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No. 126921

**IN THE  
SUPREME COURT OF THE STATE OF ILLINOIS**

JAY ROBERT "J. B." PRITZKER,  
GOVERNOR OF THE STATE OF ILLINOIS )

Movant- Plaintiff, )

v. )

HON. JOHN M. MADONIA, CHIEF JUDGE  
OF THE CIRCUIT COURT OF SANGAMON  
COUNTY, ILLINOIS )

Defendant )

And )

LISA MARA MOORE, MANDY WORKER  
JILL PEARSON LAYNE, KATE BENTON,  
CHRISTINE SIMMONS and the ILLINOIS  
HIGH SCHOOL ASSOCIATION )

Nominal Parties )

**RESPONSE IN OPPOSITION TO DEFENDANT’S MOTION FOR LEAVE  
TO FILE MANDAMUS COMPLAINT OR FOR SUPERVISORY ORDER**

Now Come Nominal Parties, LISA MARA MOORE, MANDY WORKER, JILL PEARSON LAYNE, KATE BENTON and CHRISTINE SIMMONS by and through their attorney, LAURA GROCHOCKI and in response to the Motion of Movant ROBERT “J.B.” PRITZKER, GOVERNOR OF THE STATE OF ILLINOIS to Motion for Leave to File MANDAMUS COMPLAINT or FOR SUPERVISORY ORDER state as follows:

## INTRODUCTION

1. The Defendant Governor Robert “JB” Pritzker’s (“Defendant” or “Governor”) motion arises from the case of *Moore v. Pritzker*, No. 2020 MR 426, a case that Lisa Mara Moore, Mandy Worker, Jill Pearson Layne, Kate Benton, and Christine Simmons (collectively, “Moore plaintiffs”) filed in LaSalle County Circuit Court against the Defendant, the Governor of the State of Illinois and the Illinois High School Association (“IHSA”). The action challenged the Defendant’s discriminatory COVID-19 restrictions on high school student athletes by cancelation of high school sports, while permitting college and professional sports to play without any COVID-19 restrictions or legal mandates without a rational basis tied to a legitimate state interest in violation of the Equal Protection Clause of the Illinois Constitution, Article I, Section 2, which states:

No person shall be deprived of life, liberty or property without due process of law nor be denied the equal protection of the laws. *Illinois Const., Art. I, § 2.*

## BACKGROUND

2. The Moore Plaintiffs filed a complaint against the Defendant and the Illinois High School Association for declaratory, injunctive and other relief on December 21, 2020. It is the only case, as far as the Moore Plaintiffs are aware, that challenges the actions of the Governor on an equal protection basis under the Constitution of the State of Illinois regarding his actions suspended high school sports during the COVID-19 pandemic. Other recent decision of the Illinois Circuit and Appellate Courts address the Governors powers during the COVID-19 pandemic do not concern the restrictions the Governor has placed on high school sports in violation of the Equal Protection Clause of the Constitution of the State of Illinois.

2. The Moore Plaintiffs are seeking relief on a very narrow issue. They are not challenging the Governor’s authority to issue consecutive COVID-19 disaster declaration or

executive orders. Neither are they asking the Court to decide any of the myriad of legitimate questions raised by the unprecedented and extremely broad executive authority being exercised by the Governor and the executive branch of State of Illinois. This is a single issue matter based on one theory.

3. On December 28, 2020, the Moore Plaintiffs filed a Motion for Summary Judgment, which is only fourteen (14) pages long (thirty-three (33) pages if you include the five (5) exhibits), and to date, there has been no response from the Defendant Governor or the Illinois High School Association to this Motion. However, in the weeks after being served with the complaint in this case the Defendant has found the time to file a Motion for a Change of Venue and a Motion to Dismiss which is eighteen (18) pages long and has 120 pages of exhibits. It would appear as if the Governor does not wish to address the Motion for Summary Judgment, the very first motion filed in this case.

4. On January 6, 2020, the Governor filed a Motion to Transfer this case to Sangamon County pursuant to Illinois Supreme Court Rule 187. Curiously, the Governor's Motion to Transfer, though it purported to be a motion for transfer to another county pursuant to Supreme Court Rule 187, spent the entire motion citing to orders entered under Supreme Court Rule 384.

5. The Governor's Motion to Transfer under Rule 187 under the doctrine of *forum non conveniens*, dismissed the fact that two of the Plaintiffs are located in LaSalle County and, furthermore, that Plaintiff Lisa Moore's son, who committed suicide in October 2020 due to the Governor's cancelation of high school sports, attended LaSalle High School in LaSalle County. When a plaintiff chooses a venue that is also the plaintiffs' county of residence, that choice is given substantial consideration and is entitled to deference. Griffith v. Mitsubishi Aircraft, 136 Ill.2d 101 (1990).

6. In deciding a motion for change of venue to a different county the courts consider both private and public factors. The public interest factors include the interest in deciding controversies locally. In the case involving COVID-19 restrictions on high school students in the four (4) counties where the Moore Plaintiffs reside, there may not be a controversy that the citizens of those counties consider more local than the cancelation of high school sports.

7. The private interest factors the court considers include the convenience of the parties; the relative ease of access to testimonial and documentary evidence; and other practical matters, which tend to make a trial “easy, expeditious, and inexpensive.”

8. However, considering the arguments of the Illinois Attorney General for the Governor of the State of Illinois, (two very powerful opponents for the Moore Plaintiffs, who are just regular people living in rural counties, one of whom just lost her son), Judge Holland of LaSalle County, granted the Governor’s Motion to Transfer on January 19, 2021, and ordered that this case be transferred to Sangamon County, Illinois.

9. The Governor filed a Motion to Dismiss the Moore Plaintiff’s complaint on January 22, 2021, even though the motion has not been set for presentment, but has yet to file a response to the Moore Plaintiffs’ Motion for Summary Judgment which was served on the Defendants on December 31, 2020.

Chief Judge of Sangamon County, Judge Madonia Rejects The Transfer Of the Case to Sangamon County Due to the “Not So Veiled” Appearance of Forum Shopping

11. On January 25, 2021, the Chief Judge of Sangamon County In his order, Judge John Madonia, refused to accept transfer of this case from LaSalle County. Judge Madonia wrote an Order saying he was refusing the transfer within the meaning of Supreme Court Rule 187 due to the appearance of “forum shopping.” Judge Madonia wrote:

While Sangamon County has been selected to preside over several COVID-related disputes over the last several months, the cases were almost exclusively consolidated and assigned under the authority of the Supreme Court and ordered by the Court to be heard in Sangamon County, and have resulted in favorable rulings for the State of Illinois in a majority, if not the entirety of the rulings. Because Sangamon County courts have consistently made rulings that are favorable to the State of Illinois, in previous litigation challenging governmental restrictions imposed to control the spread of COVID-19, **concern has been sufficiently established for this court to believe that Defendant's motion to change venue to Sangamon County is a not-so-veiled disguise to shop for a friendly forum to decide another COVID dispute involving State of Illinois activity restrictions** that have been implemented in response to the continued spread of the coronavirus. (SR 168-169) (emphasis added)

12. Chief Judge Madonia found that if the Defendant had sought for the case to be transferred through the Supreme Court under Rule 384 , then he would not have been in a position to make a determination on the transfer. But, Judge Modonia wrote, “defendant circumvented the Supreme Court authority to consolidate the lawsuit into established Sangamon County proceedings, and opted to establish jurisdiction through *forum non conveniens*, pursuant to Illinois Supreme Court Rule 187, which permits this court to refuse to accept jurisdiction.”

13. Furthermore, Chief Judge Madonia agreed with the Moore Plaintiff's argument that Sangamon County is not the proper venue for this case and that Defendant's Motion to Transfer under Rule 187 is designed to provide a strategical advantage to the moving party:

If this court were to accept jurisdiction as requested, Sangamon County would be deciding a controversy for residents of another county who are not closely related or similarly situated under the specific circumstances of this ruling, especially when Sangamon County is located in a totally different Region involving totally different restrictions. Additionally, the method for establishing jurisdiction in Sangamon County, and the consequences of establishing jurisdiction as Defendant has done, invites cause for concern that the transfer is largely designed to provide a strategical advantage to the moving party based upon prior rulings of the court.

Forum Shopping is Contrary to the Purposes of Rule 187  
and the Doctrine of Forum Non Conveniens

14. In this Motion to Transfer under Rule 187, the Governor purposely downplayed the fact that other cases were transferred to Sangamon under Rule 384, and yet he failed to bring a Rule 384 petition to the Supreme Court in this case.

15. Further, Chief Judge Madonia refused to accept jurisdiction as requested due to the appearance of forum shopping. Forum shopping is contrary to the purposes of Rule 187 and the doctrine of forum non conveniens. *Dawdy v. Union Pacific R.R. Co.*, 207 Ill. 2d 167, 173 (2003).

16. The court in *Dawdy v. Union Pacific R. R. Co.*, id, concluded that forum shopping perverts the principles of forum non conveniens analysis:

In *Guerine*, we observed that "[a] concern animating our forum non conveniens jurisprudence is curtailing forum shopping by plaintiffs." *Guerine*, 198 Ill. 2d at 521, citing *Torres*, 98 Ill. 2d at 351. As our appellate court has observed:

**"An integral part of the forum non conveniens analysis is fairness to the litigants and convenience to those that will be called to testify at trial. **Realigning parties for the purpose of fixing venue in a county where there may be a more favorable outcome to plaintiffs does not reinforce or complement the principles of forum non conveniens. Instead, it perverts them.**"** *Certain Underwriters*, 329 Ill. App. 3d at 199. *Dawdy v. Union Pacific R.R. Co.*, 207 Ill. 2d 167, 173 (2003). (emphasis added)

17. The appearance that justice is being done, and that there is no attempt by a party to gain unfair advantage by putting their case in a favorable forum, is as important as actually doing justice. If people do not have faith that the process is fair, and everyone is equal before the courts, then even if the correct decision is made, it will not be accepted or respected. This is especially true in a case such as the instant one, where a very emotional issue is being contested, and there has already been public criticism of Governor Pritzker for overstepping legitimate his powers.

WHEREFORE respondents pray that this Court deny the Governor's Motion for Leave to File Mandamus Complaint or for Supervisory Order and grant such other relief as the Court deems fit.

Respectfully Submitted,

/s/Laura Grochocki

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**NOTICE OF FILING AND CERTIFICATE OF SERVICE**

**I. Certificate of Service.** I, Laura Grochocki attorney for the Respondent certifies under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure that the following statements set forth in this instrument are true and correct: that I caused to be served the above and foregoing Response to Motion for Leave to File Mandamus Complaint or for Supervisory Order to the above listed persons by e-mail and via the Odyssey E-filing System at the e-mail addresses listed below, on February 5, 2021 before 5:00 p.m.

**II. Notice of Filing:** PLEASE TAKE NOTICE that I, Laura Grochocki attorney for the Respondent certifies under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure that the following statements set forth in this instrument are true and correct: that the foregoing Response to Motion for Leave to File Mandamus Complaint or for Supervisory Order was filed electronically with the Clerk of the Supreme Court of the State of Illinois on February 5, 2021 before 5:00 p.m., and all parties, or their counsel of record have been served with a copy of the foregoing Response to Motion for Leave to File Mandamus Complaint or for Supervisory Order via e-mail and via the Odyssey E-filing System February 5, 2021 before 5:00 p.m. at the e-mail addresses listed below.

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The Honorable John M. Madonia  
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By:     /s/ Laura Grochocki    

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