

## MEMORANDUM

TO: Persons Considering Court Challenges to Attorney General's Non-Certification of Initiative Petitions

FROM: Peter Sacks

RE: Form of Court Complaint

DATE: September 7, 2001

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Because it would be a conflict of interest for the Attorney General to give you legal advice on how to challenge the Attorney General's decision not to certify an initiative petition, you should consult an attorney before proceeding. But the attached form of complaint, if properly completed, is one that the Attorney General considers legally sufficient to initiate a challenge and to obtain an order requiring the Attorney General to release a summary of the proposed law to the Secretary of State and requiring the Secretary to release blank petitions to you so that you can seek signatures while the case is pending.

Please note that the Attorney General will not agree to such an order unless you also file the petition and the required voter registration certificates with the Secretary's Elections Division at One Ashburton Place, Room 1705, tel. 617/727-2828. You may pick up the original petition and certificates from our office, if you have not already done so.

Please feel free to call me if you have any questions or would like to discuss this process further.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT  
FOR SUFFOLK COUNTY  
No.

_____	)
[PLAINTIFFS' NAMES],	)
	)
Plaintiffs,	
Nick Bokron & Terra Friedrichs	)
	)
v.	)
	)
ATTORNEY GENERAL and SECRETARY	)
OF THE COMMONWEALTH,	)
	)
Defendants.	)
_____	)

COMPLAINT

1. This action for relief in the nature of mandamus challenges the Attorney General's refusal to certify Initiative Petition No. 14-01, entitled "Constitutional Amendment to Declare that 'Corporations Are Not People, Money Is Not Speech'" as complying with the requirements of amendment article 48 of the Massachusetts Constitution. Plaintiffs seek an order requiring the Attorney General to certify the petition and preliminary injunctive relief requiring the Attorney General and Secretary to take all steps they would have been required to take under amendment article 48 had the petition been certified.

JURISDICTION

2. The Court has jurisdiction pursuant to the mandamus statute, G.L. c. 249, § 5.

PARTIES

3. Plaintiffs are registered voters and are among the initial signers of the petition.

4. The Attorney General and the Secretary of the Commonwealth are state officials who have duties under amendment article 48 of the Massachusetts Constitution. They are sued in their official capacities only.

### FACTS

5. Plaintiffs and other registered voters signed an initiative petition and filed it, along with certificates indicating that they were registered voters, with the Attorney General on or before the first Wednesday in August of 2014. The Attorney General designated the petition Initiative Petition No. 14-01.

6. On September 9, 2014, the Attorney General informed the plaintiffs or their representatives that she declined to certify the petition as complying with amendment article 48.

7. The plaintiffs or their representatives then filed the original petition and voter registration certificates with the Secretary on or after the first Wednesday in September of 2014.

8. The Attorney General has declined to release a summary of the proposed law to the plaintiffs or the Secretary, stating that she has no duty to do so for a petition that she did not certify.

9. Without the certificate and summary from the Attorney General, the Secretary has declined to prepare or release to the plaintiffs the blank petition forms necessary for plaintiffs to gather additional signatures on their petition.

10. If the Secretary does not release the blank petition forms to plaintiffs, so that plaintiffs may seek additional signatures while this case is pending, the plaintiffs will be irreparably harmed in their effort to gather the constitutionally required number of signatures to submit to the Secretary by the constitutional deadline of the first Wednesday in December of this year. Release of the forms would cause no irreparable harm to the Attorney General, the

Secretary, or the public interest.

### LEGAL CLAIM

11. The Attorney General's refusal to certify the petition was legally erroneous and in violation of her constitutional duty. The plaintiffs are entitled to an order in the nature of mandamus requiring the Attorney General to issue the certificate.

### REQUESTS FOR RELIEF

1. The plaintiffs therefore respectfully request that the Court:
  - a. Issue a preliminary injunction, in the form attached hereto, requiring the Attorney General to release a summary of the measure to the Secretary and requiring the Secretary to prepare and release blank petition forms and take all steps he would have been required to take under amendment article 48 had the petition been certified, short of transmitting the petition to the Legislature in the case of a proposed constitutional amendment.
  - b. Upon the filing by plaintiffs in December of this year of proof that they submitted the constitutionally required number of signatures to the Secretary, reserve and report the case to the Supreme Judicial Court for the Commonwealth, based upon a statement of agreed facts to be filed by the parties, for resolution of the question whether the Attorney General's refusal to certify the petition was erroneous;
  - c. If the Supreme Judicial Court for the Commonwealth rules that the Attorney General's refusal to certify the petition was erroneous, order the Attorney General to issue the certificate and order the Attorney General and Secretary to take all steps they would have been required to take under amendment article 48 had the petition been certified and the certificate filed with the Secretary along with the

petition; and

- d. Issue such other or further relief as may be appropriate.

PLAINTIFFS

By their attorney, [or pro se]

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Date: September \_\_, \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT  
FOR SUFFOLK COUNTY

No. \_\_\_\_\_

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)  
)  
Plaintiffs, )  
)  
v. )  
)  
ATTORNEY GENERAL and SECRETARY )  
OF THE COMMONWEALTH, )  
)  
Defendants. )  
\_\_\_\_\_

ORDER

With the agreement of all parties, and without making any determination as to whether plaintiffs are likely to succeed on the merits of their claim, it is ordered, pending a final decision in this case, that the Attorney General release a summary of Initiative Petition No.14 -01\_ to the Secretary and that the Secretary, subject to the filing of all required materials with him, prepare and release to the plaintiffs blank petition forms and take all other steps he would have been required to take under amendment article 48 had the petition been certified, short of [transmitting the petition to the Legislature in the case of a proposed constitutional amendment, or] printing the proposed law in the Information for Voters Guide or on the ballot.

If, after the first Wednesday in December of this year (which is the deadline set by art. 48, Init., pt. 2, § 3, for filing additional signed petitions with the Secretary), the defendants file an affidavit stating that insufficient signed petitions were filed in order for the Secretary to allow the petition to proceed in the art. 48 process, then, unless plaintiffs file within ten days thereafter an affidavit disputing whether sufficient signed petitions were filed, this action shall be dismissed as moot without prejudice.

\_\_\_\_\_  
Associate Justice  
Supreme Judicial Court

Date: