STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
COUNTY OF WINNEBAGO

THE PREGNANCY CARE CENTER OF ROCKFORD, Incorporated as ROCKFORD AREA PREGNANCY CARE CENTER, an Illinois not-for-profit corporation; ANTHONY CARUSO, MD; A BELLA BABY OBGYN, INC., incorporated as BEST CARE FOR WOMEN, INC., An Illinois domestic corporation; and AID FOR WOMEN, INC., an Illinois not-for-profit corporation,	)	
Plaintiffs,	)	
vs.	)	No. 2016-MR-741
BRUCE RAUNER, in his official capacity as Governor of Illinois; and BRYAN A. SCHNEIDER, in his official Capacity as Secretary of the Illinois Department of Financial & Professional Regulation,	)	
Defendant.	)	

MEMORANDUM OPINION AND ORDER

This matter comes before the Court on the motion of Defendants Bruce Rauner and Bryan A. Schneider seeking dismissal of the complaint filed against them by Plaintiffs The Pregnancy Care Center of Rockford, Anothony Caruso, M.D., A Bella Baby ObGyn, Inc., and Aid for Women, Inc. Plaintiffs contend that a newly enacted statute will compel them to assist in the counseling and referral of patients with respect to abortion, something to which Plaintiffs object on religious grounds.

In earlier proceedings in this case, the Court was asked to enjoin enforcement of the statute pending resolution of this litigation. Finding that Plaintiffs had presented a "fair question" as to their right to relief, the Court granted the injunction as a preliminary matter; that ruling did not resolve the case on its merits.

Defendants' motion to dismiss now asks the Court to find that Plaintiffs have failed to state a claim. The Court agrees with Defendants that Plaintiffs have failed to state a claim for relief on the statutory basis set forth in Count I of the complaint, but it finds that the remaining three counts of Plaintiffs' complaint set forth claims which are deserving of a hearing on the merits. Once again, this is for the most part a preliminary ruling which does not finally decide the merits of the case.

Plaintiffs' Complaint

Plaintiffs' Complaint is focused on the enactment of Public Act 99-690, also known as SB 1564. This enactment makes various changes to the Illinois Healthcare Right of Conscience Act, 745 ILCS 70/1 *et seq.* ("Conscience Act"). The Court has summarized the provisions of SB 1564 in its Memorandum Opinion and Order of December 20, 2016 ("Injunction Memorandum").

Plaintiffs' Complaint consists of four separate Counts:

- Count I, which asserts a violation of the Illinois Religious Freedom Restoration Act ("RFRA"), 775 ILCS 35/1 *et seq.;*
- Count II, which asserts a violation of Plaintiff's free speech rights under Article I, Section 4 of the Illinois constitution;
- Count III, which asserts a violation of religious freedoms protected by Article I, Section 3 of the Illinois constitution; and
- Count IV, which asserts a violation of the equal protection provision found in Article I, Section 2 of the Illinois constitution.

Plaintiffs seek declaratory and injunctive relief, as well as recovery of their attorney fees pursuant to Section 20 of RFRA.

Defendants' Motion to Dismiss

Defendants bring their motion to dismiss Plaintiffs' claims pursuant to Section 2-615 of the Illinois Code of Civil Procedure. When dismissal is sought pursuant to Section 2-615, the only issue before the Court is whether the complaint or a particular count thereof states a cause of action under which relief can be granted. *Salce v. Saracco*, 409 Ill.App.3d 977, 981, 949 N.E.2d 284, 288 (2d Dist. 2011). When the legal sufficiency of a complaint or count is challenged, all well-pleaded facts are taken as true, as well as all reasonable inferences favorable to the plaintiff which may be drawn from those facts. *Id.* In reviewing the sufficiency of the Complaint, the Court will disregard all conclusions of law or fact unsupported by specific factual allegations. *Id.* In ruling on a Section 2-615 motion, only those facts apparent from the face of the pleadings, matters of which the court can take judicial notice, and judicial admissions in the record may be considered. *K. Miller Construction Co., Inc., v. McGinnis*, 238 Ill.2d 284, 291, 938 N.E.2d 471, 477 (2010).

Motion to Dismiss Count I: RFRA

The Court's previous Injunction Memorandum addressed the statutory interplay between SB 1564 and Illinois' RFRA. Plaintiffs rely on a statute passed in 1998, RFRA, to block implementation of a statute passed in 2016, SB 1564. The unmistakable fact is that both RFRA

and the Conscience Act, as amended by SB 1564, tread the same ground, in that each prescribes grounds for objection to compliance with other laws based on religion or conscience. RFRA applies to the "exercise of religion," which it defines as "an act or refusal to act that is substantially motivated by religious belief, whether or not the religious exercise is compulsory or central to a larger system of religious belief." 775 ILCS 35/5. The Conscience Act defines "conscience" as "a sincerely held set of moral convictions arising from belief in and relation to God, or which, though not so derived, arises from a place in the life of its possessor parallel to that filled by God among adherents to religious faiths." 745 ILCS 70/3.

Plaintiffs construe RFRA as vindicating and protecting their choice made on grounds of conscience, and they construe SB 1564 as infringing upon their right to make that choice; consequently, they argue that the former trumps the latter. While the Court agrees that the statutes are in conflict, there are established grounds for resolving such a conflict. As stated in the Injunction Memorandum, SB 1564 is both the more recent and the more specific of the two statutes, so it controls here.

Plaintiffs argue, as they did in connection with the preliminary injunction hearing, that SB 1564 cannot "supersede" RFRA. The Court adopts here and incorporates by reference its analysis in the Injunction Memorandum which reaches a contrary conclusion. The Court further rejects Plaintiffs' argument made at Page 9 of their Response that the legislature must "explicitly declare that it is overriding the protections of RFRA" in order to make clear its intention that a subsequent piece of legislation is to be given effect. It is true that the legislature has, on prior occasions, made clear that a legislative enactment was being exempted from RFRA (see, *e.g., St. John's United Church of Christ v. City of Chicago*, 502 F.3d 616, 632–33 (7th Cir. 2007), and it certainly would have made this Court's job easier had the legislature made such a specific pronouncement here. Still, Plaintiff's interpretation of SB 1564 is that the legislature passed it to be an instantaneous dead letter; such an interpretation is simply not tenable. As stated in the Addendum to the Injunction Memorandum, the better view is that "magic words" need not have been incanted by the 2016 legislature in order for its enactments to avoid being struck down, as it were, by the action of an earlier legislature taken eighteen years before.

For the reasons stated here and those set forth in the Injunction Memorandum, the Court concludes that Plaintiffs have failed to state a cause of action under RFRA. Consequently, the motion to dismiss Count I is granted. Because this decision is one rooted primarily in statutory interpretation, and because Plaintiffs have not suggested that an amendment to their complaint could cure the defect, the dismissal is with prejudice.

Motion to Dismiss Count II: Freedom of Speech

Plaintiffs argue in Count II that SB 1564 violates their right to freedom from State-compelled speech as guaranteed by Article I, Section 4 of the Illinois Constitution. As noted in the Court's Injunction Memorandum, neither party has given the Court a basis to conclude that the Illinois guarantee of free speech affords any greater protection than that provided under the First Amendment to the United States Constitution. (Injunction Memorandum at p. 8.) Consequently, the Court may rely on case law precedent under both provisions.

Both the Illinois and United States Constitutions protect against not only governmental *restrictions* on speech, but also against government *compulsion* of speech. As noted in the Injunction Memorandum, the "government may not prohibit the dissemination of ideas that it disfavors, nor compel the endorsement of ideas that it approves." *Knox v. Serv. Employees Int'l Union, Local 1000*, 132 S. Ct. 2277, 2288, 183 L. Ed. 2d 281 (2012). Plaintiffs argue that SB 1564 compels them to engage in speech to which they have fundamental personal objection.

The Court's Injunction Memorandum specified the ways in which SB 1564 compels speech by Plaintiffs:

- Section 6 of the Conscience Act previously stated that it did not relieve any provider from "any duty" of practice which may exist under any "current standard." SB 1564 explicitly includes within this provision an affirmative obligation to inform a patient of his or her "legal treatment options," as well as the benefits of those options. Setting aside for the moment the potential justifications for such a requirement, this clearly is government compelled speech.

- SB 1564 adds a new Section 6.1 to the Conscience Act which affirmatively requires the development of protocols which must be followed by providers who seek to use the Act as a shield. This include[s] the requirement that the provider must "inform a patient of ... legal treatment options, and the risks and benefits of legal treatment options ... consistent with current standards of medical practice." Where a provider declines to provide an objected-to service to a patient, the provider must participate in the transfer of the patient to someone the provider "reasonably believe[s] may offer" the service; the three options for doing so include giving "in writing information to the patient about other health care providers."[1]

In the Injunction Memorandum, the Court reviewed case law in this area and determined that the intermediate standard of review should be applied to test SB 1564's constitutionality. See *King v. Governor of the State of New Jersey*, 767 F.3d 216, (3d Cir. 2014); *Stuart v. Camnitz*, 774 F.3d 238, 249 (4th Cir. 2014). To survive intermediate scrutiny, a law concerning speech (1) must serve or advance a substantial governmental interest unrelated to the suppression of free speech; and (2) must not burden substantially more speech than necessary to further that interest. *People v. Minnis*, 2016 IL 119563, ¶36. "[I]n other words, it must be narrowly tailored to serve that interest without unnecessarily interfering with first amendment freedoms." *Id.*

As stated in the Injunction Memorandum, the Court agrees with Defendants that the State has a substantial government interest in advancing patient health which is unrelated to the suppression or compulsion of free speech. See *People for Use of Dep't of Registration & Educ., v. Graham*, 311 Ill. 92, 94, 142 N.E. 449, 450 (1924); *Lasdon v. Hallihan*, 377 Ill. 187, 193, 36 N.E.2d 227,

[1] As stated in the Injunction Memorandum, not all of the provisions of SB 1564 objected to by Plaintiffs involve compelled speech. For example, Plaintiffs have objections to another option available under the new Section 6.1 (transferring a patient to the non-objecting provider), but this does not appear to be a matter of *speech* per se. The requirement that Plaintiffs must identify providers who they "reasonably believe may offer" the service in question probably is compelled speech.

230 (1941). The issue boils down to whether SB 1564 is narrowly tailored to serve that interest and does not substantially burden free speech rights more than necessary.

The standard of decision with respect to a constitutional challenge is markedly different depending upon whether the challenge is to the statute on its face, as opposed to the manner in which it is being applied to Plaintiffs. At oral argument, Plaintiffs clarified that they are challenging SB 1564 both on its face and as applied. Consequently, the Court addresses each argument separately.

As Applied Challenge. An as-applied challenge requires a showing that the statute violates the constitution as it applies to the facts and circumstances of the challenging party. *People v. Thompson*, 2015 IL 118151, ¶36. To understand the circumstances affecting each of the Plaintiffs, it is important to note the religious beliefs which underlie each Plaintiff's objections to the statute in question:

- With respect to the Pregnancy Care Center, it alleges that its "religious convictions prohibit them [*sic.*] from performing in, assisting in, or participating in any way with abortion or abortion causing drugs." (Complaint, par. 3.)

- With respect to A Bella Baby Ob-Gyn and Dr. Caruso, they allege that their religious beliefs "prohibit them from referring a patient for an abortion, transferring a patient to an abortion provider, or providing in writing information to the patient about other health care providers who they reasonably believe may offer the patient an abortion, abortion causing drugs or devices, or contraception,[2] and their religious beliefs prevent them from employing or supervising persons who would do so." (Complaint, par. 67.)

- The religious beliefs of Aid for Women, Inc., "prohibit it from performing, assisting in, referring for, or participating in any way with, or helping procure, abortion, abortion causing drugs, or contraception." (Complaint, par. 102.)

Because all Plaintiffs object on religious grounds to the practice of abortion, the "as applied" inquiry is whether SB 1564 substantially burdens Plaintiffs' right to be free from compelled speech on the topic of abortion any more than is necessary to further the State's interest in promoting patient health.

Defendants argue that the speech compelled by SB 1564 is already compelled by professional standards of conduct, but they have not demonstrated that such speech is required *by law*. It is true that physicians may be disciplined for violating professional standards, but there are two open questions: (1) do the professional standards compel the objected-to speech under the same circumstances targeted by SB 1564; and (2) even if they do, is it clear that the law would

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[2] It is unclear whether Plaintiffs A Bella Baby Ob-Gyn, Dr. Caruso and Aid for Women, Inc., object to all contraception *per se,* as opposed to those methods of contraception which operate after fertilization. They "believe that human life begins at conception, specifically the fusion of a sperm and ovum at fertilization, and that any procedure, drug or device seeking to destroy a preborn life after that stage is an abortion." (See Complaint, Pars. 64, 101.)

prescribe disciplinary measures for the mere refusal to engage in such speech which does not harm a patient? The Court does not find that these questions have been answered in this particular procedural posture; more of a factual record must be developed.

If existing Illinois law does *not* already compel persons other than conscientious objectors to engage in the compelled speech at issue here, then the Court cannot conclude, as a matter of law, that SB 1564 is narrowly tailored to its purpose. As previously discussed in the Injunction Memorandum, SB 1564 may be under inclusive, as it takes specific aim at conscientious objectors in a manner which has not been shown to be applicable to other medical providers who do not have conscientious objection:

> If the legislative purpose to be served by SB 1564 is to impose on providers the legal obligation to make the referrals or engage in the discussions objected to by Plaintiffs, why has the State singled out only conscientious objectors as providers who must carry that message? The Conscience Act and SB 1564 say nothing specific about particular issues such as abortion or contraception, but these issues lurk below the deceptively calm surface of the invocation of professional standards. The fact that Plaintiffs have brought this suit because of their concerns about counseling or referring their patients with respect to abortion certainly speaks to how close to the surface those concerns are; the focus of discussion in the legislative history of SB 1564 confirms it. The nature of Plaintiffs' concerns, and of the legislature's *sub silentio* purpose, implicate special concerns:
>
> > When evaluating compelled speech, we consider the context in which the speech is made. *Riley,* 487 U.S. at 796–97, 108 S.Ct. 2667. Here, the context is a public debate over the morality and efficacy of contraception and abortion, for which many of the facilities regulated by Local Law 17 provide alternatives. "[E]xpression on public issues has always rested on the highest rung on the hierarchy of First Amendment values."
>
> *Evergreen Ass'n, Inc. v. City of New York*, 740 F.3d 233, 249 (2d Cir. 2014).
>
> It is, then, of particular concern that SB 1564 seeks to compel speech on "public issues," and that it imposes its restrictions selectively upon only those who may invoke a conscientious objection to participation in them.

The Court understands Defendants' contention that, by enacting SB 1564, the legislature is simply trying to ensure that the Conscience Act is not utilized to escape legal requirements that apply to medical practitioners in general. As noted above, however, the Court cannot conclude at this juncture that the conduct compelled by SB 1564 *is* legally required of providers other than conscientious objectors.

Furthermore, the following analysis from the Injunction Memorandum remains of concern here:

> It should be remembered that the physician-patient relationship is a consensual one. *Smith v. Pavlovich*, 394 Ill. App. 3d 458, 466, 914 N.E.2d 1258, 1266 (5th

> Dist. 2009). If a patient decides to pursue treatment options to which the physician morally objects, there is nothing in existing law which appears to require the physician's participation to assist the patient in that course. "[W]hen a physician refuses to treat a patient needing further treatment," his or her duty to the patient is not breached unless the patient is not given "a reasonable time to find substitute care." *Magana v. Elie*, 108 Ill. App. 3d 1028, 1034, 439 N.E.2d 1319, 1323 (2d Dist. 1982). It bears repeating: the Conscience Act, and therefore the entirety of the present discussion, involves only *non-emergent* medical situations. Consequently, SB 1564's amendments to the Conscience Act, though cloaked in the language of "professional standards," appear to expand the physician's duties to the patient. Again, it is highly problematic that this expansion is effective only as to conscientious objectors in particular, and not health care providers in general.

The other issue identified in the Injunction Memorandum is that SB 1564 compels speech on the part of medical providers which may be useful, helpful, or convenient to the promotion of patient health, but which might just as easily be accomplished without treading on the rights of those with conscientious objection:

> The State has really not addressed why it must rely on conscientious objectors like Plaintiffs to provide their non-emergent patients with information about the very procedures to which Plaintiffs object. There has not been a showing that Plaintiffs are somehow possessed of more or better information about the location of other providers willing to provide the objected-to services. There has not been an explanation of why the State could not as easily, and perhaps more efficaciously in the information age, maintain that information and make it available to the public. Why must the State, which licenses and regulates those who provide the objected-to services, rely on the very people who object to the services to be the source of information about them?

Defendants have argued that information about abortion providers is difficult to obtain, citing a Google search which identified only a handful of abortion providers. The first problem with this argument is that it is unclear whether there *are* more providers than those identified; if not, SB 1564 certainly does not cure the deficiency. More fundamentally, however, Defendant is essentially arguing against the factual allegations made in Plaintiff's pleadings, something which is plainly improper in this context; a Section 2-615 motion to dismiss admits the truth of the facts alleged by the pleader.

Based on the foregoing analysis, the Court concludes that Count II of Plaintiffs' Complaint adequately states a cause of action for violation of their constitutional right to be free from compelled speech. The motion to dismiss Count II is denied.

Facial challenge. A facial constitutional challenge to a legislative enactment presents a high burden for the challenging party:

> A facial challenge to the constitutionality of a legislative enactment is the most difficult challenge to mount successfully (*In re C.E.*, 161 Ill.2d 200, 210–11, 204

> Ill.Dec. 121, 641 N.E.2d 345 (1994), quoting *United States v. Salerno,* 481 U.S. 739, 745, 107 S.Ct. 2095, 2100, 95 L.Ed.2d 697, 707 (1987)), because an enactment is facially invalid only if no set of circumstances exists under which it would be valid. *In re Parentage of John M.,* 212 Ill.2d 253, 269, 288 Ill.Dec. 142, 817 N.E.2d 500 (2004). The fact that the enactment could be found unconstitutional under some set of circumstances does not establish its facial invalidity. See *Village of Hoffman Estates v. The Flipside, Hoffman Estates, Inc.,* 455 U.S. 489, 504, 102 S.Ct. 1186, 1196, 71 L.Ed.2d 362, 375 (1982) ("'Although it is possible that specific future applications ... may engender concrete problems of constitutional dimension, it will be time enough to consider any such problems when they arise' "), quoting *Joseph E. Seagram & Sons, Inc. v. Hostetter,* 384 U.S. 35, 52, 86 S.Ct. 1254, 1265, 16 L.Ed.2d 336, 348 (1966); *In re Parentage of John M.,* 212 Ill.2d at 269, 288 Ill.Dec. 142, 817 N.E.2d 500. In contrast, in an "as-applied" challenge a plaintiff protests against how an enactment was applied in the particular context in which the plaintiff acted or proposed to act, and the facts surrounding the plaintiff's particular circumstances become relevant. See *Lamar Whiteco Outdoor Corp. v. City of West Chicago,* 355 Ill.App.3d 352, 365, 291 Ill.Dec. 318, 823 N.E.2d 610 (2005). If a plaintiff prevails in an as-applied claim, he may enjoin the objectionable enforcement of the enactment only against himself, while a successful facial attack voids the enactment in its entirety and in all applications. *Lamar,* 355 Ill.App.3d at 365, 291 Ill.Dec. 318, 823 N.E.2d 610.

Napleton v. Vill. of Hinsdale, 229 Ill. 2d 296, 305–06, 891 N.E.2d 839, 845–46 (2008).

When addressing a facial constitutional challenge, it is appropriate to examine whether there are circumstances under which the challenged statute might pass constitutional muster. Toward that end, Defendants offer the following example:

> For example, a woman may not know that she has an ectopic pregnancy and needs to terminate the pregnancy immediately to save her life.

This is a strong argument in favor of SB 1564's constitutionality, as Defendants describe a circumstance in which the *only person* possessed of this information would be the patient's medical provider. In such a situation, the burden imposed on Plaintiffs is counterbalanced by the critical role the compelled speech might serve in promoting the patient's health. It seems highly likely that this circumstance would justify State compelled speech, i.e., that the medical provider would have to provide the patient with information which could not come from any other source. This requirement would be narrowly tailored to meet the State's interest.

At this point, however, the issue is presented on a motion to dismiss. As noted above, Count II will stand based on the "as applied" challenge, and so the more focused question is whether the Court will dismiss Count II in part with respect to the facial challenge. The Court does not believe the record permits it to do so at this point. For one thing, the ectopic pregnancy example given by Defendants needs to have factual support in a properly developed record. For another, there is a real question about whether ectopic pregnancy is an "emergency" care situation which

has *never* have been covered by the Conscience Act. The following provision existed in the Act before SB 1564 was enacted, and it remains there today:

> Nothing in this Act shall be construed so as to relieve a physician or other health care personnel from obligations under the law of providing emergency medical care.

745 ILCS 70/6. If the ectopic pregnancy example given by Defendants is an emergency situation, then the Conscience Act – before and after amendment – has never presented a basis for a provider to abstain from treatment. Whether an ectopic pregnancy is an "emergency" situation per the Conscience Act, however, presents a factual question not appropriate for resolution on a Section 2-615 motion.

For the foregoing reasons, Defendants' Section 2-615 motion to dismiss Count II is denied.

Motion to Dismiss Count III – Freedom of Religion

Count III of Plaintiffs' Complaint alleges that SB 1564 infringes upon their right to freedom of religion as expressed in Article I, Section 3, which states as follows:

> The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed, and no person shall be denied any civil or political right, privilege or capacity, on account of his religious opinions; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the State. No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship.

Ill. Const. Art. I, §3. This provision is generally interpreted in "lockstep" with the similar protections afforded by the First Amendment to the United States Constitution. *Toney v. Bower*, 318 Ill. App. 3d 1194, 1202, 744 N.E.2d 351, 359 (4th Dist. 2001).

Defendants contend that, where a "burden on religious exercise is an incidental effect of a neutral, generally applicable, and otherwise valid law or regulation, the law does not violate the Free Exercise clause of the First Amendment," and so by extension does not violate the parallel Illinois constitutional guarantee. (Defendants' brief at p. 14.) Defendants argue that SB 1564 does not impose a "substantial burden" on Plaintiffs' free exercise of their religion. Defendants also argue that SB 1564 represents not a burden on Plaintiffs *per se*, but merely a condition placed upon the privilege afforded to conscientious objectors under the Conscience Act.

This argument rests on factual assumptions which are undeveloped at this stage of the case. As discussed above, it is factually unclear whether the substantive requirements of SB 1564 imposed on conscientious objectors are the same or materially different from those imposed on non-objecting medical providers. Furthermore, the degree to which the exercise of Plaintiffs' religious beliefs are burdened presents a matter calling for measurement and weighing of the

evidence, a process particularly unsuited for a Section 2-615 motion. Consequently, Defendants' motion to dismiss Count III is denied.

Motion to Dismiss Count IV – Equal Protection

Count IV of Plaintiffs' complaint asserts that SB 1564 violates the equal protection clause of the Illinois constitution, which states as follows:

> No person shall be deprived of life, liberty or property without due process of law nor be denied the equal protection of the laws.

Ill. Const. Art. I, §2. The same analysis is used in assessing equal protection claims under both the Federal and State Constitutions. *People v. Reed*, 148 Ill. 2d 1, 7, 591 N.E.2d 455, 457 (1992).

Plaintiffs argue that the classes of people treated unequally by SB 1564 are: (1) people who object to compliance with SB 1564 because of religious reasons; and (2) people who do not provide abortion related services for non-religious reasons, but who are not required to comply with the steps mandated by SB 1564. Plaintiffs argue that, because the distinction between the two classes is the result of their religious beliefs, SB 1564 is subjected to higher judicial scrutiny.

Defendants argue that these two classes are not similarly situated, but they misapprehend Plaintiffs' argument. The distinction is not between providers who object to complying with SB 1564 and those who do not; it is between providers who object specifically for *religious reasons* as opposed to those who may not do so for other reasons (e.g., economic, social, etc.).

The Court strongly suspects that Defendants may be correct in arguing, based on non-precedential Federal authority, that Plaintiffs' equal protection argument is superfluous to the other constitutional arguments raised. Regardless, the Court does not find that Defendants have shown that Count IV should be dismissed as a matter of law at the pleading stage. The motion to dismiss Count IV is, therefore, denied.

Motion to Dismiss Defendant Rauner

Defendant Rauner also moves for dismissal on the basis that he is an unnecessary and improper party to the case. The parties agree that enforcement of SB 1564 would be executed by Defendant Schneider in his official capacity as Secretary of the Illinois Department of Financial and Professional Regulation. Plaintiffs have not articulated a cogent basis for Rauner's inclusion in the case or presented appropriate legal authority in support of it. Consequently, all claims against Defendant Rauner are hereby dismissed, without prejudice to Plaintiff's continuing claims against Defendant Schneider.

Conclusion

For the reasons stated above, Defendants' motion to dismiss Count I is granted; Defendants motion to dismiss Counts II through IV is denied; and the motion to dismiss Defendant Rauner as a party is granted. The Court's ruling today does not resolve this case for either party. The

Court has simply decided, at this very preliminary stage, which of Plaintiffs' claims survive and may be entitled to a hearing in the future.

5/26/17
Date

Hon. Eugene G. Doherty, Circuit Judge