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November 4, 2014

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**ATTORNEY GENERAL MADIGAN: LAKE COUNTY CLERK IN VIOLATION OF ELECTION CODE**

***Attorney General Files Two Complaints, Secures Temporary Restraining Order to Protect Lake County Residents' Right to Vote***

**Chicago** — Attorney General Lisa Madigan today filed two complaints alleging Lake County Clerk Willard Helander is illegally interpreting the requirements of the Illinois Election Code. The Circuit Court has so far ruled on one complaint, granting Madigan's request for a restraining order to bar the county election official from depriving voters of their right to cast a regular ballot on election day.

"The Lake County Clerk is failing to follow the law," said Attorney General Madigan. "These illegal practices risk disenfranchising voters throughout the county. I have asked the court to act immediately to protect Lake County residents' right to have their vote be counted."

In one complaint filed this morning in Lake County Circuit Court, Attorney General Madigan alleged Helander is violating state election law by engaging in two illegal practices that are effectively barring voters who previously requested absentee ballots but who now want to vote in person from casting a regular ballot.

Madigan's complaint cites a Nov. 3 instruction letter to all Lake County voting precinct site managers, in which Helander wrongly stated that voters who previously requested absentee ballots must submit the certificate envelope with their name and the unvoted ballot or they would be required to vote via a provisional ballot. Illinois Election Code only requires a voter to submit the absentee ballot or a portion of it in order to receive a ballot and vote in person. Second, Helander instructed election judges not to allow voters to submit affidavits and then cast a regular ballot when the voters stated that they had not received an absentee ballot, instead requiring that they vote via a provisional ballot. The Illinois Election Code specifies that a voter who previously requested an absentee ballot but does not bring it to the polling place still may vote in person if the voter submits an affidavit stating that he or she either never received the absentee ballot or the voter mailed the absentee ballot but was informed by clerk that the election authority never received it. Madigan's complaint includes affidavits from Lake County voters who previously sought absentee ballots and arrived today at a polling place to vote in person. Instead of allowing these voters to submit the affidavit and then vote, as required by law, they have been required to cast a provisional ballot in violation of the Illinois Election Code.

This afternoon, Judge Mitchell L. Hoffman ruled in favor of Madigan's first complaint, issuing a temporary restraining order barring Helander from enforcing these illegal practices.

In a second complaint, Madigan also alleges Helander failed to comply with state election law allowing Illinois residents to register and then vote during a grace period that includes Election Day, Nov. 4, when polls are open from 6 a.m. until 7 p.m. The Lake County Clerk's website notes grace period registration locations on Election Day are open from 10 a.m. to 7 p.m., in violation of state law that requires the polls to open at 6 a.m., according to Madigan's complaint. As part of the complaint, Madigan also submitted the affidavit of a Lake County voter who attempted to register before 10 a.m. at the Lake County Courthouse in Waukegan but was prohibited from doing so.

The court is expected to hear this case this afternoon.

For reference, see the language of the court order in the first case:

"Be advised that the Circuit Court of Lake County, Honorable Mitchell Hoffman, has ordered the following modification to the procedures previously communicated to election judges by the County Clerk. The following procedures are effective immediately:

1. As set forth in 10ILCS 5/17-9, any voter who is listed as having received an absentee ballot and who states that he or she has not received such absentee ballot shall be issued a regular and not a provisional ballot if they sign an affidavit stating that they never received the absentee ballot.

2. As set forth in 10 ILCS 5/17-9, a voter returning an absentee ballot and wishing to vote a regular ballot shall not be required to present the certificate envelope in which it was sent. Presentation of the absentee ballot or a portion thereof shall be sufficient to cause the issuance of a regular ballot.

The memorandum attached hereto shall be distributed immediately by the Clerk to election officials at each Lake County voting precinct by the fastest means practicable, including without limitation, email, telephone, or personal delivery."

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