

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

Richard P. Caro, a State of Illinois)	
Taxpayer on Behalf of and for the Benefit)	
of the State of Illinois, and Ronald)	
Gidwitz and Gregory Baise,)	
)	No. 07 CH 034353
Plaintiff and Plaintiff-Intervenors,)	
)	Honorable James E. Epstein
v.)	Circuit Judge
)	Courtroom 2405
Hon. Rod Blagojevich, Governor of the)	
State of Illinois, The Illinois Department)	
of Public Health, Damon Arnold, Director)	
IDPH, The Illinois Department of)	
Healthcare and Family Services, Barry S.)	
Maram, the Director of IDHFS, and)	
Daniel W. Hynes, Comptroller,)	
)	
Defendants.)	

**RESPONSE TO EXECUTIVE BRANCH DEFENDANTS' MOTION TO RESET
THE PRELIMINARY INJUNCTION SCHEDULE**

Plaintiff Richard P. Caro and Plaintiff-Intervenors Ronald Gidwitz and Gregory Baise submit their Response to the Motion to Reset The Preliminary Injunction Schedule filed by Defendants The Honorable Rod R. Blagojevich, Governor of the State of Illinois, the Illinois Department of Public Health (DPH) and Damon Arnold the Director of DPH, the Department of Healthcare and Family Services (DHFS) and Barry Maram the Director of DHFS and state as follows:

1. The parties have, pursuant to this Court's order of December 31, 2007, engaged in the drafting of proposed stipulations of fact and exhibits to try to facilitate the presentation of the facts at the hearing on Plaintiffs' Preliminary Injunction motion set for January 25, 2007. Many of these facts are not disputed.

2. This process proceeded in accordance with the Court's agreed schedule. On January 2, 2008, Plaintiffs' counsel sent Defendants' counsel Plaintiffs' first draft of the proposed stipulated facts and exhibits, along with copies of the documents not previously produced as to which they sought stipulation. Plaintiffs' counsel also simultaneously sent Defendants' counsel their List of Potential Witnesses and First Request to Produce Documents.

3. Pursuant to the agreed schedule, on January 7, 2008, Defendants' counsel sent Plaintiffs' counsel Defendants' revised version of, and a blacklined version reflecting their changes to, the draft stipulations along, with Defendants' Response to Plaintiffs' First Request To Produce Documents and some of the requested documents.

4. Pursuant to the agreed schedule, on January 9, 2008, Plaintiffs' counsel revised the stipulations they had received and in turn sent to Defendants' counsel their revised version of, and a blacklined version reflecting their changes to, the draft proposed stipulations. A true and correct copy of Plaintiffs' email attaching and of the attached proposed stipulations is attached as Exhibit A.

5. Plaintiffs did not receive revised stipulations from Defendants on January 10, 2008. Late that day, counsel for the parties conferred by telephone to discuss the process.

6. Counsel for Defendants suggested that the stipulation process might not work and that it might be necessary to call witnesses and therefore to depose witnesses prior to the hearing. Counsel for Defendants added however that they were working on the draft stipulations and would send their further revised stipulations to Plaintiffs' counsel the following day, January 11, 2007.

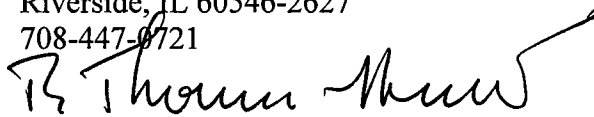
7. Also during the telephone conference, counsel for Defendants asked counsel for Plaintiffs for an additional day to file their brief in Response to the Motion for Preliminary Injunction. Plaintiffs' counsel agreed.

8. On the afternoon of January 11, 2008, Plaintiffs' counsel received the current Motion to Reset the Preliminary Injunction Schedule from Defendants' counsel -- but no revised stipulation. The Motion states that "Plaintiffs' counsel have been consulted and consent to this request". *See id.* at 7. Earlier in the day, Plaintiffs' counsel had received from Defendants' counsel a draft of the Motion containing the same language regarding Plaintiffs' counsel's consent and had advised Defendants' counsel immediately that the Motion should be changed to reflect that it pertained only to resetting the briefing schedule to give Defendants an additional day to file their preliminary injunction response brief. Plaintiffs had not agreed and do not agree to any extension of the hearing date.

January 2, 2008

Respectfully submitted,

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