voter cast the ballot," Pritzker Br. at 7, which will validate the ballot if received "before the close of the period for counting provisional ballots'" *Id*. at 8, quoting 10 ILCS 5/2B-20(d). Thus, by increasing the period for curing all provisional ballots, SB 1863 also increases the time period for curing and counting otherwise invalid mail-in ballots. This will allow Pritzker to find the votes he needs to overturn elections not just among provisional ballots cast in person but also among the disqualified mail-in ballots. Nothing offered by Defendants in their briefs bears any relation between extending this deadline and protecting the health and safety of voters.

v. Allowing Underage Election Judges

Allowing underage election judges is not rationally related to stopping the spread of COVID-19. It is true that senior citizens have served as election judges, and it is true that senior citizens are particularly vulnerable to the disease. But it does not follow that the remedy is to allow underage judges when people in the 18-

[7] Available at https://www.ajc.com/politics/1000-people-double-voted-in-georgia-primary-and-may-face-charges/RR7ZPMO2SBBVLOSCUUAV7S3JEQ/ (retrieved Sept. 9, 2020).

65 age group are both eligible under the pre-SB 1863 rules and not as vulnerable as seniors. DCCC claims that three other states allow minors, who cannot vote, to serve as election judges, DCCC Br. at 17, but those states allow no such thing. In those states, minors can serve only as junior election judges without decision-making authority, and they certainly don't have the authority to qualify mismatched ballot signatures.[8]

vi. Declaring a State Holiday

Giving a paid holiday to all local and state government workers is not rationally related to stopping the spread of COVID-19. This argument would hold water if elections were traditionally held in government buildings where government workers interact with voters. But in suburban Cook County, for

[8] Maryland allows "a minor who is at least 16 years old *and who is a registered voter*" to serve as an election judge. Md. Election Law Code Ann. § 10-202(a)(2)(ii) (emphasis added).

Minnesota does not allow underage judges to perform "tasks requiring party affiliation." "Become an Election Judge," Office of Minn. Sec'y of State, https://www.sos.state.mn.us/elections-voting/get-involved/become-an-election-judge. Minnesota law designates such people as "without party affiliation trainee election judge[s]." Minn. Stat. § 204B.19 Subd. 6. This prohibits them, for example, from assisting a voter who can't read English or physically mark a ballot. Minn. Stat. § 204C.15 Subd. 1.

Texas allows students to serve as election clerks, Tex. Elec. Code § 32.0511(b), with restrictions. Texas law prohibits more than four student clerks at any countywide polling place, and more than two at any other polling place. *Id.* §32.0511(d). Texas law furthermore distinguishes between election clerks and election judges, see *e.g.* Tex. Elec. Code §§32.051(a) and (c) (different criteria for qualifications for judges and clerks), and 32.072 (clerks to work under the supervision of judges).

In short, none of these states allow a citizen who is not eligible to vote due to being underage to fulfil all the duties of an election judge the way Illinois does.

example, the overwhelming majority of polling places are either schools, which are closed because of the pandemic, or non-government buildings such as churches, cultural centers, civic organization buildings, or *senior centers*. *See* Karen A. Yarbrough, "Polling Places, November 03, 2020 Presidential General Election."[9] It is farcical for Defendants to claim that this provision of SB 1863 is meant to protect the health of citizens when Defendant Karen A. Yarbrough has designated at least five senior centers as polling places. Yarbrough, "Polling Places."

On the other hand, giving a paid holiday to all local and state government workers – including the huge number of workers whose buildings will not be polling places – furthers the goal of harvesting ballots. Government workers overwhelmingly support the Democratic Party. For example, in 2018, five major public employee unions—AFSCME, Chicago Teachers PAC, Illinois Education Association PAC, Illinois Federation of Teachers-COPE, and SEIU—donated a total of $11,323,826.32 to Democratic candidates and only $390,787.96 to Republican candidates. *See* Illinois State Board of Elections website.[10] If the goal of SB 1863 was to protect state workers against the pandemic, it would only have given a day off to those workers working in a designated polling place. Instead, it gives a day off to an enormous army of Democratic supporters and operatives.

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[9] Available at https://www.cookcountyclerk.com/service/polling-places (retrieved Sept. 4, 2020).

[10] Available at https://www.elections.il.gov/CampaignDisclosure/ContributionSearchByAllContributions.aspx?MID=YJ6036pcmcQ%3d&T=637352609855879929 (retrieved Sept. 9, 2020).

III. The balance of harms favors an injunction.

Governor Pritzker's argument to the contrary relies primarily on scaremongering about how "Plaintiff completely ignores the devastating toll" of the pandemic. Pritzker Br. at 37. As Plaintiff has pointed out, however, voters in Illinois can already vote absentee with no excuse needed. CCRP Br. at 10, 15.

DCCC's argument to the contrary relies on its incorrect assertion that "Plaintiff has not shown *any* likely injury absent an injunction." DCCC Br. at 19. And it is disingenuous to argue, as DCCC does, that enjoining SB 1863 would deprive Illinoisans of "meaningful opportunities to vote by mail" and force voters "to chose between casting a ballot in person or safeguarding their health – resulting in effective disenfranchisement." *Id.* Putting aside the fact that the leading experts on the pandemic have said that as long as one takes reasonable precautions, it is safe to vote in person this November,[11] enjoining SB 1863 would allow Illinoisans the same opportunity they had to vote by mail in past elections, with proper procedures in place for the collecting and processing of ballots. For that reason, this Court should enjoin SB 1863 to maintain the status quo.

IV. The public interest would be served by an injunction.

"[T]he people of the United States . . . have an interest in and a right to honest and fair elections." *United States v. Gradwell,* 243 U.S. 476, 480 (1917). A

[11] Tim Hains, "Dr. Fauci: Voting in Person Will be as Safe as Going to the Grocery Store, if You Follow Guidelines," RealClear Politics (Aug. 14, 2020), available at https://www.realclearpolitics.com/video/2020/08/14/dr_fauci_there_is_no_reason_people_cant_vote_in_person_if_they_follow_safety_guidelines.html (retrieved Sept. 4, 2020).

poorly-implemented vote-by-mail scheme run by one of the most corrupt and incompetent States in the Union, in which ballots can be harvested by party operatives and ballot signatures can only be invalidated by unanimous consent of partisan judges, violates that interest and right. Therefore, the public interest favors an injunction.

V. In the alternative, the Court should require defendants to reject ballots without signed ballot delivery authorizations.

To the surprise of Plaintiff, the attorney general has taken the position that SB 1863 does not change the law regarding ballot harvesting. Pritzker Br. at 18. Both parties agree that the controlling provision regarding who may return a ballot under prior law is 10 ILCS 5/19-6. Under that provision, if someone other than the voter were to deliver the ballot, the voter was required to fill out a delivery authorization form signed by both the voter and the deliverer of the ballot. The language of SB 1863 seems to contradict this provision: "Election authorities shall accept any vote by mail ballot returned . . . ." 10 ILCS 5/2B-20(e). Furthermore, subsection (b) appears to override all requirements in Article 19: "Notwithstanding any other provision of law to the contrary, any vote by mail ballot received by an election authority shall be presumed to meet the requirements of Articles 17, 18, and 19 . . . ." 10 ILCS 5/2B-20(b). That implies that the ballot by mail may be returned with or without a delivery authorization, but how these two provisions of law interplay is subject to interpretation.

The attorney general argues that "Section 2B-20(e) does not change [the] Election Code's requirements regarding who may deliver a mail-in ballot." Pritzker

Br. at 18. This Court should take him at his word. It should order the State Board of Elections Defendants to issue a directive to all local election authorities that they must continue to print the delivery authorization form on their mail-in ballots, that they must establish procedures to refuse to accept any ballot delivered by someone other than the voter without the authorization form filled out (including at its so-called secure collection sites), and that they must reject all such ballots for counting purposes.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that this Court grant its Motion for Preliminary Injunction.

Dated: September 9, 2020

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Certificate of Service

I, James McQuaid, an attorney, certify that I served all counsel of record the foregoing Reply by filing it through the Court's ECF system on September 9, 2020.

/s/ James McQuaid