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 Response in Opposition to Defendants' Motions to Dismiss**

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INTRODUCTION

Plaintiff brought this action challenging Public Act 101-0642, also known as Senate Bill 1863, 101st General Assembly ("SB 1863"). Plaintiff alleged that SB 1863 amounts to a partisan scheme to harvest Democratic ballots, dilute Republican ballots, and encourage fraud, in violation of the U.S. and Illinois Constitutions. Dkt. 1, "Complaint," ¶¶ 2, 61-80.

Plaintiff sued Governor J.B. Pritzker ("Pritzker"), the members of the State Board of Elections ("State Board"), Cook County Clerk Karen Yarbrough ("Yarbrough"), and the commissioners of the Chicago Board of Election Commissioners ("Chicago Board"), all in their official capacities. Subsequently, the Democratic Congressional Campaign Committee ("DCCC") intervened as a defendant. DCCC, Pritzker, and Yarbrough filed motions to dismiss, either separately or jointly with their responses to Plaintiff's motion for preliminary injunction. *See* Intervenor-Defendant's Consolidated Mot. to Dismiss and Opp. to Plf's. Mot. for Prelim. Inj., Dkt. 42 ("DCCC Br."); The Governor's Memo. of Law in Supp. of His Mot. to Dismiss and in Opp. to Plf's. Mot for Prelim. Inj., Dkt. 49 ("Pritzker Br."); Memo. of Law Filed in Supp. of the Fed. R. Civ. P. 12(b)(1) and 12(b)(6) Mot. to Dismiss Plf's. Cmplt. Filed by Defendant Cook County Clerk, Dkt. 52 ("Yarbrough Br.").[1] Plaintiff now files its joint response to all the aforementioned briefs.

[1] The State Board filed a response to Plaintiff's motion for preliminary injunction (Dkt. 47), but no motion to dismiss. The Chicago Board moved to adopt the Governor's motion to dismiss (Dkt. 50).

Many of the arguments made by Defendants in support of their motions to dismiss were also arguments made in opposition to Plaintiff's Motion for Preliminary Injunction (Dkt. 6); therefore, in an effort to conserve judicial resources in an expedited case, Plaintiff does not repeat its arguments in reply but, instead, hereby fully incorporates by reference both its Memorandum of Law in Support of Motion for Preliminary Injunction (Dkt. 6-1) ("P.I. Motion") and its Reply in Support of its Motion for Preliminary Injunction (Dkt. 55) ("P.I. Reply").

LEGAL STANDARD

To avoid dismissal, a complaint must contain allegations that "state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal,* 556 U.S. 662, 678 (2009), quoting *Bell Atl. Corp. v. Twombly,* 550 U.S. 544, 570 (2007). In reviewing a complaint under this standard, a court accepts "the well-pleaded facts in the complaint as true." *McCauley v. City of Chi.,* 671 F.3d 611, 616 (7th Cir. 2011).

ARGUMENT

I. Plaintiff Has Standing to Pursue Its Claims.

A. Plaintiff Has Standing to Sue On Its Own Behalf.

As Plaintiff pled in its Complaint, the Cook County Republican Party "is the vehicle for Republicans to advance their candidates and agenda in Cook County." Complaint at 2 ¶4. If SB 1863 is allowed to be implemented, Plaintiff's ability to advance those candidates and agenda will be harmed.

Throughout their briefs both to dismiss and to oppose Plaintiff's Motion for Preliminary Injunction, Defendants misconstrue Plaintiff's case. For example,

Pritzker alleges that the provisions of SB 1863 "make voting *easier* to vote and *encourages* voting." (sic) Pritzker Br. at 13 (emphasis in original). DCCC likewise argues that SB 1863 "expand[s] mail voting." DCCC Br. at 8. Yet Defendants acknowledge that Illinois law already allowed universal voting by mail. Pritzker Br. at 6; DCCC Br. at 8. Defendants claim SB 1863 makes voting easier, but Plaintiff claims it makes *fraudulent* voting easier. This constitutes an injury to Plaintiff. It has been well pled and more than overcomes a motion to dismiss for lack of standing.

A system that encourages fraud, as Illinois's does, discourages voters from participating. This is one of the bases of Plaintiff's argument. Nevertheless, Defendants persist in pretending that a bill which, according to Pritzker, does not change the way in which people may submit their ballots, makes voting easier. Pritzker Br. at 13, 27, DCCC Br. at 5. In actual fact, what SB 1863 does is allow ballot harvesting. *See* P.I. Reply at 17. Allowing and encouraging voter fraud constitutes an injury to Plaintiff in its mission.

The other provisions of SB 1863 that Plaintiff challenges do not directly affect the public's participation in the voting process at all but, instead, concern the process by which the election is administered and the ballots counted. *See* P.I. Reply at 9-16 (discussing lack of correlation between the COVID-19 emergency and the provisions of SB 1863 that change the number of judges needed to disqualify a ballot, the publishing of personal information of voters-by-mail, doubling the time to cure defective ballots, allowing underage election judges, and declaring a state

holiday). These provisions in no way make it easier for voters to vote; they make it easier for officials to count fraudulent votes.

B. Plaintiff Has Standing to Sue on Behalf of Its Members.

The Cook County Republican Party represents thousands of people in Cook County. It represents hundreds of thousands of citizens who vote for its candidates. It represents members of the party. And, as Defendants neglect to recognize, it represents candidates for local, state, and federal offices in districts large and small. All these constituencies, on whose behalf the party sued, have particularized interests in enjoining SB 1863.

A political party has standing to bring an action not only on its own behalf but also on behalf of its "members, candidates, and supporters." *Socialist Workers Party v. Attorney Gen. of United States*, 463 F. Supp. 515, 518 (S.D.N.Y. 1978); *see also NAACP v. Alabama*, 357 U.S. 449, 458-460 (1958) (allowing an association to sue on behalf of its members). In particular, a political party has standing to challenge a voting law that likely discourages some of the party's supporters from voting. *Crawford v. Marion County Election Board*, 472 F.3d 949, 951 (7th Cir. 2007), *aff'd on other grounds*, 553 U.S. 181 (2008). Also, "political parties and labor organizations" have "standing to assert, at least, the rights of their members who will vote in the [upcoming] election." *Sandusky County Democratic Party v. Blackwell*, 387 F.3d 565, 573-574 (6th Cir. 2004).

For their novel argument urging this Court to overturn decades of associational standing, Defendants can muster only three cases. All of them are

inapposite, none of them are controlling in this Court, and none of them involve a political party. First, Defendants point to *Paher v. Cegavske (Paher I)*, No. 3:20-cv-00243-MMD-WGC, 2020 WL 2089813, 2020 U.S. Dist. LEXIS 76597 (D. Nev. Apr. 30, 2020) and *Paher v. Cegavske (Paher II)*, No. 3:20-cv-00243-MMD-WGC, 2020 WL 2748301 (D. Nev. May 27, 2020). But the plaintiffs in *Paher* were individual citizens. The district court in that case found that the plaintiffs had failed to plead a harm that was different from that of "any [other] Nevada voter." *Paher I* at LEXIS *14. But the harm of vote dilution to a candidate is very different from the harm to voters because the candidate will lose his or her elected office. That is not a claim that can be brought by any other voter.

The second case cited by Defendants is *Am. Civil Rights Union v. Martinez-Rivera*, 166 F. Supp. 3d 779 (W.D. Tex. 2015). Inclusion of this case in Defendants' argument is completely disingenuous because in that case, "neither party objected to the conclusion that ACRU does not have associational standing" *id.* at 786, and, therefore, "neither party objected" to the conclusion that ACRU did not have standing to bring a claim of vote dilution. *Id.* at 789. In this case, Plaintiff strenuously objects to such a claim. Plaintiff asks the Court to disregard *Am. Civil Rights Union* because it does not discuss the issue, which was not before it.

The third case cited by Defendants is *United States v. Florida*, No. 4:12cv285-RH/CAS, 2012 WL 13034013, 2012 U.S. Dist. LEXIS 189624 (N.D. Fla. Nov. 6, 2012). That case also raises a different issue. In that case, the issue was whether individuals and organizations could intervene in a case between the federal

government and a state. Intervention has a different standard from standing. In that case, neither organization was a political party. And the court ruled that the interests in the case were ably represented by the parties in the case. In this case, there are no other parties to represent the Plaintiff's interests. Indeed, if the Cook County Republican Party, which represents voters, members, and candidates who will be harmed by SB 1863, cannot bring a lawsuit to challenge a state elections statute, then who can?

C. The Challenged Provisions of SB 1863 Injure Plaintiff.

Defendants allege that the provisions of SB 1863 do not injure Plaintiff. *See, e.g.,* Pritzker Br. at 14-22. DCCC's and Pritzker's arguments rest on the paradox that SB 1863 a) does not change how ballots may be submitted and b) expands the right to vote. They also ignore the fact that SB 1863 encourages voter fraud to the detriment of Plaintiff.

SB 1863 harms Plaintiff by removing safeguards against voter fraud, thus discouraging Plaintiff's members from voting, making it impossible for Plaintiff's members to vote in fair and honest elections, and harming the chances of Plaintiff's candidates to win their elections. *See* Cmplt. ¶¶ 39-43 (ballot harvesting), 44 (providing names of mail voters to any political operative), 53 (one partisan judge may prevent a fraudulent ballot from being rejected), 54 (underage, ineligible voters may serve as election judges), 57-59 (doubles the amount of time to cure defective ballots). As Plaintiffs demonstrated in their reply on preliminary injunction, fraudsters have taken advantage of these provisions in other states. P.I. Reply at 8-

9 (ballot harvesting), 10 (partisan judge), 11 ("helping" voters fill out their mail ballots), 12 (falsifying votes after the fact under the guise of curing defective ballots).

SB 1863 also harms Plaintiff by granting time off from work for a segment of the population that overwhelmingly supports the opposing party. Cmplt. ¶¶ 49-51, P.I. Reply at 14-15. This gives the Democratic Party a tremendous leg up over the Republicans, whose volunteers will have to choose between using their vacation time and not equally participating in the democratic process.

II. Plaintiff Has Met the Required Pleading Standards.

A. Count I States a Claim Upon Which Relief Can Be Granted.

Count I alleges that SB 1863 violates the fundamental right to vote by a) allowing ballot harvesting, b) giving a paid holiday to government workers, c) presuming that mail-in ballot signatures are valid and giving a potentially partisan judge veto power over any signature rejections, d) allowing underage election judges, and e) granting a larger window of time after the election to concoct fraudulent ballots. Complaint ¶¶ 65-69. It is well established that the right to vote is a fundamental right, protected by the 1st and 14th Amendments. *Harper v. Va. State Bd. of Elections,* 383 U.S. 663, 667 (1966); *Reynolds v. Sims,* 377 U.S. 533, 554 (1964). Nevertheless, DCCC argues that courts have rejected efforts to "enlist the federal judiciary *to make it more difficult for millions of their fellow citizens to vote.*" DCCC Br. at 10 (emphasis in original), *see also* Pritzker Br. at 13. Although DCCC quotes *Minn. Voters Alliance v. Ritchie,* 720 F.3d 1029 (8th Cir. 2013) for the

proposition that "[t]he Constitution is not an election fraud statute," that is only a partial quotation, which the 8th Circuit took from the 7th Circuit decision *Bodine v. Elkhart Cnty. Election Bd.,* 788 F.2d 1270 (7th Cir. 1986). DCCC Br. at 10; *see also* Pritzker Br. at 29. The *Bodine* court went on to explain that the Constitution extends "protection . . . to the right to have votes counted without dilution." 788 F.2d at 1271. Count I alleges that SB 1863 violates the fundamental right to vote by vote-dilution disenfranchisement. Complaint at 16.

1. Count I Does Not Fail as a Matter of Law.

Pritzker cites *Griffin v. Roupas,* 385 F.3d 1128 (7th Cir. 2004) for the proposition that "judges should not interfere" in the "legislative judgment" of "striking of the balance between discouraging fraud . . . and encouraging turnout," unless the court is "strongly convinced that the legislative judgment is grossly awry." Pritzker Br. at 30, quoting 385 F.3d at 1131. He, thus, mischaracterizes SB 1863 as a bill primarily focused on enhancing turnout. To support his position, Pritzker alleges that SB 1863 "enhance[s] the right to vote by making it easier for voters to request and return mail-in ballots." Pritzker Br. 27.

As explained in Section III below, Plaintiffs are not challenging the provision of SB 1863 that makes it easier for voters to request a ballot. They are challenging the ballot harvesting provision on returning a ballot because it will not only lead to fraud, but it will also undermine Pritzker's purported reason for the law when the ballot harvesters themselves may be super-spreaders. P.I. Reply at 7-9.

In the alternative, according to the Pritzker's own position, SB 1863 does not make it easier for voters to return mail-in ballots. P.I. Reply at 17-18. Under that interpretation of the law, Pritzker's reliance on *Griffin* is wholly inapposite because SB 1863 does *nothing* to "encourage[] turnout."

Pritzker's argument does not even address the defective provisions of SB 1863 other than ballot harvesting. The provisions that make it harder to disqualify defective ballots, permit underage judges, extend the time to cure defective ballots, and give an army of Democrats the day off to vote bear no relation to Pritzker's stated goal of "making it easier for voters to . . . return mail-in ballots." What they do accomplish, as Plaintiff has explained, is to encourage voter fraud. P.I. Reply at 9-15. Therefore, this Court should find that "the legislative judgment" is indeed "grossly awry." 385 *Griffin,* F.3d at 1131.

Pritzker also argues that Count I fails because it relies on "speculative contentions" about "hypothetical or imaginary cases." Pritzker Br. at 30-31, citing *Wash. State Grange v. Wash. State Republican Party,* 552 U.S. 442, 454 (2008). This is simply false. Even before the *New York Post* published its story confirming that every challenged provision of SB 1863 will be exploited as Plaintiff pled in its Complaint,[2] Plaintiff had produced a number of news stories demonstrating that voter fraud occurs where the opportunities arise. Cmplt. ¶¶ 21, 23 (mail ballots sent to nonresidents, disqualified at "staggering" rate), 28-29 (Illinois registered 5,200

[2] Jon Levine, "Confessions of Voter Fraud: I was a Master at Fixing Mail-In Ballots," *New York Post,* Aug. 29, 2020, cited throughout Plaintiff's Reply and attached thereto as Exhibit A.

ineligible minors or non-citizens to vote), 41-42 (ballot harvesting cases), 51 (Postal Service participated in election law violations). Most definitively, Plaintiff cited to the problems with mail-in ballots exposed by the bipartisan Report of the Commission on Federal Election Reform, favorably cited by the U.S. Supreme Court in *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 197 (2008). Moreover, Pritzker's *own brief* admits that voter fraud occurs in the State of Illinois. Pritzker Br. at 36, citing *Election Fraud Cases,* The Heritage Foundation. Pritzker apparently considers all of these cases to be "'hypothetical' and 'imaginary.'" Pritzker Br. at 31.

Nothing could be further from the truth. Voter fraud is real and occurs where the opportunity arises. And SB 1863 provides myriad opportunities.

B. Count II States a Claim Upon Which Relief Can Be Granted.

Pritzker briefly rehashes all of his arguments against Count I against Count II, as well. Pritzker Br. at 31. As explained in the previous section, those arguments should be rejected.

DCCC's argument against Count II contains three parts: that any alleged harm is speculative (DCCC Br. at 7-8); that SB 1863 enhances voting opportunities (*Id.* at 8); and that the allegations in Count II cannot be redressed by enjoining SB 1863 (*Id.*). The first two arguments have been disposed of above.

DCCC, like Pritzker, insists that "the law neither amends nor supplants preexisting restrictions on third-party ballot collection," including restrictions found in Article 19 of the Illinois Election Code. DCCC Br. at 8. Again, this is false. 10

ILCS 5/2B-20(b) states that any mail ballot received (in apparently any manner, in apparently any condition) by the election authority "shall be presumed to meet the requirements of Article[] . . . 19 . . . unless deemed invalid as provided in this Section." In other words, it waives or invalidates the requirements of Article 19. *See also* P.I. Reply at 17. And 10 ILCS 5/2B-20(c) provides that the method for deeming a ballot invalid requires the unanimous consent of partisan judges, which is not how the invalidation process used to work. P.I. Motion at 4.

The rest of the harms to Plaintiff are likewise traceable to SB 1863. The new law allows ballot harvesters to access the names and addresses of any voter who requests a mail ballot. Cmplt. ¶ 44. It doubles the time to "cure" defective ballots. *Id.* at ¶¶ 57-58. And it makes Election Day a state holiday for an army of Democratic voters and operatives. *Id.* at ¶¶ 49-50. As a result, DCCC's argument that Count II fails because its "asserted harms . . . are neither traceable to SB 1863 or redressable by its injunction" is simply false.

C. Count III States a Claim Upon Which Relief Can Be Granted.

Count III alleges that SB 1863 will violate the secrecy of voting protected by the Illinois Constitution. The true reason revealed by this count is that SB 1863, a bill enacted ostensibly in response to a pandemic, publishes the name and address of anyone who requests a ballot-by-mail so that a political operative can then go door-to-door and harvest ballots – or perhaps to "assist" a voter-by-mail in filling out those ballots. P.I. Reply at 11-12.

Plaintiff demonstrated in its preliminary injunction briefs that this risk is real. *See* P.I. Motion at 12-14 (SB 1863 directs Secretary of State to send "chase" mail; Clerk Yarbrough has foreshadowed this process via her official Twitter account; fear of disclosure chills speech); P.I. Reply at 11 (confirming that fraudsters "help" voters fill out their absentee ballots). Plaintiff's burden at this stage has been met.

1. Count III Is Not Barred by the 11th Amendment.

This Court maintains jurisdiction over the state law claims in the Complaint under its supplemental jurisdiction. 28 U.S.C. § 1367(a). Defendants misconstrue federal law to attempt to force a dismissal of Count III. Pritzker Br. at 31, State Bd. Br. at 3, DCCC Br. at 11. Count III alleges that SB 1863 violates the "secrecy of voting" guaranteed by Ill. Const. Art. III, Sec. 4. If Plaintiffs had brought that count alone, Defendants would undoubtedly be correct that this Court does not have jurisdiction to hear it. But, of course, when federal courts have jurisdiction over federal law claims based on a federal question, supplemental jurisdiction over state law claims is proper under 28 U.S.C. § 1367. *Epic Sys. Corp. v. Tata Consultancy Servs. Ltd.*, Nos. 19-1528, 19-1613, 2020 U.S. App. LEXIS 26473, at *15 (7th Cir. Aug. 20, 2020). Therefore, this Court maintains supplemental jurisdiction not only over Count III but also over the state law claims in Counts I and II.

Specifically, federal courts are often called upon to decide Illinois constitutional claims under their supplemental jurisdiction. *See, e.g., Int'l Coll. of Surgeons v. City of Chi.*, 153 F.3d 356, 366-368 (7th Cir. 1998) (exercising

jurisdiction over a claim under the Takings Clause of the Illinois Constitution). As the Supreme Court declared, while deciding Illinois law, "[T]he terms of § 1367(a) authorize the district courts to exercise supplemental jurisdiction over state law claims . . . ." *City of Chicago v. Int'l Coll. of Surgeons*, 522 U.S. 156, 172 (1997).

The terms of the statute grant federal courts 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). The Seventh Circuit has emphasized "emphasize[d] the inclusiveness of 'all'" *Stromberg Metal Works v. Press Mech.*, 77 F.3d 928, 931 (7th Cir. 1996) (granting supplemental jurisdiction over a claim even when it did not meet the amount in controversy requirement of federal law). And there can be no doubt that Count III forms part of the same case or controversy. Plaintiff challenges SB 1863 *in its entirety* for violating its right to a free and fair election. Counts I and II seek an injunction against the entirety of SB 1863 for violating rights found in the U.S. Constitution and Illinois Constitution, and Count III seeks an injunction against the entirety of SB 1863 for violating rights found in the Illinois Constitution. These claims "share a common nucleus of operative fact"; therefore, "the district court ha[s] supplemental jurisdiction over the state claims. *See Ammerman v. Sween*, 54 F.3d 423, 424 (7th Cir. 1995) ("A loose factual connection between the claims is generally sufficient.")." *Curry v. Revolution Labs.,LLC*, 949 F.3d 385, 389 n.3 (7th Cir. 2020) (internal quotations omitted)

(exercising supplemental jurisdiction in a case with four federal claims and three state law claims).

III. Plaintiff Has Not Requested Relief Regarding the Mailing of Ballot Applications.

To be clear, Plaintiff has not requested any relief regarding the mailing of ballot applications: "Because millions of ballot applications were mailed just last week, Plaintiff requests that this Court enjoin the *remaining* provisions of SB 1863 immediately." P.I. Motion at 15 (emphasis added).

IV. The Cook County Clerk and Chicago Board of Elections Are Proper Defendants.

Both the Cook County Clerk and the Chicago Board are two of the "108 election authorities across the State that are responsible for administering this election." Pritzker Br. at 40. Yarbrough claims that she cannot provide any of the relief mentioned in Plaintiff's prayer for relief. Yarbrough Br. at 7. But she ignores (d), which requests that Defendants be enjoined from "enforcing SB 1863." Given the alleged "significant burdens" that Plaintiff's lawsuit places on the local election authorities, Pritzker Br. at 40, it is necessary that, at the bare minimum, the two election authorities charged with administering Plaintiff's election be added as defendants.

Indeed, when, four years ago, Plaintiff's counsel filed an election-law challenge against only the State Board of Elections, the then-Cook County Clerk filed – and was granted, over then-plaintiffs' objection – a motion to intervene as a defendant. *Harlan v. Scholz,* No. 1:16-cv-07832 (N.D. Ill.) Dkt. No. 18. In his

motion, the then-Clerk specifically noted that "*only* the Clerk, as the election authority for suburban Cook County, - and not the State Board of Elections – has charge of conducting the . . . elections in suburban Cook County." *Id.* at 4, citing 10 ILCS 5/1-3(8) (emphasis added). The then-Clerk further noted that "[t]he disposition of the case could adversely impact [the Clerk]'s . . . authority and obligations pursuant to the Election Code." *Id.* at 5. Finally, the then-Clerk noted that "as a government official who is actually charged with the administration of [the challenged statute], as opposed to the State Board of Elections, which has no . . . administrative responsibilities, [the Clerk] would actually feel the force and effect of any order of this court." *Id.* at 7-8. For that reason, Yarbrough is a proper Defendant in the case.

In addition, Yarbrough claims the case is not ripe against her. Yarbrough Br. at 5. But given than she is charged with mailing vote-by-mail ballots in less than two weeks, or "by September 24," the case is more than ripe against her and against all other Defendants. 10 ILCS 5/2B-20(a).

V. Plaintiff's Alleged Delay in Bringing This Case Does Not Prejudice Defendants.

Pritzker alleges that "Plaintiff's delay in moving for a preliminary injunction increases the harm to the State." Pritzker Br. at 40. The cases Pritzker cites are inapposite. His main case is *Nader v. Keith,* 385 F.3d 729 (7th Cir. 2004). In that case, Ralph Nader declared his candidacy on February 22, 2004 (385 F.3d at 731) and did not file his complaint until June 27 (*Id.* at 736). In other words, Nader waited four months and five days to file his lawsuit. Here, Pritzker signed SB 1863

into law on June 16, 2020 (Cmplt. ¶ 14) and Plaintiff filed suit less than two months later on August 10. Moreover, Nader was challenging provisions of Illinois' election law that had *not* just been enacted.

Finally, Nader challenged provisions of the Illinois Election Code that "in combination" prevented him from qualifying for a place on the ballot and sued in order to force the state to place his name on the ballot. 385 F.3d at 731. Had he been successful, this would have required the State to incur the tremendous last-minute expense of reprinting their ballots, an action which must occur months before election day. This case, however, threatens no similar expense. As explained above and in the preliminary injunction briefs, plaintiffs challenge procedural provisions.

The provisions challenged in this case do not incur any meaningful expense. Defendants have not shown, and cannot show, that any meaningful expense will be incurred by preventing them from publishing the names and addresses of those who request an absentee ballot, or by prohibiting minors from serving as election judges. Defendants have not shown, and cannot show, that any meaningful expense will be incurred by prohibiting them from allowing voters to cure defective ballots after seven days – in fact, by limiting the time to do so, Plaintiff indirectly seeks to *reduce* Defendants' expenses. Likewise, the state holiday provision; Defendants would waste money, not save it, if they were allowed to declare Election Day a paid holiday for all state workers. Most importantly, challenged provisions like how many election judges it takes to disqualify a mismatched signature on a ballot will not occur until election day. Defendants have plenty of time to follow prior law on

these subjects. The real expense would be training workers on the newly enacted laws.

In short, *Nader* hardly parallels the situation here. Not only did Plaintiff file its lawsuit faster than Nader did, not only did Plaintiff file its lawsuit sooner after the passage of the challenged law, but Defendants' expenses will be a fraction of the costs that would have been incurred had Nader prevailed. For these reasons, *Nader* is inapposite.

The other case Pritzker cites is *Paher II.* Pritzker Br. at 40. In that case, after losing their motion for preliminary injunction, the plaintiffs amended their complaint insofar as they "materially rehashe[d] the original complaint except for the addition of more Plaintiffs and a new claim against a new Defendant[.] . . . The Second PI Motion is in gist largely a motion for reconsideration." *Paher II* at *2. The laches discussion in that case pertains to the amended complaint and the second PI motion. The court noted that, aside from one specific claim, "the [Amended Complaint] materially asserts no claim that could not have been raised – or that was not raised – the first time around." *Id.* at 13. The court issued the cited decision on May 27, 2020, in advance of the June 9, 2020 primary. So in *Paher II,* we have a second attempt to impede an all-mail election two weeks before the election. That would, of course, require the state to hastily train election judges, pick polling sites, and order supplies for those sites. The difference between this case and that one is enormous. Plaintiff here seeks an injunction to reinstate logistically simple safeguards to the ballot-counting process.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that this Court deny all of Defendants' Motions to Dismiss and allow this case to proceed.

Dated: September 11, 2020

Respectfully Submitted,

COOK COUNTY REPUBLICAN PARTY

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Certificate of Service

I, James McQuaid, an attorney, certify that I served the foregoing Response on all counsel of record by filing it via the Court's ECF system on September 11, 2020.

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