

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
NO: SJ-2022-0409

ROBERT HERRMANN, LARS MIKKELSEN, JOSHUA REDSTONE, and
GRAEME SEPHTON

vs.

ATTORNEY GENERAL AND SECRETARY OF STATE
OF THE COMMONWEALTH OF MASSACHUSETTS

ORDER ALLOWING MOTION TO CONSOLIDATE
AND RESERVATION AND REPORT

This matter came before the court, Wendlandt, J., on a complaint seeking declaratory relief from the Attorney General's decision not to certify Initiative Petition 22-01, entitled "Initiative Petition for a Law Relative to Limiting Political Contributions to Independent Expenditure PACs." The plaintiffs are a group of registered voters who signed the initiative petition in June 2022. A second group of voters who signed the initiative petition has filed a separate complaint in this court seeking to challenge the Attorney General's decision as well. See SJ-2022-0410. The parties to each matter have since filed a joint motion to consolidate. In light of the overlapping subject matter and legal issues at stake in both complaints, the parties' joint motion to consolidate is hereby ALLOWED.

The defendants have also filed an omnibus motion to dismiss

each complaint on the grounds that there is no live controversy for this court to adjudicate. Specifically, the defendants argue that art. 48 of the Amendments to the Massachusetts Constitution requires the plaintiffs to collect and submit voter signatures in support of Initiative Petition 22-01 by December 5, 2022. Because the plaintiffs have not sought to collect signatures, and thus will not meet this requirement, the defendants contend that the underlying complaints will become moot after December 5th. In their omnibus opposition to the motion, the plaintiffs assert, inter alia, that art. 48 prohibits the collection of signatures for Initiative Petition 22-01 until September 2023, at which point the signatures will become due on or before December 6, 2023. The plaintiffs' opposition further requests that the complaints be reserved and reported for consideration by the full court.

Because the plaintiffs' complaints and the defendants' omnibus motion to dismiss each raise novel legal arguments, it is hereby ORDERED that the consolidated matter be reserved and reported to the full court for determination both as to the merits of the defendants' omnibus motion to dismiss and, if necessary, the merits of the plaintiffs' complaints.

The record before the full court shall consist of the following:

- (1) all papers filed in SJ-2022-0409 and SJ-2022-0410;

- (2) the docket sheets for SJ-2022-0409 and SJ-2022-0410; and
- (3) this court's reservation and report.

The clerk of the county court shall assemble and transmit the record to the full court.

The plaintiffs shall be deemed the appellants, and the defendants shall be deemed the appellees. The parties' briefs should address the merits of each of the legal issues raised in the plaintiffs' complaints, as well as the defendants' omnibus motion to dismiss. The parties shall also jointly prepare and file in the full court a comprehensive statement of agreed facts necessary to resolve the legal issues raised by the complaints and the motion to dismiss.

Oral argument shall take place in February 2023, or such other time as the full court may order. The parties shall consult with the clerk of the Supreme Judicial Court for the Commonwealth concerning the briefing schedule before the full court. The matter shall proceed in all respects in conformance with the Massachusetts Rules of Appellate Procedure.

By the Court,

/s/ Dalila Argaez Wendlandt
Dalila Argaez Wendlandt
Associate Justice

Entered: December 2, 2022