



No. \_\_\_\_\_

IN THE  
SUPREME COURT OF ILLINOIS

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PEOPLE OF THE STATE OF ILLINOIS,	)	Original Action Pursuant to Supreme Court Rule 382.
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
ROD BLAGOJEVICH, Governor of Illinois,	)	
	)	
Defendant.	)	

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**VERIFIED COMPLAINT**

Plaintiff People of the State of Illinois, by and through their attorney, Lisa Madigan, Attorney General of Illinois, ask this Court to determine that Defendant Rod Blagojevich is currently unable to serve as Governor of Illinois.

**Parties**

1. Plaintiff People of the State of Illinois bring this action through the Attorney General, who has exclusive authority to appear for and represent the People before this Court in all cases in which the State or the People are interested. 15 ILCS 205/4 (2006).

2. Defendant Rod Blagojevich is Governor of Illinois, a position of great public trust. He was elected Governor in 2002 and was re-elected in 2006. His current term runs until January 2011.

**Venue and Jurisdiction**

3. This Court has original and exclusive jurisdiction over this action under article V, § 6(d) of the Illinois Constitution. The General Assembly has not exercised its authority to specify the procedures to question and determine the ability of the Governor to serve, so this Court may make that determination under appropriate rules that it adopts. See Ill. Const. art. V, § 6(d); see also 155 Ill. 2d R. 382(a).

## Statement of Facts

### **A. Powers and Duties of the Governor.**

4. As the State's chief executive, Mr. Blagojevich owes a duty to the People to discharge the requirements of his public office honestly and with integrity.

5. The Governor has supreme executive power and is responsible for the faithful execution of all laws. ILL. CONST. art. V, § 8. He exercises supervisory power over the executive administrative departments and agencies. As such, the Governor formulates departmental and agency policy. The Governor may reassign functions to or reorganize the executive agencies directly responsible to him. ILL. CONST. art. V, § 11.

6. Every bill passed by the General Assembly is presented to the Governor for his consideration, and he has the power to veto or amendatorily veto such legislation. ILL. CONST. art. IV, § 9(a).

7. The Governor has the power to issue executive orders to executive departments and agencies.

8. The Governor has the power to grant pardons and other relief. ILL. CONST., art. V, § 12.

9. The Governor submits the state budget to the General Assembly, ILL. CONST. art. VIII, § 2(a); 15 ILCS 20/50-5 (2006), and plays a critical role in directing the disbursement of public funds, the sale of state bonds, and the development of state programs, and in arranging short-term borrowing on behalf of the State. The Governor also has the power to enter into contracts and bind the State.

10. The Governor has the power to appoint officers whose election is not otherwise required. ILL. CONST. art. V, § 9. He also may remove any officer he appointed for malfeasance or neglect of duty. ILL. CONST. art. V, § 10.

11. In the event of a vacancy in one of the State's United States Senate seats, the Governor has the power to make a temporary appointment to fill the vacancy until the next congressional election. 10 ILCS 5/25-8 (2006).

### **B. Federal Criminal Charges against Mr. Blagojevich.**

12. On December 9, 2008, Mr. Blagojevich and his Chief of Staff, John Harris, were arrested by Federal Bureau of Investigation (FBI) agents on federal corruption charges.

13. In a criminal complaint accompanied by a 76-page, 117-paragraph affidavit by FBI Special Agent Daniel W. Cain (together, "the federal complaint"), Mr. Blagojevich was charged with conspiracy to commit mail and wire fraud and solicitation of bribery. A copy of the federal complaint is attached hereto as Ex. A.

14. The federal complaint contains voluminous criminal allegations against Mr. Blagojevich pertaining to actions he undertook in his official capacity as Governor. Some of the allegations concern actions as recent as December 5, 2008, and numerous allegations concern ongoing criminal conduct and pertain to official decisions that Mr. Blagojevich soon will make. See Ex. A, Cain Aff. at ¶¶ 3, 13.

15. Many allegations charge that Mr. Blagojevich has engaged in repeated, flagrant, and continuing efforts to obtain personal compensation in exchange for an appointment to the United States Senate seat vacated by President-Elect Barack Obama. See Ex. A, Cain Aff. at ¶¶ 13c, 86.

16. That compensation included a substantial private salary for himself, a corporate board position for his wife worth up to \$150,000/year, promises of campaign funds, including immediate payment of cash, or a cabinet post or ambassadorship for himself. Ex. A, Cain Aff. at ¶¶ 86-116. The federal complaint asserts that Mr. Blagojevich was recorded as describing the vacant Senate seat as "a [expletive] valuable thing, you just don't give it away for nothing." Ex. A, Cain Aff. at ¶ 90.

17. The federal complaint also asserts that Mr. Blagojevich considered appointing himself to the Senate seat to avoid impeachment by the General Assembly. Ex. A, Cain Aff. at ¶¶ 101a, 111, 116.

18. In addition, the federal complaint asserts that Mr. Blagojevich schemed with others, including Antoin Rezko, Stuart Levine, and Ali Ata, to obtain financial benefits for himself and his family in exchange for appointment to state boards and commissions. Ex. A, Cain Aff. at ¶¶ 13a, 16, 19-30, 34-48, 50-51, 53-58. Messrs. Rezko, Levine, and Ata all have been convicted of serious crimes arising as a result of their relationship with Mr. Blagojevich and others in his administration.

19. Mr. Rezko was one of Mr. Blagojevich's principal fundraisers and was convicted in federal court of scheming to defraud the State of Illinois by demanding kickbacks and political contributions to Mr. Blagojevich's campaign in return for the exercise of Mr. Levine's official influence on a state board. Mr. Levine was appointed by Mr. Blagojevich to be a member of both the Teachers' Retirement System and the Illinois Health Facilities Planning Board, and was convicted of obtaining money for Mr. Blagojevich's campaign in exchange for Mr. Levine's

official influence. Mr. Ata testified in federal court that he made two substantial campaign contributions to Mr. Blagojevich in exchange for a state job.

20. The federal complaint asserts that Mr. Blagojevich accelerated corrupt fundraising activities in October 2008 to accumulate funds before new state ethics legislation, Public Act 95-971, goes into effect on January 1, 2009. This legislation will prohibit any individual or entity with existing state contracts of more than \$50,000 from contributing to political campaigns. See Ex. A, Cain Aff. at ¶¶ 14, 59-60, 67-68.

21. The federal complaint asserts that Mr. Blagojevich maintained a list of individuals and entities from whom he sought to solicit funds, and many of those individuals and entities have state contracts or have received public benefits from Mr. Blagojevich acting officially as Governor. Ex. A, Cain Aff. at ¶¶ 19-30, 44, 60.

22. The federal complaint further asserts that Mr. Blagojevich asked a highway contractor for a \$500,000 campaign contribution and stated his willingness to commit more funding to an Illinois State Toll Highway Authority project that would benefit the contractor depending on how much additional money the contractor raised for Mr. Blagojevich. Ex. A, Cain Aff. at ¶¶ 62-63, 67

23. Additionally, the federal complaint asserts that Mr. Blagojevich intended to seek a \$50,000 campaign contribution from the chief executive officer of Children's Memorial Hospital in exchange for \$8 million in state funds for the Hospital; if he did not receive the campaign contribution, the Children's Hospital would not receive the state funds. Ex. A, Cain Aff. at ¶¶ 65, 68.

24. The federal complaint also states that Mr. Blagojevich threatened, in November and December 2008, to withhold financial assistance from Wrigley Field unless the Tribune Company, which owns the ballpark, fired editorial staff members who called for Mr. Blagojevich's impeachment. Ex. A, Cain Aff. at ¶¶ 13b, 69-85.

25. These illustrations are representative of the charges in the federal complaint against Mr. Blagojevich, not exhaustive.

26. On December 7, 2008, a federal magistrate judge determined that the complaint and affidavit established probable cause to believe that Mr. Blagojevich committed the charged offenses, and issued an arrest warrant.

### C. Ability to Govern Effectively.

27. As an exercise of his official duties, Mr. Blagojevich makes many important decisions affecting the State, including appointments, the enactment of new laws, the disbursement of state funds, and entering into contracts.

28. Some of these decisions relate directly to the substance of the criminal complaint, including the Senate appointment, whether to sign a bill that allocates casino revenue to the horse racing industry, and whether to approve state financial assistance for Wrigley Field.

29. Other important legislation either currently before or soon to be presented to Mr. Blagojevich includes House Bill 5151, appropriating \$40 million from the Tobacco Settlement Recovery Fund to the Illinois Department of Healthcare and Family Services for catastrophic relief payments to hospitals; Senate Bill 0934, amending insurance statutes to provide coverage for autism spectrum disorders; Senate Bill 1987, a clean coal technology/renewable energy bill; Senate Bill 2275, amending the Juvenile Court Act definition of "delinquent minor"; Senate Bill 2688, requiring schools to teach law enforcement skills to students to address incidents of crisis and emergency; and Senate Bill 2860, prohibiting the sale of children's toys containing certain amounts of lead and requiring certain product warnings.

30. On December 10, 2008, U.S. Senate Majority Leader Harry Reid sent Mr. Blagojevich a letter, Ex. B hereto, signed by all members of the Democratic Senate caucus, insisting that Mr. Blagojevich step down and refrain from exercising his authority to make an appointment to fill the vacant Senate seat.

31. U.S. Senator Reid also stated that any appointment by Mr. Blagojevich "would raise serious questions" and explained that if Mr. Blagojevich made the appointment, the Senate would use its constitutional power to determine whether even to seat the appointee. Ex. B.

32. President-Elect Obama has called for Mr. Blagojevich to resign his office.

33. Every elected statewide constitutional officer of this State has called for Mr. Blagojevich to resign his office.

34. Mr. Blagojevich admitted that his criteria for the Senate appointment were, in order of importance, "our legal situation, our personal situation, my political situation. This decision, like every other one, needs to be based upon on [sic] that. Legal. Personal. Political." Ex. A, Cain Aff. at ¶ 111.

35. In light of the federal complaint asserting repeated instances and a staggering breadth of corrupt decisionmaking, the General Assembly, state officials, state agencies, and citizens no longer have the trust and confidence in Mr. Blagojevich to act honestly and in the best interests of the People of the State.

36. In light of the federal complaint and the likelihood of a future criminal trial over the integrity and legality of his public decisionmaking, there is a significant likelihood that Mr. Blagojevich's future official decisions will be calculated to improve his public standing and his position with regard to the pending criminal charges, an impending criminal indictment and the criminal trial, instead of being made in the best interests of the People of the State.

37. In light of the federal complaint asserting corruption and improper influence in Mr. Blagojevich's official decisionmaking, the integrity and legality of his future decisions are subject to challenge, and his ability to govern is completely undermined.

38. In light of the federal complaint, Mr. Blagojevich's ability in his official capacity to borrow money on behalf of the State is severely curtailed. A \$1.4 billion short-term debt offering scheduled for December 11, 2008, appears to have been postponed because of the federal criminal charges, and Standard & Poor's Ratings Service has stated that it may downgrade the State's general bond rating in part because of the legal charges Mr. Blagojevich faces.

39. The assertions in the federal complaint demonstrate that Mr. Blagojevich is focused on his personal financial problems to the extent that those problems intrude upon and adversely affect his public decisionmaking.

40. In light of the pending criminal charges, Mr. Blagojevich will not be able to devote his full attention to his official duties and will be severely impaired in the conduct of his office.

41. In light of the pending criminal charges, the Illinois government is in a state of paralysis.

42. Mr. Blagojevich has refused to resign as Governor.

43. In bringing this case, the People are not seeking to usurp the powers or role of the General Assembly. The People recognize the need for immediate action. Meanwhile, it is unclear how long impeachment proceedings and, if necessary, a trial in the Senate would take. Because the People need an effective Governor immediately, this judicial process must be invoked.

44. United States Attorney Patrick Fitzgerald stated that the timing of the federal complaint was necessary because Mr. Blagojevich was "in the middle of a corruption crime spree" that had to be stopped, Mr. Blagojevich was personally involved in pay-to-play schemes "with the urgency of a salesman meeting his annual sales target", and Mr. Blagojevich was imminently prepared to commit many illegal acts.

#### Claim for Declaratory and Injunctive Relief

45. Article V, § 6(b) of the Illinois Constitution provides that "if the Governor is unable to serve because of death, conviction on impeachment, failure to qualify, resignation or other disability, the office of Governor shall be filled by the officer next in line of succession for the remainder of the term or until the disability is removed."

46. Mr. Blagojevich is unable to serve as Governor because he is under a disability to hold the office as a result of the charges in the federal complaint that relate directly to his ongoing conduct in office and strongly suggest his inability to make future decisions in the best interests of the People of the State.

47. Because of his disability, including his inability to distinguish the personal from the official or the legal from the illegal, it is reasonable to conclude that Mr. Blagojevich will not make official decisions with the best interests of the public in mind. The integrity and legality of Mr. Blagojevich's future decisionmaking will be questioned and his ability to govern completely undermined.

48. Mr. Blagojevich's continued service as Governor places numerous state resources at risk, including but not limited to the State's financial resources and the vacant Senate seat, and further jeopardizes state contracts and the public trust invested in the office.

49. The People have a certain and ascertainable right in need of protection.

50. The People will be irreparably harmed if Mr. Blagojevich is not restrained from exercising the powers of Governor while under a disability.

51. The People lack an adequate remedy at law.

52. The People likely will succeed on the merits of their claim.

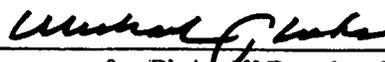
53. The balance of the hardships favors the grant of relief to the People.

54. Mr. Blagojevich has refused to resign from office and therefore should be declared unable to serve as Governor by this Court pursuant to article V, § 6(d) of the Illinois Constitution.

WHEREFORE, to remedy the inability of Mr. Blagojevich to continue to serve as Governor, Plaintiff People of the State of Illinois respectfully request:

- a. A declaration that Mr. Blagojevich is currently unable to serve as Governor because of a disability; and/or
- b. A temporary and/or permanent injunction preventing Mr. Blagojevich from exercising any powers or authority of the Office of the Governor or otherwise acting as Governor until such time as the disability is removed; and/or
- c. A temporary and/or permanent injunction prohibiting Mr. Blagojevich from performing the following tasks: (1) appointing a Senator to fill the vacant Senate seat; (2) acting on legislation; (3) directing state agencies with regard to the negotiation and execution of contracts; (4) directing the activities of the Illinois Finance Authority; (5) directing the activities of the Illinois State Toll Highway Authority; and (6) directing the disbursement of state funds, and ordering that these duties will be performed by the Lieutenant Governor pursuant to article V, § 6 of the Illinois Constitution and the provisions of the Governor Succession Act, 15 ILCS 5/0.01 - 5/1 (2006); and/or
- d. A declaration that pursuant to the Governor Succession Act, the Lieutenant Governor shall assume the duties of the Governor of Illinois until such time as Mr. Blagojevich's disability is removed; and/or
- e. Any additional relief that this Court deems reasonable and just.

Respectfully submitted,



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Illinois

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**VERIFICATION BY CERTIFICATION**

Under penalties as provided by law, pursuant to Section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109), the undersigned certifies that he is an Assistant Illinois Attorney General, that he is authorized to make this verification by certification, and that the statements set forth in the Verified Complaint are 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: December 12, 2008

  
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MICHAEL LUKE  
Assistant Attorney General