

IN THE CIRCUIT COURT
FOR THE FOURTH JUDICIAL CIRCUIT
CLAY COUNTY, ILLINOIS

DARREN BAILEY,

Plaintiff,

v.

GOVERNOR JB PRITZKER, in his official
capacity,

Defendant.

Case No. 2020 CH 6

Judge Michael McHaney

NOTICE OF FILING OF NOTICE OF REMOVAL

PLEASE TAKE NOTICE that on May 21, 2020, Defendant Governor JB Pritzker filed in the United States District Court for the Southern District of Illinois the Notice of Removal pursuant to 28 U.S.C. § 1343(a)(3) attached as Exhibit A. Under Illinois law, “[w]hen a petition for removal has been filed in Federal district court . . . the State court loses jurisdiction to proceed further until the case is remanded.” *Hartlein v. Illinois Power Co.*, 151 Ill. 2d 142, 154 (1992); *see also* 28 U.S.C. § 1446(d) (following removal “the State court shall proceed no further unless and until the case is remanded.”).

Dated: May 21, 2020

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**IN THE CIRCUIT COURT
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DARREN BAILEY,

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GOVERNOR JB PRITZKER, in his official
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CERTIFICATE OF SERVICE

Under penalties as provided by law pursuant to 735 ILCS 5/1-109, the undersigned hereby certifies the statements set forth in this certificate of service are true and correct and that he has caused a copy of the foregoing to be served upon:

Thomas G. DeVore
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DEVORE LAW OFFICES, LLC
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via email at the address noted above on May 21, 2020.

By: /s/ Thomas J. Verticchio
Thomas J. Verticchio
Assistant Chief Deputy Attorney General

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

DARREN BAILEY,

Plaintiff,

v.

GOVERNOR JB PRITZKER, in his official
capacity,

Defendant.

No. 3:20-cv-00474

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant Governor JB Pritzker (“Governor”) hereby removes this action to this Court pursuant to 28 U.S.C. § 1446 and 28 U.S.C. 1343(a)(3), because the action seeks to redress an alleged deprivation of Plaintiff Darren Bailey’s rights secured by the Constitution of the United States, including his First Amendment right to free exercise of religion, his Fourteenth Amendment right to procedural due process, his right to interstate travel, and the right to a Republican Form of Government conferred by Article IV, Section 4 of the United States Constitution.

1. On April 23, 2020, Plaintiff Darren Bailey (“Bailey”) commenced an action in the Circuit Court for the Fourth Judicial Circuit, Clay County, Illinois, captioned *Darren Bailey v. Governor Jay Robert Pritzker, in his official capacity*, No. 2020 CH 6 (“State Court Action”). Bailey served the initial complaint on the Governor on April 24, 2020. On May 15, 2020, Bailey received leave to and filed an amended complaint, which he also served on the Governor. The Governor is the only defendant named in the State Court Action. Accordingly, this Notice of Removal is timely under 28 U.S.C. § 1446(b)(1) and 28 U.S.C. § 1446(b)(3), as it is filed within

30 days of service of both the initial pleading and the amended pleading. *See Murphy Bros. v. Michetti Pipe Stringing*, 526 U.S. 344, 350–51 (1999).

2. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served on the office of Governor J.B. Pritzker relating to this action is attached as Exhibits A–I. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served on counsel for Bailey, and a copy, along with a Notice of Filing of the Notice of Removal, is today being filed with the Clerk of the Circuit Court of Clay County, Illinois.

3. The Governor removes this action under 28 U.S.C. § 1343(a)(3) because the action seeks redress for alleged deprivations of Bailey’s federal constitutional rights caused by actions taken under color of state law. Section 1343(a)(3) provides federal district courts with original jurisdiction over “any civil action authorized by law” brought by any person: (a) “to redress the deprivation . . . of any right, privilege or immunity secured by the Constitution of the United States” that (b) occurs “under color of any State law, statute, ordinance, regulation, custom or usage.”

4. Bailey challenges the validity of disaster proclamations and executive orders that the Governor issued in his official capacity under color of Illinois law. (Am. Compl., Counts I–III.) Bailey seeks declaratory and injunctive relief. In his amended complaint, Bailey alleges he has standing to seek this declaratory and injunctive relief because he has suffered harm caused by the Governor’s actions, including alleged harm to Bailey’s rights that are protected under the United States Constitution. (Am. Compl., ¶ 117, alleging that “An actual controversy exists between the parties in regard to the authority of Pritzker to enter and enforce those provisions of Executive Order 32 which restrict the movement and activities of persons, and the closure of businesses.”) His amended complaint makes clear that through his action for declaratory judgment

and injunctive relief Bailey seeks to redress the alleged deprivation under color of Illinois law of four rights secured by the United States Constitution.

5. *First*, Bailey seeks to redress an alleged violation of his “liberty interest.” (*See, e.g.*, Am. Compl., Ex. A, ¶¶ 105-107, seeking redress for Governor’s alleged “utilization of the police powers of the State” to “restrict a citizen’s movement or activities or seizing control of . . . business premises”; Temporary Restraining Order, Ex. B, ¶ 5, asserting “Plaintiff has shown he has a clearly ascertainable right in need of immediate protection, namely his liberty interest to be free from Pritzker’s executive order.”)¹ The “liberty interest” that Bailey alleges to have been violated, and for which Bailey seeks redress, is secured by the United States Constitution. *See, e.g., Youngberg v. Romeo*, 457 U.S. 307, 315 (1982); *Parham v. J.R.*, 442 U.S. 584, 600 (1979). The Fourteenth Amendment to the United States Constitution prohibits a “state” from “depriv[ing] any person of life, *liberty*, or property, without due process of law[.]” U.S. Const. amend. XIV, § 1 (emphasis added).

6. Bailey alleges that the executive orders issued by the Governor have deprived him of his liberty interest by requiring him to quarantine himself at home. (*See* Am. Compl., ¶¶ 32–49, discussing quarantine procedures; ¶¶ 105-107, seeking redress for actions restricting movement; ¶ 117, same.) Bailey alleges that the Governor failed to provide him with notice before subjecting him to quarantine and failed to provide him with adequate procedures to challenge his alleged quarantine. (*See* Am. Compl., ¶ 41, alleging “Persons who are ordered to be isolated or quarantined or who are owners of places that are ordered to be closed and made off limits to the public, shall be given a written notice of such order.”; *id.* ¶ 37, asserting that “within 48 hours after issuing the

¹ The Temporary Restraining Order attached hereto as Exhibit B was drafted by counsel for Bailey and was signed by Judge Michael McHaney without substantive revision. *See* Temporary Restraining Order, Ex. B, *passim*.

order,” the State had to “obtain the consent of the person” subject to quarantine “or file a petition requesting a court order authorizing the isolation or quarantine.”) Bailey asserts that there are “procedural safeguards” that “must be followed when restricting the movements or activities of the people, or closing businesses, to control disease spread.” (Am. Compl. ¶ 48.)

7. Bailey’s allegations, when construed as a well-pleaded complaint, as they must be, assert a procedural due process claim under the Fourteenth Amendment. *See* Wright & Miller, 14C Fed. Prac. & Proc. Juris. § 3722.1 (Rev. 4th ed. April 2020) (explaining that under the artful-pleading doctrine, a corollary of the well-pleaded complaint rule, “when a cause of action in the plaintiff’s complaint, if properly pled, would pose a federal question and make the case removable, the plaintiff will not be permitted to disguise the inherently federal cause of action, to block removal”). Federal courts have long exercised jurisdiction over challenges to allegedly *ultra vires* state quarantine orders. *See, e.g., Compagnie Francaise de Navigation a Vapeur v. State Bd. of Health*, 186 U.S. 380, 386, 393–94 (1902) (exercising appellate jurisdiction based on due process protections in the Fourteenth Amendment over challenge to allegedly *ultra vires* state quarantine order). This Court has original jurisdiction in this case because Bailey challenges an allegedly *ultra vires* quarantine order that he alleges has deprived him of his liberty interest without the procedural due process to which he is entitled under the Fourteenth Amendment. 28 U.S.C. § 1343(a)(3).

8. *Second*, Bailey seeks to redress an alleged violation of his right to free exercise of religion. (*See, e.g.,* Am. Compl., Ex. A, ¶ 71, seeking redress for Governor’s alleged actions “preventing Bailey from attending worship services.”) The freedom of religion that Bailey alleges to have been violated, and for which Bailey seeks redress, is secured by the United States Constitution. *See* U.S. Const. amend. I; *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 532 (1993). The First Amendment to the United States Constitution, as applied to

the states through the Fourteenth Amendment, forbids the Governor, in his official capacity, from making any law “respecting an establishment of religion, or prohibiting the free exercise thereof[.]” U.S. Const. amend. I.

9. *Third*, Bailey seeks to redress an alleged violation of his right to freedom of travel. (*See, e.g.*, Am. Compl., Ex. A, ¶¶ 105–110, seeking redress for Governor’s alleged actions “restrict[ing] . . . citizen’s movement.”) The freedom to travel that Bailey alleges to have been violated, and for which Bailey seeks redress, is secured by the United States Constitution. *See Attorney Gen. of New York v. Soto-Lopez*, 476 U.S. 898, 901–02 (1986) (“Freedom to travel throughout the United States has long been recognized as a basic right under the Constitution.”) (internal citations and quotation marks omitted) (collecting cases).

10. *Fourth*, Bailey seeks to redress an alleged violation of Article IV, Section 4 of the United States Constitution, which provides that “[t]he United States shall guarantee to every State in this Union a Republican Form of Government.” Bailey’s complaint alleges that the Governor, through the disaster proclamations and executive orders that Bailey seeks to void, has seized “unilateral control over the movement and livelihood of every citizen in the State. The legislative branch during this period of executive rule under the emergency powers has been rendered meaningless.” (*See, e.g.*, Am. Compl., Ex. A, ¶¶ 84–85.) In other words, Bailey alleges that the Governor’s actions have transformed the state government of Illinois to such a degree that Illinois no longer enjoys the “Republican Form of Government” guaranteed by the United States Constitution. U.S. Const. art. IV, § 4.

11. Because Bailey’s action seeks redress for alleged deprivation of at least four rights secured by the United States Constitution, this Court has original jurisdiction over Bailey’s action under 28 U.S.C. § 1343(a)(3), and removal is proper under 28 U.S.C. § 1441(a) and § 1446.

WHEREFORE, for all these reasons, the Governor removes the State Court Action to this Court.

Dated: May 21, 2020

Respectfully Submitted,

KWAME RAOUL
Attorney General of Illinois

/s/ Thomas J. Verticchio

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Counsel for the Governor

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS DIVISION**

DARREN BAILEY,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 3:20-cv-00474
)	
GOVERNOR JAY ROBERT PRITZKER,)	
in his own capacity,)	
)	
Defendant.)	

EMERGENCY MOTION TO REMAND

DARREN BAILEY by and through his undersigned attorneys, states as follows:

1. On April 23, 2020, Plaintiff filed his action against Defendant in the Circuit Court, Clay County, Illinois under case number 2020-CH-6.
2. After numerous proceedings in the Clay County Circuit Court, on May 21, 2020, Defendant filed his notice of removal of the Clay County action to this Court.
3. As more particularly set forth in Plaintiff's *Memorandum in Support of Emergency Motion to Remand* filed herewith, this matter should be immediately remanded to the Circuit Court, Clay County, Illinois for further proceedings and for disposition.

WHEREFORE, DARREN BAILEY respectfully requests and prays that this Court (a) grant Plaintiff expedited relief, (b) remand this case immediately to the Circuit Court, Clay County, Illinois, and (c) award Plaintiff his attorney fees, costs and expenses associated with his response to the instant Notice of Removal.

Respectfully submitted,

SILVER LAKE GROUP, LTD.

/s/ Steven M. Wallace

By : _____

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CERTIFICATE OF SERVICE

The undersigned hereby certifies on the 21st day of May, 2020, that a true and correct copy of the above and foregoing pleading was served by electronic filing in the CM/ECF system of the United States District.

/s/Steven M. Wallace _____

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS DIVISION**

DARREN BAILEY,)	
)	
Plaintiff,)	
)	
Vs.)	Case No. 3:20-cv-00474
)	
GOVERNOR JAY ROBERT PRITZKER,)	
in his own capacity,)	
)	
Defendant.)	

MEMORANDUM IN SUPPORT OF EMERGENCY MOTION TO REMAND

DARREN BAILEY by and through his undersigned attorneys, states as follows:

INTRODUCTION

The Defendant’s Notice of Removal is perhaps the most outrageous invocation of federal jurisdiction imaginable. Defendant has taken Plaintiff’s Complaint, which raises nothing but questions concerning Defendant’s authority under certain Illinois statutes, and contrived federal questions where none exist. Given the Defendant’s prior actions in connection with the underlying state court case, including a request for supervisory review and a specious motion to transfer venue, it is clear he is intent on forum shopping and wants nothing more than to derail state court proceedings. This Court should not countenance such an egregious attempt to neuter a state court.

In short, the Notice of Removal is beyond frivolous and reeks of bad faith, and this Court should immediately remand this matter to the Circuit Court, Clay County, Illinois for disposition.

I. BACKGROUND

Plaintiff commenced his action in the Circuit Court, Clay County, Illinois on April 23, 2020, seeking relief from certain executive orders and declarations issued by the Defendant in connection with the COVID-19 pandemic. Specifically, in his initial complaint, Plaintiff sought multiple forms of relief: (1) a judgment declaring the scope of and limitations on the Defendant's authority under the Illinois Emergency Management Agency Act (the "IEMAA") and (2) an injunction excusing Plaintiff's compliance with certain so-called "stay at home" orders Defendant issued under the auspices of the IEMAA.

At the conclusion of a hearing in this case on April 27, 2020, the Court entered its temporary restraining order which found that Plaintiff was not subject to certain of the "stay at home" orders Defendant issued. In that respect, the Court concluded Defendant's authority to exercise emergency powers under the IEMAA terminated 30 days following Defendant's March 9, 2020 disaster declaration. The Defendant immediately sought appellate review and further asked for direct review by the Illinois Supreme Court. In tandem with his request for direct review by the Illinois Supreme Court, Defendant asked the Supreme Court to issue a supervisory order concerning the scope of Defendant's authority under the IEMAA.

Following Defendant's appeal, Plaintiff agreed to vacatur of the temporary restraining order, thus mooting Defendant's request for appellate review. However,

Defendant persisted in his motion for entry of a supervisory order, and the Illinois Supreme Court denied that motion on May 11, 2020.

Defendant filed a motion to transfer the case on May 13, 2020, on the basis of *forum non conveniens*. The Circuit Court denied the motion to transfer and all but officially recognized it as Defendant's attempt at forum shopping.

In the midst of Defendant's procedural machinations to strip the Clay County Circuit Court of jurisdiction, Plaintiff filed his first amended complaint. The relief Plaintiff seeks is precise and his requests go solely to construction of Illinois statutes:

- I. A declaration that the Defendant's April 30, 2020 proclamation is void for failing to meet the definition of a disaster as defined in the Illinois Emergency Management Agency Act;
- II. A declaration finding that Defendant had no authority under the Illinois Emergency Management Agency Act to utilize emergency powers after April 8, 2020;
- III. A declaration that the Illinois Department of Public Health Act governs Defendant's actions; and
- IV. Injunctive relief enjoining Defendant from enforcing the executive orders described in the first amended complaint on the basis of Defendant's lack of statutory authority.

The relief requested in the first amended complaint is not predicated, in any respect, on alleged violations of rights conferred under the United States Constitution or any federal statutes. Nor does the first amended complaint contain any suggestion by

Plaintiff that his federal civil rights have been violated by Defendant's proclamations and executive orders. Instead, Plaintiff states only that Defendant's proclamations and executive orders exceed authority conferred by the Illinois legislature.

On May 15, 2020, the Circuit Court in Clay County directed Plaintiff to file his motion for summary judgment on or before May 18, 2020, and instructed Defendant to file his response no later than noon on May 21, 2020. The Court further scheduled a hearing on the motion for summary judgment for May 22, 2020.

Defendant did not file a response to Plaintiff's motion for summary judgment, but, instead, removed the action to this Court.

II. ARGUMENT

A. **This Court Lacks Subject Matter Jurisdiction.**

This Court's jurisdiction over removed cases is limited to only those matters over which it would have original jurisdiction. 28 U.S.C. §1446(a). Because Plaintiffs' state-law claims do not "arise under" federal law, *Merrell Dow Pharm. Inc. v. Thompson*, 478 U.S. 804, 807 (1986), there is no federal question jurisdiction, and this case should be immediately remanded. See 28 U.S.C. §1331 ("The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."). See also *Merrell Dow Pharm, Inc. v. Thompson*, 478 U.S. 804, 106 S. Ct. 3229 (1986) (finding removal improper because no federal cause of action appeared in the complaint).

This case turns exclusively on Illinois law – specifically Illinois statutes and the authority conferred on Defendant pursuant to those statutes. Nowhere does Defendant suggest, nor could he, that a court must refer to federal law in order to determine whether Defendant’s actions exceeded the authority conferred upon him by the Illinois legislature. Instead, Defendant appears to claim that the effects of his actions impact Plaintiff’s rights and interests under the United States Constitution and certain Acts of Congress. Thus, Defendant posits the action is properly removable. He is wrong.

Defendant cannot dispute that Plaintiff’s causes of action do not arise under federal law, yet he advances the canard that Plaintiff’s claims have some “embedded” federal law issues that justify removal. See *Grable & Sons Metal Products, Inc. v. Darue Engineering & Manufacturing*, 545 U.S. 308, 312 (2005) (concerning treatment of state law claims containing “embedded” federal issues). Defendant does not grasp that only a "slim category" of cases qualify for federal jurisdiction under *Grable*, see *Gunn v. Minton*, 568 U.S. 251, 258 (2013), and the claims here clearly do not. Where federal law does not create the cause of action, "federal jurisdiction over a state law claim will [only] lie if a federal issue is: (1) necessarily raised, (2) actually disputed, (3) substantial, and (4) capable of resolution in federal court without disrupting the federal-state balance approved by Congress." *Id.* at 258.

First, no federal claim is "necessarily raised." That standard requires that the federal question be an "essential element" of the plaintiff's "claim." *Grable*, 545 U.S. at 315; accord *Manning v. Merrill Lynch Pierce Fenner & Smith, Inc.*, 772 F.3d 158, 163, 165 (3d Cir. 2014), *aff'd*, 136 S. Ct. 1562 (2016). The *Grable* exception is for state causes of

action where the state rule of decision turns on federal law. Here, the matters Defendant raises as predicates for federal jurisdiction are irrelevant to Defendant's authority under applicable Illinois statutes and resolution of Plaintiff's causes of action.

Second, the issue is not "actually disputed" because Plaintiff has not asked the Circuit Court to make any determination whether Defendant's actions contravene Plaintiff's federal rights. Instead, he only asserts that Defendant's *ultra vires* state law based actions have the effect of restricting Plaintiff's activities. Once again, Plaintiff's complaint and first amended complaint do not so much as hint that he seeks a resolution on the basis of infringement of rights conferred under the United States Constitution.

Third, not only are the issues Defendant raises not "substantial" within the contemplation of *Grable*, they are non-existent in this context. Whether or not Defendant's actions infringe on rights existing under the United States Constitution is irrelevant to and mentioned nowhere in Plaintiff's complaint or first amended complaint. In other words, a decision concerning the impact of Defendant's actions on Plaintiff's rights under the United States Constitution are neither here nor there in this situation.

Fourth, any issue about the construction of the Illinois Emergency Management Agency Act and the Illinois Department of Public Health Act, i.e., the core of Plaintiff's causes of action, is not "capable of resolution in federal court without disrupting the federal-state balance." In that respect, Plaintiff's causes of action are grounded exclusively in and predicated on the construction of Illinois statutes. Did Defendant have the authority to take certain actions under Illinois statutes? That question goes to the heart

of the interests of the State of Illinois and has no bearing on federal interest. In short, "the court must consider 'the degree to which federal law [is] in the forefront of the case and not collateral, peripheral or remote.'" *Krause v. Phila. Soul*, No. CIV.A. 09-1132, 2009 WL 1175625, at *2 (E.D. Pa. Apr. 30, 2009) (quoting *Merrell Dow*, 478 U.S. at 814 n.11). In this case, federal law is not simply collateral, peripheral, or remote: its appearance in this case is a pure contrivance.

Curiously, Defendant relies on *Compagnie Francaise de Navigation a Vapeur v. State Bd. Of Health*, 186 U.S. 380 (1902) for the proposition that "Federal courts have long exercised jurisdiction over alleged challenges to *ultra vires* state quarantine orders." *Notice of Removal* at 4, ¶7. The Defendant seems to suggest that the only matters at issue in the complaint were alleged *ultra vires* quarantine orders and that those orders alone. The most charitable way to describe Defendant's reliance on that case is that it is misleading. Defendant chose to conceal from this Court the actual averments at issue: "It was averred that the action of the board was not authorized by the state law, and if it was such law was void because repugnant to the provision of the Constitution of the United States conferring upon Congress power 'to regulate commerce with foreign nations . . .'" *Id.* at 382-83. No such allegations appear in Plaintiff's complaint of first amended complaint. Therefore, *Compagnie Francaise de Navigation a Vapeur* is hardly dispositive here as Defendant suggests.

Defendant's reliance on the Court's jurisdiction under 28 U.S.C. §1343 is completely misplaced. The text of section 1343 demonstrates its inapplicability in the case at bar. Under section 1343, the district courts have original jurisdiction over a

specifically defined set of claims: (a) to recover damages related to section 1985 of title 42; (b) to redress deprivation of rights secured by the United States Constitution or an Action of Congress; and (c) to recover damages or secure equitable relief under federal civil rights legislation. *See* 28 U.S.C. §1343(a). Not one of those jurisdictional hooks exist in this case, and Defendant is relying on a complaint that does not exist in the record. Plaintiff has sought declaratory and injunctive relief based exclusively on limitations on Defendant's authority set forth in Illinois statutes. Neither the complaint nor the first amended complaint make any references to the United States Constitution or Acts of Congress. Defendant has done nothing more than create a roadmap for a hypothetical civil rights complaint.

B. Expedited Relief is Essential.

Under § 1447(c), the Court may remand the case "at any time" based on the lack of subject matter jurisdiction. When a district court discovers a jurisdictional defect in an improperly removed case, the court should remand the case immediately. *Meritcare Inc. v. St. Paul Mercury Ins. Co.*, 166 F.3d 214, 217 (3d Cir. 1999). Likewise, once a party raises by motion a failure in the predicates for removal, an immediate remand is appropriate.

Given this Court's lack of subject matter jurisdiction, as well as the expedited schedule for the state court proceeding as established by the Circuit Court, this Court should remand this matter *immediately*, without awaiting an opposition from Defendant. Nothing he would say could salvage this removal.

Any delay in resolving this motion would substantially prejudice Plaintiff. Indeed, Defendant's vexatious conduct has already resulted in delays and expenditure of time and resources responding to calls for intervention by the Illinois Supreme Court and specious motions to transfer venue. Beyond that, Defendant notified the state court of his removal just a day before the scheduled hearing on Plaintiff's motion for summary judgment and mere hours before his response to the motion was due. Defendant improperly used the notice of removal to dodge what he clearly anticipated would be an adverse decision in the Circuit Court, and this Court should reject his dilatory machinations.

C. Plaintiff is Entitled to Attorneys' Fees Under 28 U.S.C. § 1447(c)

Under 28 U.S.C. § 1447(c), "[a]n order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal." "Absent unusual circumstances, courts may award attorney's fees under §1447(c) only where the removing party lacked an objectively reasonable basis for seeking removal." *Martin v. Franklin Capital Corp.*, 546 U.S. 132, 139 (2005). "Conversely, when an objectively reasonable basis exists, fees should be denied." *Id.* A party seeking fees need not establish that a notice of removal was frivolous. Rather, an award of attorney fees is entirely appropriate where "the assertion in the removal petition that the district court had jurisdiction was, if not frivolous, at best insubstantial." *Mints v. Educ. Testing Serv.*, 99 F.3d 1253, 1261 (3d Cir. 1996).

Here, Defendant's notice of removal is far worse than insubstantial – it is frivolous. His entire theory of jurisdiction rests on the utterly false assertions that Plaintiff is seeking vindication of violation of his federal rights. On that basis, this Court should assess Plaintiff's attorney fees against the Defendant.

III. CONCLUSION

For the foregoing reasons, this Court should (a) grant Plaintiff expedited relief, (b) remand this case immediately to the Circuit Court, Clay County, Illinois, and (c) award Plaintiff his attorney fees, costs and expenses associated with his response to the instant Notice of Removal.

Respectfully submitted,

SILVER LAKE GROUP, LTD.

/s/ Steven M. Wallace

By : _____

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Counsel to Darren Bailey

CERTIFICATE OF SERVICE

The undersigned hereby certifies on the 21st day of May, 2020, that a true and correct copy of the above and foregoing pleading was served by electronic filing in the CM/ECF system of the United States District.

/s/Steven M. Wallace _____