No. 122265

IN THE
SUPREME COURT OF ILLINOIS

PAMINDER S. PARMAR, Individually and as Executor of the Estate of Surinder K. Parmar,	)	On Appeal from the Appellate Court of Illinois, Second Judicial District, No. 2-16-0286
Plaintiff-Appellee,	)	
v.	)	There Heard on Appeal from an Order of the Circuit Court of DuPage County, No. 15-MR-1412
LISA MADIGAN, as Attorney General of the State of Illinois; and MICHAEL W. FRERICHS, as Treasurer of the State of Illinois,	)	
Defendants-Appellants.	)	The Honorable BONNIE M. WHEATON, Judge Presiding.

REPLY BRIEF OF DEFENDANTS-APPELLANTS

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POINTS AND AUTHORITIES

ARGUMENT

I. The Circuit Court Properly Dismissed Parmar's Claims Because They Are Barred By the State's Sovereign Immunity.

The State Lawsuit Immunity Act, 705 ILCS 505/1 *et seq.* (2016) (Immunity Act), shields the State from being sued in the circuit court, and a plaintiff cannot evade its protections by bringing suit against the State's servants or agents when it is the State that is actually the "party vitally interested" in the case. *Sass v. Kramer*, 72 Ill. 2d 485, 491 (1978). Few interests are more vital to the State than protecting its revenues and preventing its officers from being drawn into litigation. *See State Bldg. Venture v. O'Donnell*, 239 Ill. 2d 151, 159 (2010) (sovereign immunity protects State from interference with governance and preserves control over state coffers). Parmar argues that there are various exceptions that allow him to avoid sovereign immunity. AE Br. 6-14. These arguments are without merit.

A. The Officer Suit Exception Does Not Apply.

Parmar first argues that the officer suit exception allows his claims to proceed, AE Br. 7-8, as the appellate court suggested, *Parmar v. Madigan*, 2017 IL App (2d) 160286, ¶ 20. Relying principally on this Court's decision in *Leetaru v. Board of Trustees of the University of Illinois*, 2015 IL 117485 (2015), ¶ 20, that court concluded that Parmar's claims presented a "textbook instance" for use of the doctrine, 2017 IL App (2d) 160286, ¶ 27.

But as defendants and *amicus* have explained in their opening briefs,

the officer suit exception allows litigants to sue state officials only when they seek to compel *future* compliance with some legal obligation, not to pursue a money judgment for improper past conduct. AT Br. 14-18; Amicus Br. 9-11; *e.g.*, *Leetaru*, 2015 IL 117485, ¶¶ 48, 51 (emphasizing that "Leetaru's action does not seek redress for some past wrong" but "seeks only to prohibit future conduct . . . undertaken by agents of the State in violation of statutory or constitutional law or in excess of their authority"); *People ex rel. Manning v. Nickerson*, 184 Ill. 2d 245, 248-50 (1988) (contrasting claims for damages that are barred by sovereign immunity, with those seeking declaratory relief, that are not barred); *Ellis v. Bd. of Governors of State Colls. & Univs.* 102 Ill. 2d 387, 394-95 (1984) (equating prohibited "present claim" with claim for "money damages," and distinguishing claims "to enjoin a State officer from taking future actions in excess of his delegated authority").

Parmar's reliance on *Leetaru* is unavailing because his claims are unlike those brought by the plaintiff in that case. *Leetaru* involved a litigant's attempt to halt what he claimed was an unlawful state university investigation, *Leetaru*, 2015 IL 117485, ¶ 1, not an attempt to recover money from state funds, like Parmar's attempt here. In deciding that Parmar's case presented a "textbook instance" of a situation involving the officer suit exception, the appellate court quoted language from *Leetaru* taken out of context. It wrongly suggested that the officer suit exception may be raised in

cases involving both present claims and those that seek prospective relief. 2017 IL App (2d) 160286, ¶ 21 (quoting *Leetaru*, 2015 IL 117485, ¶¶ 44-47). This was error, as the many cases cited in defendants' opening brief illustrate. *See* AT Br. 14-18 (citing *PHL, Inc. v. Pullman Bank & Tr. Co.*, 216 Ill. 2d 250, 268 (2005); *Senn Park Nursing Ctr. v. Miller*, 104 Ill. 2d 169, 188-89 (1984); *Ellis v. Bd. of Governors of State Colls. & Univs.*, 102 Ill. 2d 387, 395 (1984); *Bio-Medical Labs, Inc., v. Trainor*, 68 Ill. 2d 540, 548 (1977)). To preserve the doctrine of sovereign immunity, the officer suit exception must be confined to those claims, like Leetaru's, that involve a request for prospective relief, not expanded to apply to claims, like Parmar's, that seek a money judgment.

Parmar does not address the distinction between present claims and claims to enjoin future conduct. He instead notes that the Attorney General and Treasurer have a statutory duty to administer the Illinois Estate and Generation-Skipping Transfer Tax Act, 35 ILCS 405/1 *et seq*. (2016) (Act), and points out that the Attorney General has authority to promulgate rules and regulations. AE Br. 7-8. These observations are true, but beside the point.

Because the appellate court misapplied the officer suit exception, its decision should be reversed. The decision of the circuit court dismissing Parmar's action should be reinstated.

B. Section 15 of the Act Does Not Waive the State's Sovereign Immunity.

Parmar argues, as an alternative ground for affirming the appellate

court's decision, that section 15 of the Act, 35 ILCS 405/15 (2016), waives the Immunity Act. AE Br. 8-10. The circuit court rejected this contention, 2017 IL App (2d) 160286, ¶ 20, and the appellate court had no occasion to reach the issue, *see id.*, ¶¶ 20-30. This Court should reject Parmar's section 15 arguments.

For Illinois decedents like Parmar's mother, section 15(a) and (b)(1) together provide that "all disputes in relation to a tax arising under this Act" shall be brought "in the circuit court for the county in which the decedent resided at death." 35 ILCS 405/15(a), (b)(1) (2016). But these provisions do not suggest that claims that are jurisdictionally barred may be brought. Section 1 of the Immunity Act provides plainly that the State of Illinois shall not be named as defendant in "*any* court," 745 ILCS 5/1 (2016) (emphasis added). These statutory provisions should be read in concert and harmonized, not interpreted as conflicting. *See Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, ¶ 25; *People v. Rinehart*, 2012 IL 111719, ¶ 26. Thus, as argued by defendants in their opening brief, AT Br. 20-21, section 15 does not negate the immunity that the State is otherwise entitled to assert; it merely channels existing avenues for judicial review of assessments or the state's enforcement actions into the counties where decedents resided at the time of death.

Moreover, if there were any doubt as to the statutory meaning of section 15, it would be resolved by the presumption *against* waivers of immunity. This

Court has made clear that immunity waivers are effective only where the General Assembly has been "clear and unequivocal." *In re Special Educ. of Walker*, 131 Ill. 2d 300, 303 (1989). The legislature must be "explicit," and use "affirmative statutory language." *Id.* at 304. Thus, statutes like section 15 that use general terms that do not reference the State or its immunity are not adequate to avoid the terms of the Immunity Act. *City of Springfield v. Allphin*, 82 Ill. 2d 571, 578 (1980); *see also Dep't of Revenue v. Appellate Court*, 67 Ill. 2d 392, 396 (1977).

As with Parmar's arguments regarding the officer suit exception, the existence of section 15 does not authorize Parmar to name state defendants as parties in his circuit court proceeding. The circuit court correctly rejected his arguments in dismissing his suit. Its decision should be affirmed.

C. Parmar Cannot Seek a "Refund."

Parmar also argues that his suit is not shielded by the Immunity Act because he could draw funds from the Estate Tax Refund Fund, not the State's General Revenue Fund. AE Br. 10-11. That fund exists "exclusively for the purpose of paying refunds resulting from overpayment of tax liability under this Act." 35 ILCS 405/13 (2016). *Id.* He suggests that his constitutional claims are no different than the statutory allowance granted to other taxpayers who have overpaid their taxes. AE Br. at 11.

Putting aside the fact that refund claims, if brought in the first instance

in circuit court, contravene the Immunity Act — and overlooking too, for the sake of argument, that Parmar's complaint did not raise "refund" claims at all, *see* R. C2-67 — his arguments still are without merit. Parmar fails to address section 7 of the Act, 35 ILCS 405/7 (2016). That provision sets out who may secure an estate tax refund, and Parmar does not fall within the class of taxpayers entitled to receive one.

Section 7 of the Act provides:

> (b) Refunds. *If the state tax credit* [based on the value of the estate] *is reduced after the filing of the Illinois transfer tax*[1] return, the person who paid the Illinois transfer tax (or the person upon whom the burden of payment fell) shall file an amended Illinois transfer tax return and shall be entitled to a refund of tax or interest paid on the Illinois transfer tax.

35 ILCS 405/7(b) (2016) (emphasis added). Parmar's "refund" claims are not premised on an allegation that his mother's state tax credit had been adjusted after he filed his Illinois transfer tax return. That occurs when an Illinois taxpayer remits tax on the estimated value of an estate, then later discovers it was worth less than assumed. In one common scenario, the federal government can adjust the estate's valuation downward, and the state obligation can then be adjusted also, with a refund resulting pursuant to section 7. *Cf. People ex rel. Madigan v. Kole*, 2012 IL App (2d) 110245, ¶¶ 7,

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[1] The Illinois "transfer tax" includes the Illinois estate tax. 35 ILCS 405/2 (2016).

24, 45 (IRS adjustment upward, resulting in additional state tax due under section 7).

Here, Parmar is not seeking a refund under the Act because his mother's state tax credit has been adjusted; he is suing to obtain a declaration that the Act never applied to his mother's estate, and a return of his payments. But the Act authorizes a refund exclusively where there has been an overpayment of tax "under this Act." 35 ILCS 405/13 (2016). Parmar's case does not present the prerequisites for a refund under section 7. Accordingly, his arguments should be rejected.

D. Parmar's "Due Process" Arguments Are Forfeited; Regardless, He Had Procedural Opportunities to Litigate in Circuit Court, and Due Process Does Not Create a Cause of Action for Those Who Overpay Tax.

As a fallback, Parmar argues that this Court must allow his claims to be heard in the circuit court because he has a due process right to such relief. AE Br. 12. He cites to the Illinois constitution and argues that a constitutional attack on a statute must be available in the circuit court. *Id.* He does not develop this argument with citation to any other authority. *See id.* Because this allegation is undeveloped, it should be treated as forfeited. Ill. S. Ct. R. 341(h)(7); *see People ex rel. Ill. Dep't of Labor v. E.R.H. Enters.*, 2013 IL 115106, ¶ 56 (forfeiture invoked where issues not clearly defined and where litigant failed to provide pertinent authority); *Dillon v. Evanston Hosp.*, 199 Ill.2d 483, 493 (2002) (three-paragraph argument insufficient to satisfy Rule

341 where argument did not include any citations to authority).

Even so, the premise of Parmar's argument is faulty because he had at least two ways to challenge the tax that he now claims was unconstitutionally collected. First, he could have waited for the Attorney General to file a complaint in circuit court seeking collection, at which time he could have raised whatever affirmative defenses he wished. 35 ILCS 405/16 (2016); *e.g.*, *Kole*, 2012 IL App (2d) 110245, ¶¶ 1, 35. Alternatively, and as explained more fully below, he could have filed, at any time before making payment, a statutory claim in the circuit court under the State Officers and Employees Money Disposition Act (Protest Monies Act). *E.g.*, *McGinley v. Madigan*, 366 Ill. App. 3d 974, 979 (1st Dist. 2006). Both of these procedures provided Parmar with the opportunity to attack in the circuit court, and at an appropriate time, the application of the tax to his mother's estate.

Regardless, the availability of such remedies provided Parmar with *more* than the process he was constitutionally due. Illinois law is clear that a taxpayer who has paid taxes, whether *voluntarily or involuntarily*, and whether *legal or otherwise*, can recover them only by virtue of a statute enacted as a matter of grace by the legislature. *Weil-McLain Co. v. Collins*, 395 Ill. 503, 507 (1947); *People ex rel. Eitel v. Lindheimer*, 371 Ill. 367, 371-72 (1939). Payment of tax in all circumstances extinguishes any possible constitutional claim brought in circuit court. *Weil-McLain*, 395 Ill. at 507.

Thus, even if Parmar could avoid the sovereign immunity doctrine, the circuit court properly dismissed his action if he was seeking to bring it under a broad theory that he had been denied "due process." It follows that Parmar's follow-up argument, complaining that he could not obtain adequate constitutional relief in the Illinois Court of Claims either, AE Br. 13-14, also is without merit. Because Parmar had no constitutional right to the return of the money, his only potential recovery was pursuant to statute. *See Weil-McLain* at 507; *Lindheimer* at 372. In the absence of some particular statutory remedy, his claims were properly dismissed.

II. Alternatively, Defendants Were Entitled to Dismiss Parmar's Complaint Because He Paid the Estate's Tax Voluntarily.

Even if the defendants were not entitled to sovereign immunity, Parmar had neither a constitutional nor statutory right to a refund under the Act. Parmar's action thus was correctly dismissed by the circuit court. That decision should be affirmed.

Parmar argues that he paid the tax without knowledge of the relevant facts, AE Br. 14-16, and under duress, AE Br. 16-18, and asserts that this Court has recognized a taxpayer may proceed in those particular circumstances even though the Protest Monies Act requires refund claims to be perfected in circuit court within 30 days of a tax payment made under protest. 30 ILCS 230/2a (2016). Parmar relies principally upon *Getto v. City of Chicago*, 86 Ill. 2d 39, 49 (1981), *Geary v. Dominick's Finer Foods*, 129 Ill. 2d

389, 393 (1989), and *Goldstein Oil Company v. Cook County*, 156 Ill. App. 3d 180, 182 (1st Dist. 1987). These arguments also should be rejected.

A. Parmar Cannot Establish the "Lacked Knowledge of the Facts" Exception to the Voluntary Payment Doctrine.

Parmar first argues that he cannot be charged with knowledge that the tax imposed on his mother's estate was unlawful at the time he paid the tax because the tax was "unconstitutional," and "[o]nly a highly-trained professional in the area[s] of both estate taxation and constitutional law would have been able to ascertain and identify the need for and nature of a protest at the time when the estate tax was paid." AE Br. 15-16. For this argument he cites to *Getto*, AE Br. 15, in which the court recognized that a tax payment made without knowledge of relevant facts could potentially allow a litigant to file a claim seeking to have the money returned, 86 Ill. 2d at 49.

Getto is not controlling here. In that case, the taxpayer's telephone bill included a perfunctory disclosure ("[a]dditional charges due to State and City Taxes") that was inadequate to provide "the facts upon which to frame a protest." *Id.* at 49-50. Here, by contrast, Parmar does not identify any facts that the State or its agencies failed to disclose. Parmar's "lack of knowledge" argument is particularly unpersuasive in a case where his mother died with a substantial estate valued at approximately five million dollars, and where he was able to, and did, use those resources to hire an attorney and accountant to assist him with his duties as her executor. AT Br. 3-5 (citing R. C112-13).

Parmar's attorney signed the Attorney General's estate tax form and remitted his tax payment as its "preparer." *See* R. C103-07. Parmar does not contest these facts. *See* AE Br. 4.

In *Atkins v. Parker*, 472 U.S. 115, 131 (1985), the United States Supreme Court noted that "the entire structure of our democratic government rests on the premise that the individual citizen is capable of informing himself about the particular policies that affect his destiny." Illinois law is the same, and appears to always have been so. In *Yates v. Royal Insurance Company*, 200 Ill. 202, 206 (1902), for example, the Court wrote:

> The mere fact that the act under which the money was paid was unconstitutional, and the tax for that reason illegally laid, is not sufficient to authorize an action to recover back the amount paid. This principle has received the assent of the courts and law writers generally.

Id.

The Court continued:

> Every man is supposed to know the law, and, if he voluntarily makes a payment which the law would not compel him to make, he cannot afterwards assign his ignorance of the law as the reason why the state should furnish him with legal remedies to recover it back.

Id.

As argued in defendants' opening brief, the Protest Monies Act provides a simple, complete, and exclusive judicial remedy for those who wish to challenge the imposition of tax and seek its return. AT Br. 23. The statute is

old, *see, e.g.*, *Montgomery Ward & Co. v. Stratton*, 342 Ill. 472, 476-77 (1930), and cases are still commonly brought under its provisions, including cases challenging the imposition of estate tax, *e.g.*, *Brooker v. Madigan*, 388 Ill. App. 3d 410, 414 (1st Dist. 2009); *McGinley*, 366 Ill. App. 3d at 979. Any attorney or accountant engaged to advise an estate like that of Parmar's mother should know of the opportunity it provides.

Moreover, the Protest Monies Act presents no deadlines to rush a taxpayer into either making a hasty claim or foregoing a valid one. Thus, Parmar could have waited as long as he liked before sending his tax payment if he was uncertain that the professionals he had engaged lacked the necessary experience required for their tasks. His only concern should have been the realization that once he made payment, any claim that the tax was invalid could not be raised. *See Montgomery Ward*, 342 Ill. at 477. From that point, the State was entitled to deposit the money into the state treasury, 30 ILCS 230/2 (2016), and move on.

Given his legal responsibilities as executor of his mother's estate to inform himself of its tax liabilities, the availability of ample resources to hire tax and/or legal professionals, and the liberal opportunities presented by the Protest Monies Act to bring claims against the State, Parmar cannot now reasonably claim that he was without sufficient knowledge of the constitution or the tax laws to have brought a timely claim in the circuit court.

B. Parmar Cannot Establish the "Under Duress" Exception to the Voluntary Payment Doctrine.

Parmar also argues that he was "under duress" when he made the tax payments because section 10(c) of the Act imposed potential personal liability on him as the trustee of his mother's estate. AE Br. 16. This section provides:

> (c) Personal liability. If the Illinois transfer tax is not paid when due, then the person required to file the federal return and the transferee of any transferred property having a tax situs within this State shall be personally liable for the Illinois transfer tax, to the extent of such transferred property originally received, controlled or transferred to that person or transferee . . . .

35 ILCS 405/10(c) (2016). He notes the possibility that he could have incurred penalties under section 8 of the Act had he not filed and paid the tax promptly. AE Br. 16 (citing 35 ILCS 405/8(a) (2016)).[2] He also complains that interest

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[2] There are two types of penalties that are imposed on estate taxpayers under section 8, and Parmar may have confused them in his brief. He cites to section 8(a), the late-filing penalty. AE Br. 16. In the absence of a "reasonable cause" for filing late, that penalty is 5% per month beginning nine months after the death of the decedent, limited to 25% of the aggregate tax. 35 ILCS 405/8(a) (2016). For Parmar, his mother's return was due October 9, 2011, R. C104, so the late-filing penalty had already stopped accruing at the time he paid the tax, in September and October of 2012. R. C85, 103-07. It therefore could not have contributed to the "duress" he asserts compelled him to pay.

The Act also contains a late-payment penalty in section 8(b) where there is no reasonable excuse for paying late. 35 ILCS 405(b) (2016). That provision provides for a 0.5% per-month penalty, up to 25% of the unpaid tax. *Id.* Unlike the late-filing penalty, the late payment penalty was still accruing when Parmar made his payments because he had not yet reached the maximum-penalty amount.

would accrue at a rate of 10% per year. AE Br. 16 (citing 35 ILCS 405/9 (2016)).

Parmar's reliance on *Getto* is misplaced. In *Getto*, the City of Chicago imposed a message tax on telephone service for calls made from within the city, and the plaintiff complained that his telephone charges had been improperly calculated by the phone company. 86 Ill. 2d at 49. The defendants argued that the plaintiff had a remedy under the rules of the Illinois Commerce Commission (Commission), and that he could have paid the correct amount and then filed a complaint with the Commission seeking a declaration that nothing more was due. *Id.* at 52-53. The defendants argued that this procedure would have protected the plaintiff's right to challenge the calculation of his phone charges, and so his bill payments must have been voluntary when he made them. *Id.* But the court noted that the Commission already had approved the disputed calculation, and thus any challenge in the Commission would potentially have resulted in the plaintiff's phone service being cut off while the case was litigated. *Id.* at 53. That "duress" allowed the plaintiff to proceed with his claims, even though he did not file a timely protest with the Commission.

Parmar's claims are unlike those at issue in *Getto* because a timely action brought in circuit court under the Protest Monies Act would not have caused Parmar any real-world disability. Getto, in contrast, was faced with the

loss of his phone service if he chose to litigate, and the Court believed that was sufficient "duress" to avoid the voluntary payment doctrine. 86 Ill. 2d at 51 ("we judge that the implicit and real threat that phone service would be shut off for nonpayment of charges amounted to compulsion that would forbid application of the voluntary-payment doctrine.").

In *Geary*, the plaintiffs sought to challenge a Chicago sales tax on personal hygiene items, and the city and several retailers argued that the plaintiffs were barred by the voluntary payment doctrine from bringing their claims. *Geary*, 129 Ill. 2d at 393. The circuit court held that tampons and sanitary napkins were medical necessities of life, and the fact that the plaintiffs had no way to obtain these items at a retail establishment where they could protest the tax constituted a sufficient pleading of "duress" to avoid the voluntary payment doctrine. 129 Ill. 2d at 394.

As in *Getto*, the plaintiffs in *Geary* were faced with a choice between litigating their claims and going without something the Court believed was essential. *Id.* Parmar would have had no such concerns had he filed a claim under the Protest Monies Act.

Finally, Parmar's reliance on *Goldstein Oil* does not support his position. There, the plaintiff argued that he was threatened with his business being shut down if he did not immediately pay a Cook County tax that was demanded from him. 156 Ill. App. 3d at 182. The court held that threats by

county officials to shut down the business were insufficient as a matter of law to make out a claim of payment under duress, in part, because he acknowledged that he did not pay the tax at that time of the demand, but had been able to continued in business for ten months after the threats were made. *Id.* at 183. But the case recognized, as others have, that "economic necessity," such as a demand for immediate payment in order to carry on one's business can potentially amount to sufficient duress as to excuse application of the voluntary payment doctrine. *Cf. People ex rel. Carpentier v. Treloar Trucking Co.*, 13 Ill. 2d 596, 600 (1958) (duress existed where Secretary of State refused to issue trucking company's license plates without payment).

As with *Getto* and *Geary*, however, the type of duress recognized by *Goldstein Oil* did not exist in Parmar's case because he was not facing any loss of a necessity when he made the tax payment. The loss of access to telephone service, as in *Getto*, to hygiene products, as in *Geary*, or the ability to continue to run one's business, as the plaintiff argued in *Goldstein Oil*, presented collateral concerns beyond the inherent legal liabilities that could arise from failure to comply with the law. Instead, this Court has recognized that the threat of legal consequences are not, *as a matter of law*, sufficient to make out such claims, as explained in defendants' opening brief, AT Br. 27, citing *Richardson Lubricating Co. v. Kinney*, 337 Ill. 122, 126-27 (1929). This is particularly true in this case where the Protest Monies Act provided for a *full*

recovery of any penalties and interest incurred by a plaintiff, including the award of additional interest in his favor, *see* AT Br. 26 (citing 30 ILCS 230/2a (2016)). If tax liability imposed by law were sufficient "duress" to avoid the voluntary payment doctrine then, as *Richardson* observed, "all taxes could be said to be paid involuntarily," 337 Ill. at 127.

Parmar suggests, in his final argument, that because his complaint contains an explicit allegation that he acted under "duress," this appeal should be remanded. AE Br. 19-20. He notes that he is entitled to have all reasonable inferences made in his favor based on his allegations. *Id.* But *Richardson* makes clear that where one claims his "duress" is just the risk of statutorily prescribed penalties and liability, as Parmar does, those claims are legally insufficient. 227 Ill. at 126. It is undisputed that no one from the State ever demanded payment from Parmar, or even contacted him. *See* R. C96 (affidavit of John A. Flores). Parmar's mere concern that he could have incurred legal liability if he failed to pay does not rise to the type of duress sufficient to establish an exception to the voluntary payment doctrine.

In sum, whether a payment is made under sufficient duress to avoid the voluntary payment doctrine "is a question of law," to be determined "from the allegations of fact . . . assuming all of them to be true." *Richardson*, 337 Ill. at 126. Accordingly, there is no need for a remand to avoid disputed questions of fact. Because the circuit court correctly dismissed Parmar's action, the appellate court's decision should be reversed, and the circuit court's judgment

reinstated.

CONCLUSION

For the above reasons and those set out in the opening brief, Attorney General Lisa Madigan and State Treasurer Michael W. Frerichs request that this Court reverse the appellate court's judgment and affirm the judgment of the circuit court.

March 6, 2018

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this petition conforms to the requirements of Rule 315(d) and Rule 341(a). The length of this petition, excluding the pages containing the Rule 341(d) cover, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the petition under Rule 342(a), is 18 pages.

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CERTIFICATE OF FILING AND SERVICE

I certify that on March 6, 2018, I electronically filed the foregoing **REPLY BRIEF OF DEFENDANTS-APPELLANTS** with the Clerk of the Supreme Court of Illinois by using the Odyssey eFileIL system.

I further certify that the other participants in this appeal, named below, are not registered service contacts on the Odyssey eFileIL system, and thus were served by transmitting on March 6, 2018, a copy from my e-mail address to all primary and secondary e-mail addresses of record designated by those participants.

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Under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, I certify that the statements set forth in this instrument are true and correct to the best of my knowledge, information, and belief.

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