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GOV. RAUNER AND STATE AGENCIES SUED IN ST. CLAIR COUNTY FOR NONPAYMENT OF FISCAL YEAR 2017 CONTRACTS

Pay Now Illinois Coalition seeks timely payment for work performed under contracts

Belleville, IL, February 9, 2017—Pay Now Illinois (PNI), a coalition of Illinois-based human and social service agencies and companies, filed suit today in St. Clair County Circuit Court against Governor Bruce Rauner, Comptroller Susana Mendoza and directors of three statewide agencies, seeking a preliminary and permanent injunction that would force Illinois to begin timely payments for services performed under binding contracts dating back to the start of the current fiscal year, July 1, 2016.

The suit, a direct result of Illinois' 20-month budget impasse, was filed in St. Clair County where, in 2015, a circuit court ruled in the case of *AFSCME v. State of Illinois* that the State of Illinois must pay state employees on a timely basis, despite the lack of a budget or agreed-to appropriations by the General Assembly and the Governor. State employees have not missed a single paycheck since the start of the budget impasse on July 1, 2015.

“Precedent has been set with the ruling in St. Clair County that required state workers be paid; we feel our constitutional claims are as strong, or possibly stronger,” Pay Now Illinois Chair Andrea Durbin said. “We are hoping for the same success so that we can get paid what is owed us, and we can be certain of getting paid in the future. After all, why should state workers be paid, but not state contractors? The state must provide assurance that it is a responsible business partner.”

The Pay Now Illinois suit in St. Clair County claims that with the adoption on June 30, 2016 of the six-month Stop Gap Bill – PA 99-524 – the state paid some outstanding contracts for fiscal year 2016, but did so by reducing or terminating funding of contracts for fiscal year 2017. “The so-called ‘Stop Gap’ Bill has unlawfully reduced or capped the liability of the State to plaintiffs on the contracts for services in fiscal year 2017 – contracts that had been agreed to in writing or orally before P.A. 99-524 was adopted on June 30, 2016,” the suit says.

As a result of unpaid contracts and an uncertain future, social service agencies are facing severe cash squeezes, according to the lawsuit. Over 40 percent of the plaintiffs are using or have fully expended their lines of credit, and more than 32 percent are struggling with liquidity issues. Approximately 76 percent have already taken actions to reduce staffing expenditures, while nearly 60 percent of the plaintiffs have reduced services. Failure to pay for work that has been carried out “is causing permanent and not temporary damage” to the agencies and “irreparable injury to the client populations that have lost services and damaged the credibility of the plaintiff organizations with many vulnerable and emotionally troubled persons,” the lawsuit says.

The suit also claims that the state’s failure to pass a fully funded, balanced budget is a violation of the state’s constitution. The lack of a budget removes the security to contract holders that they will be paid. And the lack of appropriations removes the opportunity for a legal remedy against the state for failure to pay its obligations, violating the plaintiffs’ rights to due process. It goes on to warn, “In the absence of injunctive relief, not only the plaintiff organizations but the entire State-supported infrastructure for providing human services faces irreparable and lasting injury.”

In addition to the Governor and Comptroller, other defendants in the suit are James Dimas, Secretary of the Illinois Department of Human Services; Jan Bohnhof, Director of the Illinois Department on Aging; and, John R. Baldwin, Acting Director of the Illinois Department of Corrections. PNI plaintiffs include 37 Illinois-based human and social service agencies and companies.

This is Pay Now Illinois's second suit against the governor and others seeking payment on overdue bills. The first suit, filed in May of 2016, is now on appeal before the Appellate Court of the First District of Illinois. On August 31, 2016, Cook County Circuit Court Judge Rodolfo Garcia dismissed PNI's first suit, which had sought an immediate preliminary injunction and full payment of unpaid contracts dating back to July 1, 2015. Agreeing that this case presented important constitutional issues, he urged PNI to expeditiously appeal the suit to a higher court for resolution.

"We are suing to get paid, but also to protect the integrity of contracts in the State of Illinois," Durbin said. "Right now, nobody doing business with the State of Illinois can be certain of getting paid. And that is no way to run a business. If the State can get away with not paying our contracts, does any contract holder have security that the State's word is good? Will they believe that the State of Illinois has integrity?"

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About Pay Now Illinois: The Pay Now Illinois Coalition is made up of human and social service agencies and companies serving men, women and children throughout the State of Illinois. The members of the coalition provide a broad range of essential services, including healthcare, housing for the homeless, services for senior citizens, sexual abuse counseling, domestic violence shelters, and programs for at-risk youth. Please visit our website at www.paynowillinois.org.