

United States Court of Appeals For the First Circuit

No. 23-1043

DHANANJAY PATEL, SAFDAR HUSSAIN, VATSAL CHOKSHI, DHAVAL PATEL, and
NIRAL PATEL, on behalf of themselves and all others similarly situated,

Plaintiffs, Appellants,

v.

7-ELEVEN, INC.,

Defendant, Third-Party Plaintiff, Appellee,

MARY CADIGAN; ANDREW BROTHERS,

Defendants,

DP MILK STREET INC.; DP JERSEY INC.; DP TREMONT STREET INC.; DPNEWT01,

Third-Party Defendants.

Before
Montecalvo, Selya, and Thompson,
Circuit Judges.

FIRST CIRCUIT COURT OF APPEALS
BOSTON, MA

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BY:  DATE: 8-6-2023

ORDER OF COURT AND CERTIFICATION OF QUESTION TO THE MASSACHUSETTS SUPREME JUDICIAL COURT

Entered: August 29, 2023

This cause came on to be heard on appeal from the United States District Court for the District of Massachusetts and was argued by counsel. For the reasons stated in our opinion in this case, submitted with this order, we certify the following question to the Massachusetts Supreme Judicial Court:

(1) Do Plaintiffs "perform[] any service" for 7-Eleven, within the meaning of Mass. Gen. Laws ch. 149, § 148B, where, as here, they perform various contractual

obligations under the Franchise Agreement and 7-Eleven receives a percentage of the franchise's gross profits?

We would welcome any further guidance from the SJC on any other relevant aspect of Massachusetts law that it believes would aid in the proper resolution of the issues presented here.

The clerk of this court is directed to forward to the Massachusetts SJC, under the official seal of this court, a copy of the certified question, this opinion, the district court's opinion, and the merits briefs and appendices filed by the parties. We retain jurisdiction over this case pending resolution of this certified question.

By the Court

Maria R. Hamilton, Clerk

cc: Hon. Nathaniel M. Gorton, Robert Farrell, Clerk, United States District Court for the District of Massachusetts, Francis V. Kenneally, Clerk, Massachusetts Supreme Judicial Court, Shannon Erika Liss-Riordan, Adelaide H. Pagano, Matthew Cahill, Matthew J. Iverson, Norman M. Leon, Jennifer C. Brown, Jamie L. Kuitz, Patricia Zapata Schiraldi, David C. Kravitz, Douglas S. Martland, Peter N. Downing, Kate Watkins