

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

STATE BALLOT LAW COMMISSION  
SBLC Docket Nos. 24-1, 24-2

BRUCE CHAFEE, KIM JANEY, MARK  
BRODIN, ELIZABETH BARTHOLET,  
and AUGUSTA MCKUSICK,

Objectors

v.

DONALD JOHN TRUMP,

Respondent

MICHAEL S. ROBERTSON, JR., KEVIN BATT,  
THERESA MASON, and STEPHANIE  
SANCHEZ,

Objectors

v.

DONALD JOHN TRUMP,

Respondent

**OBJECTORS' ADMINISTRATIVE MOTION REQUESTING STATE  
BALLOT LAW COMMISSION TO RULE ON JURISDICTION AND  
DETERMINE PROMPTLY WHETHER THIS MATTER WILL BE  
SET FOR HEARING OR DISPOSED OF THROUGH OBJECTORS'  
MOTION FOR SUMMARY DECISION**

Pursuant to 950 CMR 59.03(2)(a)(1)(a), Objectors respectfully move that the Commission issue a determination on the question of its own statutory jurisdiction to hear these Objections, and inform the parties whether a hearing will proceed (or whether the Commission will dispose of this matter through Objectors' Motion for Summary Decision) no later than Monday, January 22, 2024, at 12:00 noon Eastern Standard Time.<sup>1</sup>

In light of the nature and very limited scope of this administrative motion for the Commission to issue a decision on jurisdiction, and inform the parties about whether a hearing will proceed, by noon on Monday, Objectors represent that a hearing is not necessary on this motion,<sup>2</sup> and contend that "delay would seriously injure a party,"<sup>3</sup> that this "motion involves a matter as to which the presentation or testimony or oral argument would not advance the Commission's understanding of the issues involved,"<sup>4</sup> and that "disposition without a hearing would best serve the public interest."<sup>5</sup> Moreover, Objectors respectfully note that the Commission's "regulations shall be construed to

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<sup>1</sup> Accordingly, Objectors further request that the Commission set Friday, January 19, 2024, as the deadline for other parties to respond to this motion so that the Commission is able to make an informed decision on this motion before noon on Monday.

<sup>2</sup> 950 CMR 59.03(2)(a)(1)(c).

<sup>3</sup> 950 CMR 59.03(2)(a)(2)(c).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* These grounds for disposing of a motion are stated disjunctively in the regulations, such that satisfying any one ground is a proper basis for decision without a hearing. Nevertheless, Objectors contend that all grounds are independently satisfied here.

secure a just and speedy determination for every proceeding before the State Ballot Law Commission.”<sup>6</sup>

Pursuant to this Commission’s Order, orally issued today (January 18, 2024) by the Presiding Officer during a pre-hearing conference and confirmed by the Commission via email later this afternoon, “any additional briefings regarding the issue of jurisdiction must be submitted by 5:00 pm EST on Friday, January 19<sup>th</sup>, 2024. Any filings received after that time will not be considered by the Commission.”<sup>7</sup> Accordingly, the Commission will have all briefing and information relevant to its statutory jurisdiction determination by tomorrow, January 19, 2024, at 5:00PM.

At the same time, the Commission is required to render its final decision on the merits in this matter by January 29, 2024, at 5:00PM.<sup>8</sup> If this Commission determines — as the plain text of the statutes unmistakably requires — that it has jurisdiction to hear this challenge, before January 29, 2024, it would still need to: (1) adjudicate Objectors’ motion for summary decision; (2) adjudicate Respondent’s and the Massachusetts Republican Party’s motions to dismiss; and if these motions are denied in whole or in

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<sup>6</sup> 950 CMR 59.01(2).

<sup>7</sup> Email from Michelle Tassinari, Director and Legal Counsel of the Elections Division of the Office of the Secretary of the Commonwealth, to Counsel for Objectors and Respondent (Jan. 18, 2024 at 12:51PM) (“writing on behalf of the State Ballot Law Commission”); *see also* 950 CMR 59.01(5) (“A member of the Elections Division or designee, as determined by the Secretary of the Commonwealth, shall serve as secretary to the Commission. The Secretary shall transmit all required notices and maintain the files of the Commission.”).

<sup>8</sup> M.G.L. ch. 55B § 10. Of course, challenges to any presidential primary candidate’s inclusion on the primary ballot “pertain[] to certificates of nomination or nomination papers for any presidential...state primar[y].” *Id.*

part, it would further need to: (3) address any issues related to discovery<sup>9</sup>; (4) address any pre-hearing matters in advance of a hearing<sup>10</sup>; (5) either grant Objectors' Motion for Summary Decision or set and hold a hearing on the merits<sup>11</sup>; and (6) issue a decision on the merits that "contain[s] a statement of the reason therefor, including a determination of every issue of fact or law necessary to the decision."<sup>12</sup> Parties also have the right to oral argument on their motions. 950 CMR 59.05(1)(f).

If the Commission dismisses this Petition for lack of jurisdiction, the parties need sufficient time to appeal such a decision, and if a court of law reverses the dismissal, all parties need sufficient time to present their respective cases in order for a decision to be made by the Commission as required by 5:00 p.m. on January 29, 2024. Likewise, if the Commission grants in full either Objectors' motion for summary decision or one of Respondent's/Massachusetts Republican Party's motions to dismiss, any non-prevailing

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<sup>9</sup> 950 CMR 59.04.

<sup>10</sup> *See, e.g.*, 950 CMR 59.05(1)(a). Objectors' counsel sought to raise these issues at today's pre-hearing conference but was instructed by the Presiding Officer that the topic of today's conference was solely the discussion of the Commission's statutory (and not constitutional) jurisdiction over these objections.

<sup>11</sup> 950 CMR 59.05; 950 CMR 59.05(1)(f) ("All Parties shall have the right to present evidence, cross-examine, make objections, bring motions and make oral arguments."); *see also In re Guardianship of V.V.*, 470 Mass. 590, 592 (Mass. 2015) (quotations omitted) ("Due process includes the right to be heard at a meaningful time and in a meaningful manner.").

In the Colorado proceedings, "The evidentiary portion lasted five days, with closing arguments almost two weeks later, on November 15. During those two weeks, the Electors, the Secretary, President Trump, and CRSCC submitted proposed findings of fact and conclusions of law." *Anderson v. Griswold*, 2023 WL 8770111, at \*5 (Colo., 2023) (Ex. A of Objections).

<sup>12</sup> 950 CMR 59.06(1).

party similarly needs sufficient time with which to seek appellate relief. Appellate courts, too, need sufficient time to adjudicate disputes before the primary election.

Thus, delaying adjudication of the jurisdictional determination any later than Monday, January 22, 2024 at noon would have cascading effects on other deadlines and processes and has the potential to harm all parties as well as the public interest.

Therefore, because doing so is necessary not only “to secure a just and speedy determination,”<sup>13</sup> but also to ensure parties are afforded their constitutional “right to be heard at a meaningful time and in a meaningful manner,”<sup>14</sup> and avoid committing reversible error,<sup>15</sup> Objectors request that this Commission grant this administrative motion to rule on its statutory jurisdiction – and inform the parties whether and when it will hold a hearing (or dispose of this matter by granting Objectors’ Motion for Summary Decision) by Monday, January 22, 2024, at 12:00 noon Eastern Standard Time.

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<sup>13</sup> 950 CMR 59.01(2).

<sup>14</sup> *In re Guardianship of V.V.*, 470 Mass. at 592.

<sup>15</sup> M.G.L. ch. 30A § 14 (providing it is reversible error wherever “the substantial rights of any party may have been prejudiced because the agency decision is [i]n violation of constitutional provisions; or...[m]ade upon unlawful procedure; or...[a]rbitrary or capricious, an abuse of discretion, or otherwise not in accordance with law.”); M.G.L. 55B § 4 (mandating Commission “establish rules of procedure in conformance with the provisions of chapter thirty A”).

Respectfully submitted,

BRUCE CHAFEE, KIM JANEY, MARK  
BRODIN, ELIZABETH BARTHOLET,  
AUGUSTA MCKUSICK,

MICHAEL S. ROBERTSON, JR., KEVIN  
BATT, THERESA MASON, and  
STEPHANIE SANCHEZ,

By their attorneys and authorized  
representatives,

January 18, 2024



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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY under the pains and penalty of perjury that a copy of this motion was sent by electronic mail on January 18, 2024, to Marc R. Salinas (marc@silvasalinas.com), Counsel for Respondent Trump and for the Massachusetts Republican Party. Further, on January 18, 2024, a true and correct copy of the foregoing was sent by United States Postal Service first class mail, postage prepaid, to:

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January 18, 2024



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