

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

Caritas Family Solutions, *et al.*,

Plaintiffs,

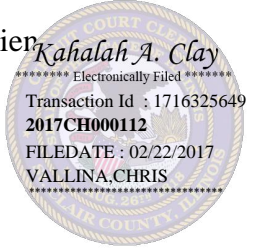
V.

James Dimas, Secretary of the Illinois  
Department of Human Services, in his official  
capacity, *et al.*,

Defendants.

No. 17-CH-112

The Honorable Robert P. LeChien



**PLAINTIFFS' MOTION FOR LEAVE TO FILE A BRIEF IN EXCESS OF 10 PAGES**

Plaintiffs, by their undersigned counsel and pursuant to Rule 6.01(I) of the Rules of the Circuit Court, respectfully move for leave to file a memorandum of fact and law in excess of the ten pages. In support of this motion, plaintiffs state:

1. This action concerns one of the greatest emergencies now facing the people of Illinois—the failure to provide State supported human services in St. Clair County and throughout the rest of the State. This particular action raises the legal claims and the dire financial peril of thirty seven separate organizations with charitable missions. Plaintiffs are also providing an evidentiary record that will support the issuance of a preliminary injunction to keep these organizations in existence. While the memorandum is over ten pages, plaintiffs respectfully submit that it will narrow and focus the issues before the Court, limit the time for a hearing and otherwise save judicial resources.

WHEREFORE plaintiffs respectfully request leave to grant leave to file the memorandum of fact and law attached hereto as Exhibit A, consisting of twenty-one pages.

Dated: February 21, 2017

By: s/ Sean Morales-Doyle  
One of Plaintiffs' Attorneys

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**Certificate of Service**

The undersigned attorney certifies that the foregoing Plaintiff's Motion For Leave to File a Brief in Excess of 10 Pages was served upon the parties listed below on February 21, 2017, by personal delivery.

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Dated: February 21, 2017

By: s/ Sean Morales-Doyle  
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capacity, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**PLAINTIFFS' MEMORANDUM IN SUPPORT OF THEIR  
MOTION FOR A PRELIMINARY INJUNCTION**

**Introduction**

Plaintiffs meet all of the requirements for preliminary injunctive relief. First, they have an “ascertainable right” in need of protection—a right to payment from the State of Illinois for vitally-needed services to the most vulnerable people in the State. Second, they will suffer irreparable injury as described below if they cannot receive funding to rehire staff and provide the services that the contracts require. Third, they have no legal remedy for nonpayment in the Court of Claims.

Furthermore, plaintiffs are likely to succeed on the legal merits of their claims. As set out in the complaint, defendant State officials are entering these and other contracts *en masse* while failing to have in place a budget or spending plan as required by Article VIII of the Illinois Constitution. Accordingly, in doing so, they have abused or exceeded the powers of their office in conducting State business in this manner and should be liable for inducing plaintiffs to enter contracts from which plaintiffs cannot practically withdraw and which defendants claim not to have authority to pay. In addition, Public Act 99-524, also known as the “Stop Gap,” which was enacted by the General Assembly on June 30, 2016 unlawfully impairs or literally reduces the

State's obligation of contracts that were already in existence in writing or orally and that the General Assembly itself authorized. The failure of the General Assembly and Governor to have in place the budget required by Article VIII also impairs the obligation of contracts, because it removes the most important security for payment to the plaintiffs. Finally, the Stop Gap in combination with the State Lawsuit Immunity Act, 745 ILCS 5/0.01 *et seq.*, impairs the obligation of contracts because the two state laws make it difficult if not impossible for plaintiffs to pursue a legal remedy for nonpayment of contracts..

The balance of harms strongly favors injunctive relief. The State of Illinois is paying billions of dollars to other providers who have no more equitable right to payment, and are suffering no greater hardship. Both defendants and the Attorney General have acknowledged that plaintiffs should be paid, and the Attorney General is on record as saying that plaintiffs are suffering irreparable injury. Aside from the justice of paying the plaintiffs, the order will keep services in effect for the poorest and most vulnerable citizens of the State. It is unconscionable that the plaintiff organizations should in effect be "floating" or lending money to the State while the defendant state officials have failed to perform their constitutional duty to have a budget in place. For the reasons set forth below, the plaintiffs cannot withdraw or easily withdraw from their State contracts. But nothing is preventing the State defendants from complying with Article VIII.

Moreover, if plaintiffs have to cut back services, the State will owe even more money. For example, if indigent seniors have to leave the assisted living run by plaintiffs and move into State-run nursing homes, it is far more expensive for the State. If troubled young people and minors can no longer take part in Redeploy Illinois and must go to state detention centers, the costs will be vastly higher than what the State would pay to plaintiffs.

Finally, if the State defendants have to start paying the plaintiffs and other providers, and can no longer get away with avoiding these bills, it can only help to focus the attention of all parties to end the budget impasse which is crippling the State. For all these reasons, plaintiffs are entitled to preliminary injunctive relief as set out in the motion.

### **Statement of Facts**

For over eighteen months the State of Illinois has operated without a budget or spending plan such as the State previously had in every fiscal year since the adoption of the Illinois Constitution of 1970. On February 18, 2015, the defendant Governor Bruce Rauner submitted to the General Assembly a proposed budget for fiscal year 2016. *Illinois State Budget Fiscal Year 2016* at 7.<sup>1</sup> As the fiscal year commences on July 1, the General Assembly must pass spending bills for the coming fiscal year by or before May 31. 30 ILCS 105/1; Ill. Const. Art. IV, § 10 & Art. VIII, § 2(b). On or about May 28 and 29, 2015, the General Assembly did pass 27 appropriation bills for fiscal year 2016. Certain of these appropriation bills authorized the expenditure of money to pay plaintiffs for the contracts with defendants in either the same, or differing but comparable, amounts to those proposed by the defendant Governor. Specifically, three of these bills, House Bills 4153 and 4165, and Senate Bill 2037, which appropriated funding for human services, authorized the expenditure of money to pay plaintiffs for the vast majority of the services covered by the contracts at issue in this complaint. *See* H.B. 4153, 99th Gen. Assembly (2015); H.B. 4165, 99th Gen. Assembly (2015); S.B. 2037, 99th Gen. Assembly (2015).

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<sup>1</sup> Available online at <https://www.illinois.gov/gov/budget/Documents/Budget%20Book/Budget%20Book%20FY16/FY2016IllinoisOperatingBudgetBook.pdf> (last accessed Feb. 14, 2017).

On June 25, 2015, the Governor vetoed all budget bills, including the three that provided most of the funding for the contracts that he and his department heads had entered with plaintiffs. *See* Legislative Information System, *Status of Legislation*, 99th Gen. Assembly 115 & 223.<sup>2</sup> Under Article IV of the Illinois Constitution, the Governor is authorized to use a so-called line item veto to allow or leave funding for the contracts that the defendants had entered. Ill. Const. Art. IV, § 9(d). However, the Governor chose to veto or block the funding even of the contracts which defendants had entered with plaintiffs. As a result of this veto on June 25, 2015, and for the entire fiscal year 2016, most of the plaintiffs received no state funding at all from the defendants. *See* Affidavit of Nora Collins-Mandeville, attached hereto as Exhibit 1, at ¶ 6. There was a significant adverse impact on the financial situation of the plaintiffs—both from lack of payment and uncertainty of payment. *Id.* at ¶¶ 14-15, 18. Many of the plaintiffs had used up lines of credit with lending banks, at high rates of interest. *Id.* at ¶ 14. Many plaintiffs laid off staff, or put the staff on part time basis at the risk of prompting staff to leave. *Id.*

On April 13 and May 12, 2016, in recognition of this impact, the General Assembly again passed appropriations bills, Senate Bills 2046 and 2038, respectively, that would have provided full funding of the plaintiffs' contracts—even if retroactively—for fiscal year 2016. S.B. 2046, 99th Gen. Assembly (2015); S.B. 2038, 99th Gen. Assembly (2015). On June 10 and July 1, 2016, however, the Governor again vetoed these bills providing appropriations even for the plaintiffs' contracts that he had approved. *Status of Legislation, supra*, at 223. Once again, he declined to use his line item veto to allow payment on plaintiffs' contracts.

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<sup>2</sup> Available online at <http://www.ilga.gov/reports/static/99thStatus%20of%20Bills-Cumulative.pdf> (last accessed Feb. 14, 2017).

On June 30, 2016, in lieu of the full funding in the vetoed budget bills, the General Assembly passed and the Governor signed Public Act 99-524, which has become popularly known as the “Stop Gap.” The Stop Gap provided funding for the plaintiffs’ contracts not only for fiscal year 2016 but also for the first six months of fiscal year 2017. *See e.g.*, P.A. 99-524, Art. 23 (appropriating money for human services); Art. 998, § 1 (indicating that appropriations in Articles 1 through 73 are for fiscal year 2016); Art. 175 (appropriating money for human services); Art. 997, § 1 (indicating that appropriations in Art. 174 through 223 are for costs incurred through December 31, 2016); Art. 74, § 1 (allowing use of appropriations in Art. 75 through 225 for prior fiscal year). But the bill did not provide sufficient funding for the full amount of these contracts during this eighteen-month span. It is sometimes said that for eighteen months of services, Stop Gap provided twelve months of funding the programs of the plaintiff organizations and others like them. However, many plaintiff organizations will receive less or even much less than twelve months of funding for eighteen months of services. Ex. 1 at ¶ 7.

At the time of the Stop Gap, all or nearly all of the dozens of contracts attached to the complaint were already in writing or had been agreed to orally. *See generally* Compl. Exhibits A-D. In some cases the plaintiffs have multiyear contracts which continued automatically into fiscal year 2017. In other cases plaintiffs had agreed in writing or orally to enter new contracts for fiscal year 2017 or had in fact entered such contracts. As a result the Stop Gap, when enacted on June 30, 2016, had the effect of allowing payment for debts owed for services in fiscal year 2016 but did so by reducing funding for contracts in fiscal year 2017 and stopping spending authority for these contracts mid-way through performance as of December 31, 2016. *See e.g.*, P.A. 99-524, Art. 997, § 1 (indicating that appropriations in Art. 174 through 223 are for costs incurred through December 31, 2016); Art. 74, § 1 (allowing use of appropriations in Art. 75



through 225 for prior fiscal year). Many of the plaintiffs holding contracts with the Department of Human Services are now fully paid for fiscal year 2016 but have received little payment or no payment for fiscal year 2017. Most of the plaintiffs having contracts with the Department on Aging have received no funding for fiscal year 2017 to date. None of the plaintiffs having contracts with the Department of Corrections have been paid in full for fiscal year 2016 services or received any payment for fiscal year 2017 services. Furthermore, as of January 1, 2017, 29 of the 37 plaintiff organizations will not receive state funding for the balance of the contracts because the Stop Gap cuts off spending authority as of December 31, 2016, while the contracts run to the end of June 30, 2017. The remaining plaintiff organizations *may* receive nominal payments for services rendered after December 31, 2016 while contracts run to the end of June 30, 2017 for full service capacity.

Nonetheless, defendants have not revoked the contracts but currently expect plaintiffs to perform notwithstanding the General Assembly's limitation of State liability contrary to the terms of the agreements. All contracts have provisions like the Section 4.1 in the contract with Caritas and attached as Exhibit A to the Complaint, which states in part as follows:

Availability of Appropriation; Sufficiency of Funds. This Agreement is contingent upon and subject to the availability of sufficient funds. Grantor may terminate or suspend this Agreement, in whole or in part, without penalty or further payment being required, if (i) sufficient funds for this Agreement have not been appropriated or otherwise made available to the Grantor by the State or the Federal funding source, (ii) the Governor or Grantor reserves funds, or (iii) the Governor or Grantor determines that funds will not or may not be available for payment. Grantor shall provide notice, in writing, to Grantee of any such funding failure and its election to terminate or suspend this Agreement as soon as practicable. Any suspension or termination pursuant to this Section will be effective upon the date of the written notice unless otherwise indicated.

Compl. Ex. A at 6, § 4.1; *see also generally* Compl. Exs. B through D. Defendants have not exercised this power to revoke. Ex. 1 at ¶ 5.

Plaintiffs are not able to terminate in the same way. While plaintiffs may withdraw with 30 days' notice, they face risk in doing so. *See, e.g.,* Compl. Ex. A at 17, § 16.1. Despite the lack of funding for fiscal year 2016, many plaintiffs entered new ones for fiscal year 2017 prior to the Stop Gap. Otherwise, they feared it would be even more likely not to receive payment for the contracts in fiscal year 2016. Terminating the contracts now would put plaintiffs at risk for never receiving State business again—and affecting other State contracts for which they are being paid under various court orders. Even on the contracts attached to the complaint, plaintiffs have made commitments to third parties, including foundations, that put up part of the money along with the State for these human services. *See* Ex. 1 at ¶ 17. By terminating the contracts now, plaintiffs may also face legal if not moral and ethical responsibility to various client populations. The clients whom plaintiffs serve have no alternatives to the programs that plaintiffs runs. Some would be literally out on the street. Others would suffer harm—emotional, mental or even physical—from abrupt withdrawal of services. Plaintiffs in any case cannot immediately terminate the contracts, as the State defendants are able to do. They must give notice of 30 days, with no assurance of payment for that 30-day period and possibly less likelihood of payment because they have withdrawn.

This Court may take judicial notice that under various court orders, other State creditors and vendors have been receiving payment from the State defendants. Furthermore, the State employees have continued to receive payment without agreed-to appropriations. The Attorney General has moved to dissolve the order of payment. However, the defendant Governor has said that the State should continue to pay the State employees even if the order in *AFSCME v. State* is

rescinded or dissolved. The defendant Governor currently takes the position that the State will not make payment to plaintiffs other than funds that are appropriated in the Stop Gap—payments that have run out for services as of January 1, 2017.

Without adequate payment for the first half of fiscal year 2017 and with no prospect of any payment for the second half, plaintiffs have suffered an injury to their capacity to operate and carry out their charitable missions. Many plaintiffs have been unable to rehire the professional staff whom they laid off for lack of funds in fiscal year 2017 and are not back to full strength. Ex. 1 at ¶ 18; *see also, e.g.*, Affidavit of Charley Smith, attached hereto as Exhibit 2 at ¶¶ 22-29. Nor have many plaintiffs been able to restore the programs to their desired levels. Ex. 1 at ¶ 18. Meanwhile plaintiffs now have to brace for further cutbacks imposed by the Stop Gap on contract payment for the rest of the year. *See, e.g.*, Ex. 2 at ¶¶ 34-37.

As Exhibit 2 to this Memorandum, plaintiffs have attached the affidavit of Charley Smith, who is the Executive Director of Haven Youth and Family Services (“Haven”), a plaintiff in this matter. Haven provides emergency housing and crisis intervention to runaway and homeless youth. Ex. 2 at ¶ 2. Haven entered contracts with the Department of Human Services to provide Comprehensive Community Based Youth Services (CCBYS) for fiscal years 2016 and 2017. *Id.* at ¶ 6. Haven did not receive funding at all during fiscal year 2016, and while it did receive funding under the Stop Gap after the fiscal year is over, Haven is now cut off from further funding as of January 1, 2017. *Id.* at ¶¶ 13-16. As set out in the affidavit, Haven has to cut back its non-contract programs to pay for those services that Haven is required to perform for the State. *Id.* at ¶¶ 22-23. That means, for example, that Haven has cut back mental health counseling to high school students. *Id.* at ¶ 25. It has also meant a cutback in the hours of professional staff. Four of the six professional staff now work part time. *Id.* at ¶¶ 27-28. As set

out in the affidavit, the cutbacks in counseling can cause severe harm to these young people. Many are in counseling relationships that should go on for years. *Id.* at ¶¶ 30-32. Furthermore, there is a real danger that Haven will have to lay off long term staff and begin placing their clients on a waitlist. *Id.* at ¶¶ 34 & 37. All of these changes have and will have an impact on Haven's ability to raise money from private donors because the cutbacks will damage Haven's professional reputation. *Id.* at ¶¶ 35-36.

Gary Huelsmann is chief executive officer of Caritas Family Solutions (Caritas). As set forth in his affidavit, attached as Exhibit 3, Caritas is a not-for-profit organization located in Belleville, Illinois. Caritas serves low-income seniors, children in foster care, court-involved youth, disabled adults, and homeless and other needy citizens in St. Clair County and other counties in Illinois. Ex. 3 at ¶¶ 2-3. For some of these services, Caritas has contracts with the Illinois Department on Aging and the Illinois Department of Human Services. *Id.* at ¶¶ 4, 9, 16-17. As set out in the affidavit, Caritas runs an assisted living center for low income seniors known as Fox River Assisted Living Center (Fox River). Before coming to Fox River many of the residents lived in poverty and a considerable number had been living in deteriorating, substandard housing. If Fox River closes it is unclear whether they will have any place to go. *Id.* at ¶¶ 5-8.

Caritas operates Fox River through a contract with the Illinois Department on Aging. *Id.* at ¶ 9. To date—in the first six months of the current fiscal year—the Department on Aging has provided only a quarter of the funding necessary for Caritas to keep Fox River open and take care of the residents *even at a financial loss*. *Id.* at ¶ 10. Furthermore, Caritas received only half payment for services during fiscal year 2016—and the other half later. *Id.* at 11. As of January 1, 2017, under the Stop Gap, Caritas will receive no funding at all. *Id.* at ¶ 12. The consequences of

closing Fox River would be catastrophic for the residents. At least some residents would end up in nursing homes at the State's expense, at much greater cost than continued funding of the contract with Caritas. *Id.* at ¶¶ 13-14.

Caritas also has a subcontract with Union County, Illinois to operate a program for court involved youth known as Redeploy Illinois. *Id.* at ¶ 16. Union County holds the principal contract with the Illinois Department of Human Services and is also a plaintiff in this case. *Id.* at ¶ 17. Redeploy Illinois provides supervision of young people who would otherwise be serving sentences in state detention centers. *Id.* at ¶ 18. Caritas estimates that Redeploy Illinois costs the State \$6,000 to \$10,000 for each young person in the program, while the State would have to pay \$80,000 a year to keep a young person in detention. *Id.* at ¶ 19. In fiscal year 2016 Caritas received no money from Union County to operate Redeploy Illinois until four months after the fiscal year had ended. *Id.* at ¶ 20. Caritas does not anticipate that it will receive any money for Redeploy Illinois for the rest of this fiscal year unless the budget impasse is ended. *Id.* at ¶ 21. The budget impasse is causing particular harm in southern Illinois because so many social service agencies and facilities or programs have closed or reduced services. *Id.* at ¶ 23. The failure to pay on a timely basis the contracts described here places enormous financial pressure on Caritas and stretch the resources of Caritas at a time when demand for its services is more acute. *Id.* at ¶¶ 24-25.

## Argument

### I. Legal Standard

The standard for issuance of a preliminary injunction is well established. A party must show: (a) a clearly ascertained right in need of protection; (b) irreparable harm in the absence of injunctive relief; (c) no adequate remedy at law; and (d) likelihood of success on the merits. *Mohanty v. St. John Heart Clinic*, 122 Ill. 2d 52, 61 (2006); *Callis, Papa, Jackstadt & Halloran*

*P.C. v. Norfolk & Western Ry.*, 195 Ill. 2d 356, 366 (2001). In addition, when a party can meet these factors, the court may also consider the balance of equities to the parties. *See Shodeen v. Chicago Title & Trust Co.*, 162 Ill. App. 3d 667, 672-73 (Ill. App. Ct. 1987).

**II. Without injunctive relief, plaintiffs are suffering irreparable injury—and will suffer even more.**

As set forth in the attached affidavits, the thirty-seven plaintiff organizations are suffering irreparable injury now—and will suffer more without preliminary injunctive relief. Plaintiffs seek not “damages,” but specific performance—or prospective injunctive relief—to make timely payment of the vouchers that they submit for services to be rendered, as well as vouchers for payment now overdue.

The Attorney General has acknowledged that plaintiffs are suffering irreparable injury. In a previous suit filed by many of these plaintiffs regarding the State’s failure to pay in fiscal year 2016, the Attorney General did not contest plaintiffs’ claim of irreparable injury. Then, in a public comment on the pending motion the Attorney General’s office filed in *AFSCME v. State*, No. 15-CH-475, a spokesperson for the office stated:

The claim that this filing has created a crisis ignores the reality that nonprofit organizations, grantees, vendors and universities have been living in crisis for a year and a half. Many of these organizations that provide critical services to the people of Illinois have been *irreparably harmed* during this impasse.

Rich Miller, “AG Madigan: Filing will ‘solve the crisis, not create it,’” *Capitol Fax* (Jan. 27, 2017) (available online at <http://capitolfax.com/2017/01/27/ag-madigan-filing-will-solve-the-crisis-not-create-it/>) (last accessed February 9, 2017) (emphasis added).

During fiscal year 2016, when plaintiffs received no payments from defendants, most of the plaintiff organizations had to reduce services and take actions to reduce staffing expenditures—such as layoffs, hiring freezes, and reductions in hours. It is true that the long-

overdue payments that were finally made as a result of the Stop Gap kept *some* plaintiffs from closing down or further cutting back staff. But plaintiffs are unable to bring back programs to full strength or rehire staff. Furthermore, there is no money—none—that will be coming under most these contracts for the next six months, if ever. A second Stop Gap in a half year or more will be too late to save plaintiffs who have already been bled by lack of funds in fiscal year 2016—and there may not be a second Stop Gap. Whether plaintiffs are out of business or have to drop these programs, they will suffer long term damage to their capacity to do the kind of work that the State outsources to them.

Plaintiffs also need the funding to care for their clients in a professional and competent manner, without this wild stop and go funding that leaves programs in peril. It causes injury to their work even to tell emotionally troubled youth or sexually assaulted women or the people in assisted living that the programs may not continue. Plaintiffs like Caritas Family Solutions that run programs like Redeploy Illinois—a program strongly supported by the courts—also have obligations to local governments that they cannot perform without continued funding. Young people in southern Illinois will end up, needlessly, in state run detention centers at much greater cost.

The main point here is simple—the State’s failure to pay keeps weakening or degrading the capabilities of the plaintiffs to carry out their charitable missions. Even in ordinary commercial cases, on a preliminary basis, courts have mandated payment under contracts where failure to pay might wreck the ability of the organization to function. *See e.g., Gold v. Ziff Communications Co.*, 196 Ill. App. 3d 425, 431-32 (Ill. App. 1989). If that is appropriate in a private business context, it is even more proper when the plaintiff organizations are raising

constitutional breaches and where failure to pay threatens the State's infrastructure for providing human services.

It is crucial then that the defendants be required to keep plaintiffs in a position to provide services and to rehire staff or at least not lay off additional staff in the nearly six months that their contracts still have to run.

Plaintiffs seek a hearing to present live testimony from plaintiffs as to the injury to their specific organizations. But it should be pointed out that the harm to St. Clair County and southern Illinois is particularly severe. Many providers not party to this case are out of business, and those still remaining, like plaintiffs, are overwhelmed with new clients from these closings. Caritas Family Solutions here in St. Clair County has received a large influx of these new clients. It is wrenching for plaintiffs still able to offer services to face the risk that they may have to drop programs.

One particular story may best illustrate the problems that all plaintiffs face. During fiscal year 2016, for example, Caritas Family Solutions received no funds to keep operating the Fox River Assisted Living Center (Fox River). This is a facility where destitute seniors from largely rural areas have an alternative to nursing homes. Eventually Caritas did receive funds for expenses in fiscal year 2016. However, for the first half of fiscal year 2017 Caritas has again received just a quarter of the funding necessary—that is, to keep the program going *even at a loss*. Under the Stop Gap it will receive no funding for the remainder of the fiscal year. The alternative for Caritas is almost heartbreaking to contemplate, as these elderly have no other place to go.

Plaintiffs like Haven Youth and Family Services can tell the terrible choices that they face as they try to continue services at reduced level at the same time that they are laying off



professional staff. The irony is that even as plaintiffs like Haven struggle to continue these programs, they damage their reputation and ability to raise funds from other donors. Plaintiffs are in an impossible situation.

### **III. Plaintiffs have no adequate legal remedy in the Court of Claims.**

Indeed, as pointed out below, plaintiffs have either an impaired or no legal remedy in the Court of Claims, which is an administrative court that would pay plaintiffs only from appropriated funds. *See* § IV.D., *infra*.

### **IV. Plaintiffs are likely to succeed on the merits of their legal claims.**

#### **A. Under the “officer exception” to sovereign immunity, the defendant Governor and agency heads should be required to pay plaintiffs’ contracts, which they entered with no spending plan or budget in place as required by Article VIII and in excess of their lawful powers of office.**

In Count I, plaintiffs invoke the “officer exception” to the State Lawsuit Immunity Act, 745 ILCS 5//0.01 *et seq.*, to enjoin defendants to pay dozens of contracts they entered without any budget or spending plan in place, in breach of Article VIII. Under the “officer exception,” plaintiffs are entitled to prospective injunctive relief when state officers have exceed their powers of office or violated a constitutional duty—such as having a budget in place for the conduct of State business. *See, e.g., Leetaru v. Board of Trustees of the University of Illinois*, 2015 IL 117485; *Sass v. Kramer*, 72 Ill.2d 485, 490-92 (1978). In *Leetaru*, which collects similar cases, the Illinois Supreme Court stated:

The exception is aimed...at situations where the official *is not doing the business which the sovereign has empowered him or her to do or is doing it in a way with the law forbids*.

2015 IL 117485 ¶ 47 (emphasis added); *see also Sass*, 72 Ill. 2d at 492. Plaintiffs seek *prospective* injunctive relief only—namely, an order requiring the future payment of vouchers on a timely basis for the duration of the fiscal year 2017. In any event, this is a constitutional tort,

and Illinois courts have awarded a monetary recovery in such cases, even without an appropriation by the General Assembly. *See, e.g., Jorgensen v. Blagojevich*, 211 Ill.2d 286 (2004); *Illinois County Treasurers' Ass'n v. Hamer*, 2014 IL App (4th) 130286. Indeed, in *AFSCME v. State of Illinois*, Case No. 15-CH-475, now pending, this Court has ordered such monetary relief in an order upheld by the Illinois Appellate Court. *AFSCME v. State of Illinois*, 2015 IL App (5th) 150277-U.

The conduct here is an egregious example of abuse of office. By entering and continuing so many contracts without a budget in place, the defendants have forced plaintiffs to “float” or loan money to the State. As set out in the complaint, while defendants could terminate the contracts at any time, plaintiffs are virtually forced to continue. Apart from the moral and ethical reasons plaintiffs have to continue providing these services, withdrawing might jeopardize payment under the Stop Gap for services to date. Plaintiffs might face liability to various clients who might be harmed by an abrupt stoppage of service—whether to homeless youth or women who have been sexually assaulted. Furthermore, in many cases plaintiffs have binding contracts with agencies that partly pay for these State services. Finally, plaintiffs have justifiable fear that withdrawal would lead to permanent loss of business with the State. Defendants are well aware of these constraints on plaintiffs and have used this superior advantage to keep plaintiffs working without pay.

Such conduct is in conflict with public policy—as pointed out by various courts, it makes the State an unreliable business partner. It is one of the reasons for the constitutional ban on impairment of the obligation of contracts. Such failure to pay also threatens the existing infrastructure for providing human services to the neediest citizens of Illinois. Furthermore, apart from public policy, it is also immoral and oppressive, since it exploits the plaintiffs’ sense of

obligation to the neediest and most vulnerable citizens of the State. It also inflicts substantial injury on plaintiffs—indeed, it destroys their ability to render services as they lose professional staff whom they may never be able to rehire. Finally, it causes immeasurable harm to the plaintiffs’ employees and the populations they serve. By analogy, under the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1, the conduct in this case by a private business would constitute an “unfair trade practice” under all three of the criteria set out for private businesses by the Supreme Court in *Robinson v. Toyota*, 201 Ill 2d 403, 417-18 (2002). A business practice is unlawful if it is (1) in violation of public policy, (2) immoral and oppressive, or (3) inflicting harsh or substantial injury on the plaintiff business. *Id.* Even meeting one criterion is sufficient to establish an unfair trade practice, but the conduct here would easily meet all three.

Defendants may believe that they can raise Article VIII as a defense—that is, the General Assembly’s failure to appropriate sufficient funds in the Stop Gap. But Article VIII does not exist to countenance a fraud. Furthermore, the defendant officers are liable because they have acted in disregard of Article VIII, which requires a budget or spending plan in place. This case is a world apart from the Supreme Court’s decision in *State (Central Management Services) v. AFSCME*, 2016 IL 118422. In that case, the Supreme Court found that Article VIII was a bar to payment under a multiyear collective bargaining agreement that the General Assembly had never approved. In particular, the Supreme Court relied on a specific law, Section 21 of the Public Labor Relations Act, which required the General Assembly’s specific approval. But in this case, under the Stop Gap, the General Assembly *did* authorize these specific contracts, even if it failed to develop a budget to ensure adequate funding because of a dispute with the defendant Governor. The defendants cannot use a breakdown in the budgetary process—for which they

share blame—to deny payment under contracts that they entered in disregard of their duty under Article VIII to have a spending plan in place.

In lieu of the budget required by Article VIII, defendants now conduct the public business on an *ad hoc* basis, with an arbitrary policy of paying only those to whom they have to pay under court order. Such a manner of conducting State business has no rational basis and violates the rights of these plaintiffs to equal protection under Article I, section 2.

Furthermore, even if the court orders did not exist and even if the Attorney General succeeds in dissolving the order pending in a case before this court, the Governor has stated his view that he “should” be able to continue to pay the State employees. He has no such qualms about not paying plaintiffs, who unlike the State employees, have a contractual obligation to continue performing services through the end of the fiscal year.

The position of the Attorney General is especially perplexing. On the one hand, in a recent filing in this Court, the Attorney General says that the Governor requires an appropriation to continue employing State workers. In this case, however, the Attorney General contends on the Governor’s behalf that he does not need an appropriation to continue plaintiffs’ contracts, and it is perfectly legitimate to conduct state business in this way.

This unequal treatment of plaintiffs is not even minimally rational. And courts often use an intermediate standard of review when such treatment is at the expense of a marginal or powerless group. *See City of Clerburn v. Clerbune Living Center*, 473 U.S. 432, 447 (1985); *United States Dept. of Agriculture v. Moreno* 413 U.S. 528, 535 (1973) (“a bare... desire to harm a politically unpopular group” is not a legitimate state purpose). It is a serious denial of equal protection to conduct State business in a way that singles out for injury the most vulnerable people in the State.

**B. In violation of Article I, section 16 the Stop Gap has unlawfully impaired the obligation of contracts.**

Except if “reasonable and necessary to serve an important public purpose,” a State law may not impair the obligation of contracts. *United States Trust v. New Jersey*, 431 U.S. 1, 25 (1977). Such a legislative act violates both the federal and state constitutions. Article I, section 16 states: “No...law impairing the obligation of contracts...shall be passed.” The Stop Gap is a textbook example of such an unlawful impairment—a state law enacted on June 30, 2016, that retroactively impaired the State’s obligation to pay contracts that either in writing or orally already existed. The Stop Gap did not disaffirm these contracts—to the contrary, it recognized their existence. But the Stop Gap drastically limits the liability or the amount that the State had already agreed to pay—and it cuts off authority to make payments on or after January 1, 2017.

This is not just a failure to fund, but a rewriting of the contract, and a complete unlawful denial of authority to keep spending for the full term as required by contracts entered by the defendants and approved in or through the Stop Gap by the General Assembly. To be sure, “if reasonable and necessary to serve an important public purpose,” the State may impair the obligation of contracts. Article I, section 16 is not a straitjacket. *See United States Trust Co.*, 431 U.S. at 25. But far from being a good cause, the breakdown of the budgetary process—a breach of legal duty for which the General Assembly and defendants share responsibility—is unlawful in itself. Furthermore, the Governor could have approved the funding of these contracts by use of the line item veto. There is no good cause for this impairment of contract, and the budget impasse now running two fiscal years is a disservice to the people of the State.

This Court has full equitable authority to redress such a breach of the Illinois Constitution. Plaintiffs seek an order that requires the State to perform in full the contracts that

were entered by the defendant officers and in the Stop Gap were acknowledged and consented to by the General Assembly and the Governor.

**C. In violation of Article I, section 16, the State's failure to have a budget in place as required by Article VIII also unlawfully impairs the security of payment to plaintiffs.**

Article VIII, section 2 provides that the Governor will propose a budget *and* that the General Assembly with the consent of the Governor will develop an annual spending plan or budget that set forth by a comprehensive law the State's revenue and expenditures for the coming fiscal year. The performance of this duty is presumed to occur before the start of the fiscal year. The process required by Article VIII, section 2 is necessary to conduct the public business of the State in an orderly manner and give assurance that the State is a responsible business partner able to pay its debts.

The failure to perform this duty—or to have a budget in place—removes that security of payment that plaintiffs should have had under these contracts. By doing so, defendants impaired the obligation of contracts. *See United States Trust*, 431 U.S. at 25. In that case, the Court found an impairment of contract when the legislature changed a bond covenant that had dedicated a specific stream of revenue only to pay holders of the bond. The Court acknowledged that while the bond holders had suffered no loss—and might never suffer a loss—that particular provision had been intended to give them security of payment. Likewise, the obligation of Article VIII to have in place a budget or spending plan has—at least in part—the purpose of assuring the State's creditors and business partners that there are identifiable appropriations for their contacts and debts to be paid. To operate the State without such a plan—in disregard of the obligation of Article VIII—is a far greater threat to security of payment and leaves the plaintiffs and other creditors guessing about *ad hoc* decisions near or after the time the fiscal year is over as to whether or from what “pot” of money their claims will be paid.

**D. In further violation of Article I, section 16, the State has impaired the obligation of contracts by impairing the legal remedies for nonpayment of these contracts.**

The Stop Gap also effects an impairment of the plaintiffs’ legal remedies for nonpayment of the contracts. The Illinois Constitution does not immunize the State from suit for breach of contract, but the State Lawsuit Immunity Act—just a statute, and not a constitutional clause—limits plaintiffs’ right to sue to the Court of Claims. However, the Court of Claims, an agency of the General Assembly—is not part of the judicial branch. And the Court of Claims has a policy of not awarding payment under a contract without a consented to appropriation. *See, e.g., LaSalle National Bank v. State*, 43 Ill. Ct. Cl. 266, 270 (1991) (“[I]t is this Court’s policy to limit awards so as not to exceed the amount of funds, appropriated and lapsed, with which payment could have been made”).

Article I, section 16 of the Illinois Constitution says that no law impairing the obligation of contracts shall be passed. But through the passage of the Stop Gap and its interaction with the State Lawsuit Immunity Act, the General Assembly has passed a law—or two laws—that deprive plaintiffs of any legal remedy. Because of the State Lawsuit Immunity Act, plaintiffs must sue in the Court of Claims. But because of the Stop Gap, and the cutoff of spending authority, plaintiffs have effectively no *remedy* in the Court of Claims. In effect by state law, the General Assembly has made it impossible to sue on breach of a contract to which both the Governor and General Assembly consented.

This is also a classic impairment of the obligation of contracts—indeed, the most serious way that the law of contracts can be impaired. In *Horwitz-Matthews, Inc. v. City of Chicago*, the Seventh Circuit distinguished a *breach* of contract from an *impairment of the obligation* of a contract, as follows:

[The cases relating to impairment]...differentiate...between a measure that leaves the promisee with a remedy in damages...and one that extinguishes the remedy....In [Oliver Wendell] Holmes's vivid formulation, the obligation created by a contract is an obligation to perform *or* pay damages for nonperformance, and if the second alternative remains...the obligation created by the contract is not impaired.

78 F.3d 1248, 1251 (7th Cir. 1996) (internal citation omitted) (emphasis in original). In this case, the “second alternative” does not remain, as the Stop Gap in combination with the State Lawsuit Immunity Act impairs or even outright eliminates it. This is the kind of self-interested behavior that the impairment-of-contract clause is intended to prevent. *See United States Trust, supra*.

**V. The balance of hardships between the parties favors the preliminary relief.**

As pointed out above, if plaintiffs have to cut back programs and if clients in Redeploy Illinois end up in prison, or if seniors end up in State nursing homes, the State will have to pay *more* and not *less* than what it would pay under these contracts. It would be pennywise and pound foolish to deny relief. That is especially true since no one disputes that the money is due. It is hard to understand how the State is harmed legally from paying to continue the existing infrastructure for providing human services in the State.

**Conclusion**

For all the above reasons, plaintiffs respectfully seek a date for a hearing for live testimony and upon conclusion of such testimony, grant plaintiffs' motion for a preliminary injunction to require the defendants to pay in the future vouchers to be submitted, and to pay vouchers that have been pending without payment for over 90 days.



Dated: February 21, 2017

By: s/ Sean Morales-Doyle  
One of Plaintiffs' Attorneys

Thomas H. Geoghegan (ARDC No. 3126689)  
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**IN THE CIRCUIT COURT OF THE 20TH JUDICIAL CIRCUIT  
ST. CLAIR COUNTY, ILLINOIS**

Caritas Family Solutions, <i>et al.</i> ,	)	
	)	No. 17-CH-112
Plaintiffs,	)	
v.	)	The Honorable Robert P. LeChien
	)	
James Dimas, Secretary of the Illinois	)	
Department of Human Services, in his official	)	
capacity, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**AFFIDAVIT OF NORA COLLINS-MANDEVILLE**

1. I, Nora Collins-Mandeville, am the policy director for Illinois Collaboration on Youth (ICOY), a plaintiff in this action.

2. ICOY was also a plaintiff in a similar previous action filed in the Circuit Court of Cook County regarding the defendants' failure to make payment on contracts for services provided in fiscal year 2016.

3. In my role as policy director of ICOY, I have also conducted an in-depth review of Public Act 99-524, the so-called "Stop Gap," in order to understand what appropriations have been made to cover contracts that the plaintiff organizations have with the State.

4. I have reviewed the Memorandum of Law which sets forth the sequence of events in the budget impasse.

5. As set forth in the Memorandum of Law, the defendant Governor and other defendants have continued and not revoked the contracts attached to this complaint.

6. As a result of the Governor's veto of the appropriations bills passed by the General Assembly during fiscal year 2016, most of the plaintiffs went without any state funding for their contracts during the entirety of that fiscal year.

7. The Stop Gap provides insufficient funding for the plaintiffs' contracts. In many cases it provides less than twelve months worth of funding for eighteen months of services.

8. Furthermore, under the so-called Stop Gap, there is no spending authority for most of the services that the plaintiff organizations are now being required by contract to deliver, as the Stop Gap only provides spending authority for the vast majority of these state-funded services up through December 31, 2016.

9. In my role as policy director of ICOY, which works collaboratively with many other social service providers in Illinois, I have also become familiar with the work of many of the other plaintiff organizations and have reviewed many of their contracts with the State. In addition, since this litigation began, as well as during the litigation in Cook County, I have had occasion to speak with leaders from the other plaintiff organizations about their work and the impact that the ongoing budget impasse has had on them.

10. The plaintiff organizations, which come from all over the state, provide a wide range of human services, including but not limited to serving the homeless and giving medical and other aid, counseling and caring for runaway youth, operating diversion programs that keep troubled young people out of jail, treating victims of sexual assault, and running programs to keep seniors living in their homes and out of institutions.

11. Though each of the plaintiff organizations has contracts requiring that they be paid by the State for provision of these services, due to the budget impasse between the General Assembly and the Governor, the plaintiff organizations with some exceptions are currently providing many of these services without full, sufficient, or in some cases, any funding from the State.



12. During the litigation in Cook County, ICOY undertook a survey of the plaintiff providers that joined that lawsuit, all of whom are also parties to this litigation.

13. ICOY has continued to undertake similar surveys in preparation for this litigation.

14. Many of the plaintiffs have used lines of credit and cash reserves in order to cope with the State's failure to make timely payment. Many had laid off staff or reduced their hours.

15. Without certainty as to what sort of payment they can expect, ICOY and the other plaintiff organizations are left with very difficult decisions about what human services they can continue to provide moving forward.

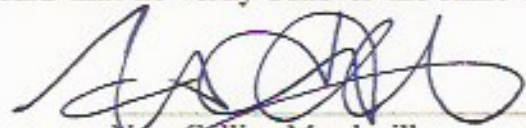
16. While plaintiffs may withdraw with 30 days' notice, they have no assurance of payment if they do, and as set forth in the affidavits, they would have to terminate services to the needy and most vulnerable citizens of the State at their own risk and without the consent of the defendants.

17. In some cases plaintiffs have also made commitments to third parties to provide these State supported services.

18. Some plaintiffs have been unable to restore services to their desired level or to re-hire staff that were laid off when plaintiffs went without funding in fiscal year 2016.

**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 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.**

Dated: 2/14/17



Nora Collins-Mandeville

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

Caritas Family Solutions, <i>et al.</i> ,	)	
	)	No. 17-CH-
Plaintiffs,	)	
v.	)	
	)	
James Dimas, Secretary of the Illinois	)	
Department of Human Services, in his official	)	
capacity, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**AFFIDAVIT OF CHARLEY SMITH**

1. I, Charley Smith, am the Executive Director of Haven Youth and Family Services, a plaintiff in this matter.

2. Haven is a nonprofit organization that fosters mental health of youth and their families in the North Shore suburban Chicago community through prevention, intervention and therapy programs. Haven responds to the physical and emotional needs of youth and their families by providing emergency housing services, individual, group, and family therapy, 24-hour crisis intervention, daily outreach to area schools, psycho-educational workshops, youth leadership positions, and service-learning opportunities.

3. I have been the Executive Director of Haven for three years.

4. Prior to my experience at Haven, I was the Director of Outpatient Services at Youth Outreach Services, another nonprofit organization and plaintiff in this matter that provides similar services to Haven, for ten years.

5. Haven has been in existence for forty years and has established itself as a respected provider of community-based youth services. As a result, many pediatricians, schools, and others regularly refer young people to Haven for these services.

6. Haven entered into contracts with the Illinois Department of Human Services (DHS) to provide Comprehensive Community Based Youth Services (CCBYS) in fiscal years 2016 and 2017.

7. Under the CCBYS program, DHS contracts with and agrees to pay organizations like Haven to provide twenty-four hour crisis intervention services to youth 11 to 17 years of age that are at risk of involvement in the child welfare or juvenile justice system.

8. In other words, as a CCBYS provider, Haven provides counseling and other services to runaway and homeless youth.

9. This means that if a pediatrician, a teacher, or some other professional working with children notices signs that a child might be in crisis, they can refer that child and their family to us for immediate evaluation within the hour.

10. After the initial evaluation, we then make a decision as to what follow-up is necessary, whether it be hospital care or continued counseling. We do so as quickly as possible—usually the same day—so that the child need not be kept out of school longer than necessary. If appropriate, we provide continued counseling.

11. Besides its work through the state's CCBYS program, Haven provides other services to youth in the community as well. These other services are funded by a combination of a grant from a local township and private donations.

12. The money Haven is supposed to received under its contracts with DHS constitute about one-third of Haven's entire budget.

13. However, because the Governor vetoed bills that provided appropriations to fund Haven's contracts with DHS, Haven was not paid for the CCBYS services it provided in fiscal year 2016 throughout the entirety of that fiscal year.



14. Ultimately, due to the passage of Public Act 99-524, commonly known as the “Stop Gap” bill, Haven was finally paid for fiscal year 2016 during the summer and early fall of 2016, after the fiscal year had ended.

15. With funding from the Stop Gap, Haven was also paid for services provided under its fiscal year 2017 contract during the first six months of the fiscal year—that is, from July 1 through December 31, 2016.

16. However, the State is no longer paying Haven for the CCBYS services it is providing pursuant to its contract with DHS, despite the fact that the contract requires Haven to provide these services through June 30, 2017.

17. Because of the State’s failure to make timely payment or even to confirm that payment was forthcoming during fiscal year 2016, we were forced to make certain changes to our programming, staffing, and fundraising efforts.

18. Because the Stop Gap was partial and inadequate, this uncertainty has continued into fiscal year 2017.

19. Not only are we not being paid currently, but the lack of appropriations, the current budget impasse, and the State’s position that payment cannot be made without appropriations mean that we cannot count on payment in the future even as we are contractually required to continue providing services.

20. Moreover, due to the lack of appropriations, we are concerned that we would have no recourse for this ongoing breach of our contract by the State in the Court of Claims.

21. For these reasons, we have had to keep in place the changes we made in fiscal year 2016, and we are facing the prospect of having to make additional changes moving forward.

22. The first change we had to make was to shift resources we would have otherwise dedicated to programs besides CCBYS to the CCBYS services. In other words, we are using private donations that would have otherwise funded programs beyond CCBYS to replace the payments we are not receiving from the State.

23. We have to prioritize the CCBYS services both because we are required by contract with DHS to provide them and because of the urgent nature of the services.

24. The result is that we can no longer provide all of the services we once did.

25. For instance, we have had three junior high schools and two high schools request that we make site visits to inform their students about the counseling services we provide and make ourselves available to their students who seek such services.

26. Because of the changes we have been forced to make to our programming, we have had to turn down these requests.

27. In addition, due to the financial limitations we face as a result of the State's failure to pay us and the uncertainty regarding future payment, we have had to cut the hours our staff work.

28. Specifically, we have had to transition four of our six staff members to part-time employment.

29. In addition, all six of our staff members, including me, are now responsible for providing client services—eliminating resources we would otherwise dedicate to administrative and management responsibilities.

30. All of these limitations on our services will have obvious, irreparable, and lasting impact on the children we serve—and on those children we will not be able to serve as a result.



31. We often continue to counsel children for years after our initial contact. Now, those services will have to give way in order to allow us to provide more urgent safety assessments under the CCBYS program.

32. Cutting off counseling relationships like this is damaging and can cause setbacks.

33. Moreover, these limitations threaten to have an irreparable impact on our organization if they continue.

34. If we continue to go unpaid, we will no longer be able to sustain even our current, reduced staffing levels. We may have to lay off longtime staff that will be difficult to replace—or they may choose to leave if we cannot sustain their current hours.

35. We are also noticing “donor fatigue” as a result of our increased reliance on private donors. Our fundraising efforts were significantly less successful this past year than in previous years because we had to ask for so much from donors to make up for the lack of payment in fiscal year 2016.

36. Eventually this donor fatigue will cause permanent harm to the relationships we have with donors, which will impact our ability to provide services long-term.

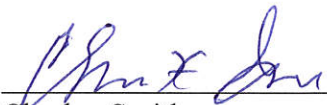
37. Similarly, if we have to continue to turn down referrals from schools and pediatricians—or if we have to put a waiting list in place, which would be the next step in coping with this situation—it will cause harm to these referral relationships.

38. In short, our donors, our clients, and other providers will no longer be able to count on us and it will have a serious and potentially permanent impact on our ability to provide the services that we have provided to our community for 40 years.

**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 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.

Dated: 2/10/17

  
Charley Smith

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

Caritas Family Solutions, <i>et al.</i> ,	)	
	)	No. 17-CH-
Plaintiffs,	)	
v.	)	
	)	
James Dimas, Secretary of the Illinois	)	
Department of Human Services, in his official	)	
capacity, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**AFFIDAVIT OF GARY HUELSMANN**

1. I, Gary Huelsmann, am the Chief Executive Officer of Caritas Family Solutions.
2. Caritas Family Solutions has its principal place of business in Belleville, Illinois, and provides services in St. Clair County and other counties in southern Illinois.
3. Caritas Family Solutions is a not-for-profit organization that serves low-income seniors, children in foster care, court-involved youth, people with social and emotional issues, developmentally disabled adults, homeless persons and other needy citizens in these counties.
4. For some of these services, Caritas Family Solutions has contracts with the State of Illinois.
5. For example, Caritas Family Solutions runs an assisted living center for low-income seniors known as Fox River Assisted Living Center (Fox River).
6. The residents of Fox River come from the southeastern part of Illinois.
7. Before coming to Fox River, many of the residents lived in poverty and a considerable number had been living in deteriorating, substandard housing.
8. If Fox River closes, it is unclear whether these persons who have little to no resources will have a place to go.

9. Currently Caritas Family Solutions has a contract with the Illinois Department on Aging to operate Fox River through fiscal year 2017.

10. To date—in the first six months of the current fiscal year—the Department on Aging has provided only one quarter of the funding necessary for Caritas Family Solutions to keep Fox River open and take care of the residents *even at a financial loss*.

11. Furthermore, Caritas Family Solutions received only half payment for services in fiscal year 2016—and even then, the other half of the payment came more than fourteen months after the start of the fiscal year.

12. As of January 1, 2017, as set out in Public Act 99-524, known as the “Stop Gap,” there will not be any spending authority under this contract, and Caritas Family Solutions will receive no money at all from the State of Illinois for the balance of the contract.

13. The consequences of closing Fox River would be catastrophic for these elderly, low-income residents.

14. At least some would end up in nursing homes at the State’s expense, at much greater cost to the State than continued funding of the contract with Caritas Family Solutions.

15. Caritas Family Solutions also faces financial difficulties in continuing work under other contracts with the State.

16. Caritas Family Solutions has a subcontract with Union County, Illinois to operate a program for court-involved youth known as Redeploy Illinois

17. Union County has the principal contract with the Illinois Department of Human Services and is also a plaintiff in this case.

18. Redeploy Illinois provides supervision of young people who would otherwise be serving sentences in state detention centers.

19. Caritas Family Solutions estimates that Redeploy Illinois costs the State \$6,000 to \$10,000 for each young person in the program, while the State would have to pay up to \$80,000 a year to keep such a young person in detention.

20. In fiscal year 2016 Caritas Family Solutions received no money from Union County to operate Redeploy Illinois until four months after the fiscal year had ended.

21. Caritas Family Solutions does not expect to receive any money for Redeploy Illinois for the rest of this fiscal year unless the budget is resolved with funding for the program.

22. The failure to provide any funding will jeopardize the continued existence of the program.

23. The budget impasse is causing particular harm in southern Illinois because so many social service agencies and facilities or programs have closed or reduced services.

24. Caritas Family Solutions is now receiving an overflow of clients sent to it by such agencies and facilities as they close or disappear in southern Illinois.

25. The failure to pay on a timely basis the contracts described here places enormous financial pressure on Caritas and stretches the resources of Caritas at a time when demand for its services is more acute.

**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 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.**

Dated: 2/10/2017

  
Gary Huelsmann, CEO