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COMMONWEALTH OF MASSACHUSETTS  
**Supreme Judicial Court**

SUFFOLK, SS.

No. SJC-12979

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HELEN BRADY  
V.  
STATE BALLOT LAW COMMISSION, ET AL.

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RESERVED AND REPORTED BY THE SUPREME JUDICIAL COURT FOR  
SUFFOLK COUNTY

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**BRIEF OF THE STATE BALLOT LAW COMMISSION AND  
THE SECRETARY OF THE COMMONWEALTH**

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## **STATEMENT OF THE ISSUES**

1. Whether the State Ballot Law Commission ("Commission") had jurisdiction to adjudicate an objection to the certified signatures supporting the nomination of a candidate for office, Helen Brady.

2. Whether the Commission properly concluded that Brady's signatures on her nomination papers were collected in a manner that failed to comply with the limited form of electronic signature collection permitted under Goldstein v. Secretary of the Commonwealth, 484 Mass. 516 (2020), such that the "native" nomination papers as signed by the voters were not transmitted back to Brady, raising concerns regarding the potential for misuse of voters' signatures.

3. Whether the Commission violated equal protection or substantive due process in adjudicating an objection under G.L. c. 55B, § 5, to Brady's nomination papers under the standards set out in Goldstein.

## **STATEMENT OF THE CASE**

### **Nature of the Case**

This matter began as a petition for emergency relief in the Supreme Judicial Court for Suffolk

County ("County Court"). The petition was stayed pending resolution of a related matter before the Commission. The appellant appealed the Commission's decision to the Superior Court under G.L. c. 30A, that appeal was transferred to the County Court and consolidated with the emergency petition for relief, and the County Court (Kafker, J.) reserved and reported the matter to this Court.

### **Procedural History**

**Initial Single Justice Proceedings.** On May 5, 2020, four candidates seeking the Republican party nomination for the Office of Representative in the U.S. Congress from various districts brought an Emergency Petition for Relief in County Court pursuant to G.L. c. 214, § 1, and G.L. c. 231A, § 1 ("Petition"), naming the Secretary of the Commonwealth as the respondent. RA 7-62.<sup>1</sup> The County Court

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<sup>1</sup> References to the Record Appendix are cited as "RA [page number]." The parties' Joint Statement of Agreed Facts is cited as "JSAF [paragraph number]." The Commission's Additional Findings of Fact as to Which Helen Brady Does Not Agree are cited as "CAF [paragraph number]." The Administrative Record of the Commission's proceeding is cited as "AR Vol. [number]: [page number]." This brief's addendum is cited as "ADD [page number]." A copy of the Commission's decision is included in the Addendum.

petitioners were Helen Brady (candidate in the 9th Congressional District), Rayla Campbell (7th Congressional District), Julie Hall (4th Congressional District), and Caroline Colarusso (5th Congressional District). RA 11-14. The petitioners sought various forms of relief related to their efforts to obtain a sufficient number of certified signatures to qualify for the September 2020 primary ballot. RA 26-28.

Much of the Petition focused on alleged difficulties faced by the petitioners in delivering nomination forms to the local election officials in their districts, and whether the local officials had adequate procedures in place to properly receive and process such forms during the COVID-19 pandemic. RA 16-22.

Following a telephonic hearing, the County Court (Kafker, J.) issued an interim order on the evening of May 5, 2020, that, inter alia, directed the petitioners to deliver to the Secretary an electronic copy of what they "were prepared to file with the local election officials by the deadline," while also requiring petitioners to submit certain affidavits to the Court concerning their signature-gathering efforts and associated data collection. See RA 63-64; Docket



Entry No. 2, ¶ 1-3. In the weeks that followed, local election officials in the petitioners' Districts reviewed all of the signatures that petitioners had submitted by the filing deadline and determined that Brady had 1,082 certified signatures, Hall had 1,053 certified signatures, Colarusso had 1,470 certified signatures, and Campbell had 544 certified signatures.<sup>2</sup> RA 5; Docket Entry No. 11. Under G.L. c. 53, § 44, as modified by Goldstein, 484 Mass. at 530, candidates seeking to appear on the primary election ballot for the office of representative to the U.S. Congress in 2020 are required to obtain 1,000 certified signatures.

In light of the fact that three of the petitioners (Brady, Hall, and Colarusso) had exceeded the required signature threshold and that one of the petitioners (Campbell) had not filed enough signatures to meet the threshold, the Secretary moved to dismiss the Petition on May 26, 2020, on the ground that the

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<sup>2</sup> In certifying signatures, local election officials do not consider the manner in which the signatures were gathered, but only whether the signatures meet the facial requirements for certification, such as that the signer is a registered voter in the candidate's district. See G.L. c. 53, § 7; Goldstein, 484 Mass. at 519.

issues raised in the Petition had become moot; alternatively, the Secretary proposed a stay of the proceedings as to Brady, Hall, and Colarusso pending the resolution of any objections to their signatures that might later be asserted by registered voters in their districts under G.L. c. 55B, § 5. RA 4. On June 2, 2020, the County Court (Kafker, J.) granted the Secretary's motion to dismiss as to Campbell, and stayed the proceeding as to Brady, Hall, and Colarusso "pending the resolution of any objections to their certified signatures." RA 5; Docket Entry No. 11.

The Single Justice required the parties to report back to the Court on June 10, 2020, "describing whether any objections ha[d] been filed as to the[] certified signatures of [Brady, Hall, and Colarusso], and if so, how many signatures are still in dispute for each of the three petitioners." Id. Following the parties' status reports, the County Court granted the Secretary's motion to dismiss as to Hall and Colarusso because no objections had been filed as to their certified signatures, meaning that they had qualified for the ballot and their claims were now moot. RA 74-75. An objection had been filed, however, with the Secretary with respect to Brady's

signatures under G.L. c. 55B, § 5. RA 74. Thus, the County Court stayed the proceeding pending the resolution of the objection by the Commission. RA 75.

**Commission proceedings.** The objection challenging Brady's certified signatures was filed on June 5, 2020, by Leon Arthur Brathwaite, II, a registered voter in Brady's district<sup>3</sup> and Vice Chair of the Massachusetts Democratic State Committee. AR Vol. I: 4-13; RA 171. The thrust of the objection was that Brady's certified signatures did not comply with the standards and requirements for obtaining electronic signatures set forth in Goldstein.<sup>4</sup> See AR Vol. I: 5, 8-12.

Brady moved to dismiss the objection on the ground that the Commission lacked subject-matter

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<sup>3</sup> G.L. c. 55B, § 5 permits any registered voter in the district for which a candidate seeks office to file an objection to the candidate's nomination papers with the Secretary. Id.

<sup>4</sup> The objection also presented objections to individual certified signatures, but the Commission determined that it was unnecessary to reach those challenges since its eventual decision invalidated all of Brady's signatures based upon non-compliance with the Goldstein case. AR Vol. XV: 7. Counsel for Brathwaite has since represented to counsel for Brady and the Commission that Brathwaite does not intend to continue to press those individual signature objections.

jurisdiction because the objection (a) allegedly sought to "reverse the holding" in Goldstein and (b) involved "important questions of public policy", which were purportedly outside the Commission's purview under G.L. c. 55B, § 4. AR Vol. II: 144-45. On June 16, 2020, the Commission denied the motion. AR Vol. XV: 9-10, 55. The same day the Commission held a hearing on the objection during which it heard testimony offered by Brady from Brian Fitzgibbons, the creator of the software that Brady used to collect electronic signatures. AR Vol. XV: 65-66. On June 26, 2020, the Commission issued its decision ("Decision"), sustaining the objection on the merits and ordering the Secretary not to print Brady's name on the 9th Congressional District Republican primary ballot. AR Vol. XV: 24.

In its ruling, the Commission made extensive findings of fact based on the testimony and other evidence received at the June 16 hearing. AR Vol. XV: 11-16. Based on these findings, the Commission first concluded that the process used by Brady to collect electronic signatures violated the judgment in Goldstein because the "native" nomination papers to which voters applied their signature and that were

made available to voters for printing were not the documents ultimately submitted by Brady to the local registrars for certification. AR Vol. XV: 21-22. The Commission similarly concluded that the process the software used to apply voters' signatures to the final nomination papers contravened the formal guidelines for electronic signature-gathering provided by the Secretary in his Advisory issued on April 21, 2020.<sup>5</sup> AR Vol. XV: 22-23. Finally, the Commission determined that Brady's electronic signature-gathering process violated public policy because the candidate's website - without the voters' knowledge or consent - saved an image of each voter's signature separate and apart from the nomination form, which could be downloaded and applied to another document by whoever maintained the website.<sup>6</sup> AR Vol. XV: 23-24.

On July 1, 2020, Brady appealed the Commission's

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<sup>5</sup> The Goldstein Court had directed the Secretary to prepare guidance for "prospective candidates as to how th[e] electronic signature process may be accomplished effectively." Goldstein, 484 Mass. at 532. At the direction of the Court, this guidance was filed with the Court on April 21, 2020, without objection by the parties in Goldstein or further comment from the Court.

<sup>6</sup> The Commission credited Fitzgibbons's testimony that this misuse did not occur. CAF 13; RA 182.

Decision through a Complaint for Judicial Review and for Declaratory Relief filed in Suffolk Superior Court ("Superior Court Complaint"). RA 7-120. On the same day, she moved to transfer the Superior Court case to the County Court and to consolidate it with her pending Petition in that Court. RA 121-170; Docket Entry No. 28. On July 2, 2020, the County Court (Kafker, J.) granted Brady's motion to transfer and consolidate, while also granting an earlier motion by Brathwaite and the Massachusetts Democratic Party to intervene in the County Court case. RA 171-172; Docket Entry No. 25. The consolidated matter was then reserved and reported to the full Court. Id.

### **Statement of Facts**

Brady collected all of the signatures on her nomination papers electronically through a website located at [www.nominationpapers.com/HelenBrady](http://www.nominationpapers.com/HelenBrady). JSAF. 5, 8; RA 173-74. To create the website, Brady engaged the services of Brian Fitzgibbons, owner of VenueX Media ("VenueX"). JSAF 6, 8; RA 174; AR Vol. XV: 65, 67. At the Commission hearing, Fitzgibbons provided testimony that described his process for creating the website and how it worked, and the Commission credited his testimony. JSAF 7; RA 174; AR Vol. XV: 12.

According to Fitzgibbons, VenueX created software to assist candidates in collecting signatures on nomination papers electronically. JSAF 7; RA 174; AR Vol. XV: 66. VenueX booked the Internet domain www.nominationpapers.com, and then sold its software to candidates who, for \$300 or \$500, could either embed the software on their own websites or have VenueX create a personalized website for them. JSAF 7; RA 174; AR Vol. XV: 67, 94. Brady's campaign purchased and used this software. AR Vol. XV: 67, 93-94.

When voters<sup>7</sup> visited Brady's website, they would see an image of her nomination paper, both front and back, with a colored block on the first signature line and the words "sign here." CAF 3; RA 180; AR Vol. XV: 70, 80; AR Vol. XIII: 4, 5. The image of Brady's nomination paper was pre-populated with her candidate information in a serif font using upper- and lower-case letters. CAF 3; RA 180; AR Vol. XIII: 4. Below

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<sup>7</sup> As the Commission noted, it was possible for someone other than a registered voter to sign Brady's online nomination form. AR Vol. XV: 12. However, because the issue before the Commission did not require the Commission to distinguish between voters and non-voters, the Commission referred to all signers as "voters." Id.

the image of the nomination paper was an online form into which the voter typed their first name, last name, email address, phone number, and full address including city or town, state and zip code. JSAF 9; RA 174; AR Vol. XV: 70-71, 114; AR Vol. XIII: 5, 6. Finally, at the bottom of the online form, outside of the nomination paper itself, was a blank 600- by 400-pixel box in which the voter could draw a signature using a stylus, finger, or mouse.<sup>8</sup> JSAF 8, 10; RA 174; AR Vol. XV: 71-72, 108-09; AR Vol. XIII: 6.

Once the voter entered the required information, including signing in the blank box that appeared at the bottom of the form,<sup>9</sup> the voter could submit the form online by clicking "submit" on the website. CAF 4; RA 180; AR Vol. XV: 71-72. The voter would then see a "Thank You!" message, AR Vol. XV: 72, AR Vol.

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<sup>8</sup> Fitzgibbons testified that a voter could theoretically download the website on which the online form appeared, print it, and return it to Brady's campaign in hard copy, but there were no instructions on the website to that effect. AR Vol. XV: 102-3.

<sup>9</sup> Fitzgibbons noted that the form could not be submitted unless the voter made a mark inside the blank box; however, the program did not distinguish signatures from non-signatures, so a drawing of a unicorn or a single pixel dot would have been enough. AR Vol. XV: 74, 106.



XIII: 7, and would be given the opportunity to view and download a PDF image of the candidate's nomination paper showing the voter's signature on the first line of the nomination paper. CAF 4; RA 180; AR Vol. XV: 72, 86; AR Vol. XIII: 8. The PDF showed the voter's signature next to the date and time that the voter signed, as well as the voter's address. CAF 4; RA 180; AR Vol. XV: 106, 107; AR Vol. XIII: 8, 10. A copy of this PDF would also be automatically emailed to the voter as a "receipt." CAF 5; AR 180; AR Vol. XV: 107. However, this PDF was not the actual nomination paper that was submitted to local election officials for certification by Brady's campaign. CAF 6; AR 180; AR Vol. XV: 80-81, 87.

Once the voter clicked submit, the raw data that the voter had entered - including the voter's signature image and contact information, including email address - was sent to VenueX, which stored it in an electronic database, along with the date and time that the voter signed the form and the voter's IP address. CAF 6; RA 180-81; AR Vol. XV: 72, 109, 110; AR Vol. XIV: 4. The campaign had access to a "visualization" tool, which allowed the campaign to see and track the data that voters were entering into

the online form, but only VenueX staff could edit the database. AR Vol. XV: 77-78, 109-10. The Brady website did not inform voters that their signatures and other personal data were being saved and stored in this manner. CAF 7; RA 181; AR Vol. XIII: 4-7.

VenueX then used the raw data that had been stored in its database, including the voters' signatures, to generate new nomination papers for Brady to submit to local election officials for certification. CAF 8; RA 181; AR Vol. XV: 76-77. Fitzgibbons testified that this process was similar to a "mail merge," in which numerous "signed" nomination forms were generated in batches from the database. CAF 8; RA 181; AR Vol. XV: 78, 89. These newly created nomination papers were visibly different than the PDF versions that had been emailed to the voters, since the candidate's information appeared in a sans serif font using only uppercase letters, and the time and date that the voter had signed was replaced with the voter's printed name. CAF 8, 9, 14; RA 181-83; compare AR Vol. XIII: 8, 10 with AR Vol. III: 4 and AR Vol. XIII: 11. These nomination papers were never sent to the voters who had signed them. CAF 10; RA 182; AR Vol. XV: 92-93.

Fitzgibbons testified that the raw data gathered and maintained by VenueX could be applied to other documents. CAF 13; RA 182; AR Vol. XV: 99. Further, the images of voters' signatures were maintained in separate files that VenueX could reproduce; thus, the Commission found that these signature images "could be applied and used on other documents." CAF 11, 12; RA 182; AR Vol. XV: 99, 122-23. There was, however, no evidence that VenueX had in fact used the signature images or other voter information that was electronically gathered for Brady's nomination papers for any purpose other than to generate her nomination papers. CAF 13; AR 182. Nor was there any evidence that data for individuals who had not completed the online form on Brady's website was used to create nomination papers on her behalf. JSAF 11; RA 175.

#### **SUMMARY OF ARGUMENT**

Adjudication of the Brathwaite objection was well within the Commission's statutory grant of jurisdiction under G.L. c. 55B, § 4, which authorizes the Commission to "investigate upon objection ... the legality, validity, completeness and accuracy of all nomination papers and actions required by law to give candidates access to a state ballot[.]" See infra pp.

21-22. The objection challenged the validity of the signatures on Brady's nomination papers by applying the judgment in Goldstein, rather than seeking reversal of that decision, as Brady argued. See infra pp. 23-25. The objection also was not related to public policy ballot questions, which are excluded from the Commission's jurisdiction. See infra pp. 25-27.

Moreover, the Commission's decision should be affirmed because it correctly held that the method of signature gathering that Brady used violated the Goldstein judgment and the Secretary's Advisory, which was issued to implement that judgment. See infra pp. 27-35. The Commission properly understood that for reasons including "logistical, legal, and cybersecurity related concerns," Goldstein permitted only a narrow form of electronic signature gathering, and that the system Brady employed fell outside of Goldstein's parameters, where the system collected voters' signatures online and then applied images of those signatures to newly created nomination papers, rather than instructing the voter to apply her signature directly to "native" nomination papers that could be returned to Brady's campaign electronically

or by mail. See infra pp. 27-33. And, the Commission was rightly concerned that although there was no evidence of misuse of voters' data or signatures in this case, there was uncontroverted evidence that such misuse was possible. See infra pp. 33-37.

Finally, Brady's challenge to the Commission's decision under equal protection principles fails because Brady was not treated differently than any similarly situated person. See infra pp. 37-41. Nor does the decision violate substantive due process where it is a justified and reasonable application of Goldstein and did not "shock the conscience." See infra pp. 41-42. Insofar as Brady continues to press any of the claims she made in her original Petition in the County Court, those claims also fail. See infra pp. 42-47.

### **ARGUMENT**

#### **I. The Commission Had Jurisdiction Over the Objection to Brady's Certified Signatures.**

The Commission acted well within its jurisdiction in deciding this objection. The Commission is authorized to "investigate upon objection ... the legality, validity, completeness and accuracy of all nomination papers and actions required by law to give

candidates access to a state ballot" and to render decisions on matters within its jurisdiction.<sup>10</sup>

G.L. c. 55B, § 4. This authority includes the explicit jurisdiction to decide certain categories of objections, including those that challenge "the statutory and constitutional qualifications of any nominee for state, national or county office" and "the certificates of nomination or nomination papers filed in any ... state primary[.]" Id. The Commission's actions in this case fall plainly within that grant of jurisdiction: the Commission adjudicated an objection to the legal sufficiency of Brady's nomination papers, specifically, whether Brady had met the statutory requirements for collection of signatures on her nomination papers, as those requirements were amended by Goldstein for a candidate seeking the office of representative in the United States Congress.<sup>11</sup>

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<sup>10</sup> To carry out its mandate, the Commission may conduct evidentiary hearings, summon witnesses, and require the production of evidence. G.L. c. 55B, § 4; see 950 C.M.R. § 59.04, 59.05. Commission decisions are reviewable under G.L. c. 30A, § 14, except that complaints for judicial review must be filed in court within five days after receipt of the Commission's decision. G.L. c. 55B, § 4.

<sup>11</sup> The County Court specifically stayed Brady's Petition in order to allow the Commission to resolve

Notwithstanding the Commission's clear grant of authority, Brady moved to dismiss the Objection on the ground that the "Commission lacks subject matter jurisdiction over th[e] objection... ." AR Vol. II: 142. Brady argued that the Commission had no authority to "reverse the Court's holding in Goldstein v. Secretary ... or even clarify a judicial decision" and that the Commission was improperly deciding "questions of public policy," citing G.L. c. 55B, § 4. AR Vol. II: 142-143. The Commission denied this motion, AR Vol. XV: 9-10, but Brady continued to assert in the Superior Court that the Commission "lacked jurisdiction over and had no authority to review whether the signature gathering process complied with the Court's decision in Goldstein." RA 84-85. This contention misconstrues the nature of the

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the objections filed against Brady's certified signatures. RA 74-75; Docket Entry No. 19. It did so after receiving a status report from Brady's counsel informing the Court that the objection "challeng[ed] all 1,066 of Brady's certified signatures on the basis that the computer application employed [by Brady and others] ... did not obtain valid nominations as to Petitioner Brady." RA 71. In this status report, Brady's counsel acknowledged that "[p]ursuant to G.L. c. 55B, § 4, the [Commission] has administrative jurisdiction over the objection to Brady's signatures, should the Court allow a hearing in the [Commission] to proceed alone against Brady." RA. 72.

objection, the Commission's statutory authority, and the Commission's decision.

Brady's characterization of the objection as having effectively sought to "reverse" this Court's holding in Goldstein is inaccurate. The text of the objection itself does not make such a request, but rather discusses at length the requirements of Goldstein and alleges that the software in question "exceeded what the Court ordered." AR Vol. I: 8-9. Nor did the Commission interpret the objection as making such a demand, instead finding that "[t]he objection alleges that the Respondent failed to comply with the legal requirements for obtaining electronic signatures as set out in the Goldstein Case, and did not ask the Commission to 'reverse' the Goldstein Case." AR Vol. XV: 9. Ultimately, the question before the Commission was not whether to "reverse" Goldstein - which the Commission would have no authority to do - by disallowing electronic signature collection entirely, but rather whether the software that Brady used to collect electronic signatures fell within the "modest means" of electronic signature gathering permitted under the Court's decision. Goldstein, 484 Mass. at 531; AR Vol. I: 4-13. Thus,



the job of the Commission was to apply the Court's directive in Goldstein to the objection before the Commission. It was undoubtedly within the Commission's powers to apply controlling caselaw to a matter within its statutory jurisdiction. Indeed, an agency should apply any interpretation from this Court of a statute the agency is charged with administering in resolving an adjudicatory proceeding before it; failure to do so might render the agency's decision "[b]ased upon an error of law" in violation of G.L. c. 30A, § 14(7)(c).

Brady's argument that the Commission lacked jurisdiction over the Objection because it involved "questions of public policy" is also meritless. AR Vol. II: 142-143. While G.L. c. 55B, § 4 does state that "[t]he Commission shall have no jurisdiction with respect to public policy questions," the term "public policy questions" has a particularized meaning in the context of the Commonwealth's election laws. Specifically, G.L. c. 53, § 19 establishes circumstances under which voters may present "questions of public policy" on the ballot in a senatorial or representative district. Id. If the question is successful, the relevant senator or

representative may be issued "instructions" in accordance with the question. Id.

That G.L. c. 55B, § 4 exempts these types of "public policy questions," rather than abstract considerations of policy in the lay sense, is evident from context. The statute states that the "[C]ommission shall have no jurisdiction with respect to public policy questions, nor city or town candidates and ballot questions." Id. Since "ordinarily the coupling of words denotes an intention that they should be understood in the same general sense," see People for the Ethical Treatment of Animals, Inc. v. Department of Agricultural Resources, 477 Mass. 280, 287 (2017), the statute is most reasonably interpreted as presenting a list of three categories of elections-related matters that are outside the Commission's purview, of which public policy ballot questions under G.L. c. 53, § 19, is one.

Here, the Commission correctly observed that "[t]his case does not involve a public policy ballot question." AR Vol. XV: 9. Moreover, as discussed above, the task undertaken by the Commission in addressing the objection was simply to determine

whether Brady's electronic signatures complied the applicable requirements of G.L. c. 53, as modified by Goldstein and interpreted in the Secretary's Advisory. While the Commission bolstered its conclusion by pointing to certain policy considerations, it did not engage in a freestanding exposition of public policy.

**II. The Commission Properly Concluded that Brady's Electronically Collected Signatures Did Not Comply with Goldstein.**

Under G.L. c. 30A, § 14, this Court's review of the Commission's decision is confined to the administrative record and a "heavy burden" rests on Brady to overcome the presumption that the decision is valid. See Massachusetts Ass'n of Minority Law Enforcement Officers v. Abban, 434 Mass. 256, 263-64 (2001). The standard of review is "highly deferential to the agency, [and] requires ... according due weight to the experience, technical competence, and specialized knowledge of the agency, as well as to the discretionary authority conferred upon it." Commonwealth v. Roxbury Charter High Public Sch., 69 Mass. App. Ct. 49, 55-56 (2007) (internal citations and quotation marks omitted). Further, the Commission's "findings of fact [must] be upheld if supported by substantial evidence, which is defined as

such evidence as a reasonable mind might accept as adequate to support a conclusion." Capezutto v. State Ballot Law Commission, 407 Mass. 949, 952 (1990) (internal citations and quotation marks omitted). "However, the conclusions of law to be drawn from those facts are subject to independent judicial review." Id. Under these standards, the Commission's decision is clearly supported by substantial evidence and consistent with this Court's ruling in Goldstein.

In Goldstein, this Court acknowledged the significant difficulty - time and resource constraints as well as "potential logistical, legal, and cybersecurity related concerns" - involved with implementing a wholly new electronic signature collection process without prior study and consideration. 484 Mass. at 531. As a result, the Court placed careful and very specific parameters on the electronic signature collection it permitted. Id. at 531. The Commission, after hearing the uncontroverted testimony of the creator of Brady's online nomination signature collection system, properly concluded that because the system collected voter signatures and then applied those signatures to new nomination papers, rather than allowing the voter

to apply her signature directly to the actual nomination paper that would be returned to the candidate, it failed to comply with the specific parameters set forth in Goldstein.

Recognizing that "there are too many issues and unanswered questions to allow us confidently to impose a remedy that would transform a nomination system that required 'wet' signatures into one that permitted a broad range of electronic signatures," this Court in Goldstein allowed "one modest means to include electronic signature collection among [its] equitable remedies." 484 Mass. at 531. That "modest means" was that candidates could:

scan and post or otherwise distribute their nomination papers online. Voters may then download the image of the nomination papers and either apply an electronic signature with a computer mouse or stylus, or print out a hard copy and sign it by hand. The signed nomination paper can then be returned to the candidate, or a person working on the candidate's behalf, either in electronic form (by transmitting the "native" electronic document or a scanned paper document) or in paper form (by hand or mail).

Id. The Court further ordered the Secretary to "provide clear guidance to prospective candidates as to how this electronic signature collection process may be accomplished effectively." Id. at 532. The Secretary did so in an Advisory that was filed with

this Court four days after the Court's decision in Goldstein, see SJC-12931, Docket Entry Nos. 17, 18, which specified that:

Nomination papers transmitted to voters electronically must be signed by the voter. The voter can sign by either a) using a computer mouse or stylus applied to the signature line of the nomination paper screen image to sign their actual original signature in person and in real time or b) printing out the transmitted nomination paper and affixing their original signature by hand ("wet signature"). The signed nomination paper can then be returned to the campaign electronically by computer transmission, scan, facsimile, or by mail.

RA 113; ADD 74.

Here, the Commission correctly found, based on the testimony of the creator of the website Brady used to collect signatures, that the system did not allow the voter to "apply an electronic signature" to the nomination form, nor did it "transmit the 'native' electronic document" back to the candidate with the voter's signature, both of which were required by Goldstein. CAF 4-6; RA 180; AR Vol. XV: 72, 80-81, 87, 106-107, 109. Nor did Brady's system allow voters to "us[e] a computer mouse or stylus applied to the signature line of the nomination paper screen image to sign their actual original signature in person and in

real time" as specified by the Secretary's Advisory.<sup>12</sup> CAF 16; RA 183.

Voters who signed Brady's nomination papers were not given the ability to apply their signature directly to the image of the nomination paper that would be submitted. JSAF 10; CAF 4-6; RA 174, 180-81; AR Vol. XV: 71-72, 80-81, 87, 106-109. Instead, the system collected and stored the voter's signature from a separate blank box and transmitted the signature to VenueX, which maintained the data for the candidate, along with accompanying personal information. CAF 6; RA 180-81; AR Vol. XV: 72, 108-109. The software collected each voter's signature in a file for the candidate alongside other signatures collected, and later affixed those signatures to newly created nomination paper images using what was described as a "mail merge" function, in which the computer system

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<sup>12</sup> Although not a part of a court order, the Secretary's Advisory was filed with the Court on April 21, 2020, and neither the Court nor the Goldstein plaintiffs raised any objection to the Advisory as being inconsistent with the Court's ruling. Goldstein, SJC-12931, Docket Entry #18.

generated new nomination form images on which it placed the signature images previously collected. CAF 6-8; RA 180-81; AR Vol. XV: 72, 76-78, 89, 109. Although voters who signed the nomination papers could view or download an image of a nomination paper with their signature on it, and were emailed a copy of that image, that image was (unbeknownst to them) merely symbolic - it was not transmitted with their signature affixed to the campaign, nor was it the same nomination paper that was ultimately printed out with the voter's signature and brought to local election officials for certification.<sup>13</sup> CAF 4-6; RA 180-81; AR Vol. XV: 72, 80-81, 106-107, 108-109. Voters never saw a copy of the nomination paper that was submitted with their signature to local election officials. CAF 10; RA 182; AR Vol. XV: 92-93. Thus, voters signing nomination papers through this system did not "apply an electronic

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<sup>13</sup> The fact that the nomination paper that was submitted to the local election officials was different from the one the voter saw is evident from the different typefaces used and the slightly different information that accompanied the voter's signature. CAF 3, 4, 7, 9; RA 180-82; AR Vol. XIII: 10, 11.



signature" directly to the nomination paper that was to be submitted and transmit that document back to the campaign, as required under Goldstein, 484 Mass. at 531, giving the voters no assurances that their signature would be used only for the nomination paper they intended to sign. As a result, the Commission correctly found that Brady's electronic signature collection did not comply with Goldstein's specific requirements.

These distinctions are more than mere technicalities. The uncontroverted testimony before the Commission established that Brady's electronic signature collection system veered from what Goldstein permitted, which was the electronic transmission of a nomination paper signed by a voter with a hand-drawn signature on either a paper or electronic nomination form. Id. Instead, Brady used a type of electronic signature collection system that raises "potential logistical, legal, and cybersecurity related concerns," which Goldstein pointedly sought to avoid. Id. Specifically, although there is no allegation of misuse here, the system

Brady used contains no safeguards against the signatures being affixed to any document - not just the nomination paper - by those maintaining the website who have access to the raw signature files. CAF 11-13; RA 182; AR Vol. XV: 99. The voter has no way of knowing exactly how her signature is being used, and could be misled into believing she was signing one document when in fact her signature is being used on a different document (or more than one document).<sup>14</sup> CAF 11-13; RA 182; AR Vol. XV: 99. Brady's vendor, VenueX, now has control of a database of voter information and signatures, but this was not

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<sup>14</sup> Although there was no evidence that voter signatures were misused here, the concern is more than mere hypothetical. In 2002, proponents of an initiative petition to ban the slaughter of horses for human consumption brought suit alleging that representatives of their paid signature collection company misled voters who supported their petition into instead signing another petition, for a "Protection of Marriage Amendment." Arkuss, et al. v. Galvin, Suffolk Sup. Ct. Docket No. 02-1318A. They allegedly did so by placing a copy of the horse slaughter petition on a clipboard with signature blanks for the marriage amendment behind it, so that voters read the text of the horse slaughter petition but then were asked to sign on the page that was actually for the marriage amendment petition. Minimizing the opportunity for such fraud is among the Secretary's many concerns in administering an orderly election.

disclosed to the voter, nor was the voter given any information regarding what use would, or at least could, be made of the other personal information she submitted with her signature.<sup>15</sup> CAF 7, 11; RA 181-82.

That the system Brady used raised these types of security concerns is underscored by the fact that the Court has since entered multiple orders extending the Goldstein model of electronic signatures but providing additional detail as to the parameters of what is permitted under Goldstein and the Advisory, and this system would violate those orders in multiple respects. See Dennis, et al. v. Galvin, SJ-2020-0278 (extending the Goldstein model of electronic signature collection to proponents of initiative petitions eligible to appear on the November, 2020 ballot) (ADD 75-79); Better Future Project, Inc., et al. v. Galvin, SJ-2020-0483 (ADD 80-84);

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<sup>15</sup> The reason that the system Brady used worked in this way appears to have been purely for convenience. Rather than receiving and printing more than one thousand individually-signed nomination papers contained in a thousand separate electronic files, the campaign received periodic batch PDF files. AR Vol XV: 76-77, 89.

(extending the Goldstein model of electronic signature collection to proponents of public policy ballot questions in 2020); Christian v. Galvin, SJ-2020-0444 (extending the Goldstein model of electronic signature collection to non-party candidates for federal office in 2020)(ADD 85-87).<sup>16</sup> Significantly, all of these orders require that voters be able to affix their signatures to the actual document that will be returned to the campaign and submitted on their behalf to local election officials; that no unnecessary personal information will be collected from voters; and that the website disclose the collection and/or use of any personal information prior to the voter being asked to sign. ADD 75-79 ¶¶ 3C, D; ADD 80-84 ¶¶ 3C, D; ADD 85-87, ¶¶ 4E, F. In contrast, Brady's electronic signature collection method obeyed none of those provisions, which were designed to protect voters and our elections system

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<sup>16</sup> These orders are not binding as to Brady, but demonstrate important concerns related to Goldstein's allowance of electronic signature gathering that the Commission appropriately considered.

consistent with the fundamental principles articulated in Goldstein.

### **III. The Commission's Decision Does Not Violate Equal Protection or Substantive Due Process.**

In her Superior Court Complaint, Brady alleges that the Commission violated the Equal Protection Clause of the U.S. Constitution,<sup>17</sup> because the Commission invalidated only her certified signatures, despite knowing that 39 other candidates had also used VenueX's program. See RA 85-86. But there is a straightforward reason why Brady is the only candidate whose signatures were invalidated: she is the only candidate whose signatures were challenged by a voter. Therefore, Brady was not similarly situated to the other candidates, and her equal protection claim fails.

"The Equal Protection Clause of the Fourteenth Amendment ... is essentially a direction that all persons similarly situated should be treated alike." City of Cleburne v. Cleburne Living Ctr., Inc., 473

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<sup>17</sup> Because Brady's Superior Court Complaint set forth her equal protection claim under 42 U.S.C. § 1983, the defendants assume that she intended to raise this claim under the U.S. Constitution, rather than the Massachusetts Declaration of Rights.

U.S. 432, 439 (1985). Where a plaintiff has alleged that the defendant engaged in "improper selective enforcement of a statutory or regulatory scheme," the plaintiff must demonstrate that "compared with others similarly situated, [she] was selectively treated" and that this "selective treatment was based on impermissible considerations" such as race, religion, or gender, or an intent to inhibit or punish the exercise of constitutional rights.<sup>18</sup> DuPont v. Commissioner of Correction, 448 Mass. 389, 398-99 (2007). Thus, the first "indispensable element" of a viable equal protection claim is that "individuals who are similarly situated have been treated differently." Matter of Corliss, 424 Mass. 1005, 1006 (1997); see Rubinovitz v. Rogato, 60 F.3d 906, 910 (1st Cir. 1995)

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<sup>18</sup> It is possible that Brady intends to press her equal protection claim under a "class of one" theory. If so, she would need to show that she was "intentionally treated differently from others similarly situated, that no rational basis exists for that difference in treatment, and that the different treatment was based on a malicious or bad faith intent to injure." Buchanan v. Maine, 469 F.3d 158, 178 (1st Cir. 2006). As discussed below, she cannot show that she was treated differently from others similarly situated, her status as the only candidate subject to this type of objection provides a rational basis for her treatment, and there is zero evidence that the Commission's decision was motivated by maliciousness or bad faith intent.

("Plaintiffs claiming an equal protection violation must first identify and relate specific instances where persons situated similarly in all relevant aspects were treated differently" (internal citations and quotations omitted)). Conversely, the "[d]issimilar treatment of dissimilarly situated persons does not violate equal protection." DuPont, 448 Mass. at 400 (quoting Women Prisoners of the D.C. Dep't of Corrections v. District of Columbia, 93 F.3d 910, 924 (D.C. Cir. 1996)). To determine whether persons are similarly situated, "[t]he test is whether a prudent person, looking objectively at the incidents, would think them roughly equivalent and the protagonists similarly situated" such that "reasoned analogy supports, or demands, a like result." Dupont, 448 Mass. at 400 (quoting Barrington Cove Ltd. Partnership v. Rhode Island Hous. & Mtge. Fin. Corp., 246 F.3d 1, 8 (1st Cir. 2001)).

Here, Brady is the only candidate whose signatures were invalidated based on her use of VenueX's software because she was the only candidate whose signatures were challenged on that basis. Although Brady asserts that 39 other candidates used VenueX's software, none of those candidates was before

the Commission. JSAF 12; RA 175. In short, where the Commission had no opportunity to consider VenueX's software in any case but Brady's, she could not have been treated differently than any similarly situated person, and her equal protection argument fails.<sup>19</sup>

Insofar as Brady argues that the Commission should have addressed the use of VenueX's software by other candidates even in the absence of objections to the signatures gathered by those candidates, this argument ignores key language in the Commission's statute. See Superior Court Complaint ¶ 48; RA 85. Specifically, G.L. c. 55B, § 4, authorizes the Commission to "investigate upon objection made in accordance with the provisions of this chapter" the validity of nomination papers, and to render decisions "on matter[s] referred to it[.]" Id. (emphasis

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<sup>19</sup> In the alternative, even if the Court were to reach the second part of the equal protection test - whether Brady's treatment was based on "impermissible grounds," Dupont, 448 Mass. at 398-99 - her Superior Court Complaint fails to articulate any such impermissible grounds, and appears to anticipate that a rational basis for her disparate treatment would suffice. See Superior Court Complaint, ¶ 51; RA 85-86. The rational bases for Brady's disqualification were, of course, that her nomination papers were the only ones objected to and that she failed to meet the Goldstein requirements.



added). This language makes clear that the Commission does not have authority to conduct investigations on its own initiative into the manner in which any and all candidates gathered their signatures, or to invalidate candidates' signatures based on such roving investigations. Instead, the Commission's authority is limited to investigating duly made objections and adjudicating them.<sup>20</sup> See id. Nor does the Secretary have the power to investigate the manner in which a candidate gathered signatures and to disqualify a candidate accordingly in the absence of any objection against the candidate. "When certificates of nomination and nomination papers have been filed, and are in apparent conformity with the law," G.L. c. 53, § 11 requires the Secretary to treat the nomination papers as "valid unless written objections are made." Id.

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<sup>20</sup> Interpreting an earlier version of the Commission's statute, this Court reached a similar conclusion, that it "[could not] find a legislative intent in the applicable statutes to extend the jurisdiction of the commission beyond objections to apparently valid nominations." See McCarthy v. Secretary, 371 Mass. 667, 676 (1977) (Commission lacks authority to consider a candidate's objection that local election officials should have certified the candidate's signatures but did not).

Finally, although Brady alleges that the Commission violated her right to substantive due process, see RA 86, only the most egregious and arbitrary of official conduct gives rise to a substantive due process violation. County of Sacramento v. Lewis, 523 U.S. 833, 847 n.8 (1998). Specifically, Brady must show that she was deprived of a protected right and that the Commission's actions "shock the conscience." Martinez v. Cui, 608 F.3d 54, 64 (1st Cir. 2010). Conscience-shocking behavior demonstrates an abuse of power so "brutal" and "offensive" that it does not comport with "traditional ideas of fair play and decency." Lewis, 523 at 847 (internal citation and quotation omitted). For the reasons discussed above, the Commission's conduct comes nowhere close to meeting that standard, where the Commission merely exercised its statutory authority to investigate and decide the objection before it, a process which required consideration and application of this Court's Goldstein decision to new technology.

**IV. The Court Should Reject Any "Equitable" Claim by Brady that She Should Be Placed on the Ballot Even Without the Required Number of Certified Signatures.**

Brady may argue that, notwithstanding the Commission's decision, she has demonstrated the necessary "measurable quantum of community support" to be summarily placed on the ballot. Libertarian Ass'n of Mass. v. Sec'y of the Commonwealth, 462 Mass. 538, 557 (2012). She makes this argument in her Petition, arguing that "as a matter of equity and in the unique circumstances of COVID-19", the Court should order the Secretary to place her name on the ballot for the September primary. RA 23, 27. If Brady continues to press this argument here, the argument should be rejected, as it is starkly inconsistent with Goldstein.

This Court in Goldstein carefully described the statutory process by which (a) candidates submit nomination papers to local election officials for certification; (b) local election officials review each signature on the nomination papers, potentially disallowing certain signatures, while ultimately certifying acceptable signatures; (c) candidates submit to the Secretary certified nomination papers;

and (d) registered voters may file objections to such papers. Goldstein, 484 Mass. at 520-22 (citing G.L. c. 53, §§ 7, 10, 46, 48; c. 55B, §§ 5, 10; and 950 Code Mass. Regs. § 55.03(1)). In detailing the statutory process, and fashioning relief compatible with that process, Goldstein clearly reinforces that candidates must comply with the various steps and deadlines that are embedded in Massachusetts election law. In other words, the Goldstein decision fundamentally maintains the Massachusetts candidate nomination structure, while implementing certain accommodations for the signature-gathering process in light of the COVID-19 pandemic. Indeed, Goldstein rejected the more drastic remedy that the plaintiffs proposed in that case, to wit, that it “declare the minimum signature requirements void” and allow “plaintiffs ... to avoid the minimum signature requirements altogether and proceed directly to the September 1 primary ballot.” Id. at 528. The Court held that “[e]ven in the midst of the pandemic,” the Commonwealth has a legitimate interest in enforcing “some signature requirements.” Id.

The Court should similarly reject any request by Brady for an exemption from the statutory structure

based on vague considerations of "equity." There is nothing in this case that would warrant such extraordinary relief and the setting of such an uncertain precedent for future elections.

**V. Any Other Issues Raised in the Emergency Petition Are Moot.**

Finally, to the extent that Brady continues to press other claims or issues that she presented in her Petition in the County Court (unrelated to the Commission's Decision), this Court should decline to address such claims on the basis that they are moot.

As referenced above, Brady's original request for emergency relief focused on alleged challenges that she faced in attempting to deliver nomination papers to the local election officials, as well as complaints about the processes that the local officials had implemented to receive such papers. RA 16-21. Nonetheless, Brady succeeded in timely delivering and having the local officials certify 1,066 signatures, an amount that is in excess of the statutory requirement, as modified by Goldstein. JSAF 4; RA 173. Importantly, "[a]ll the signatures contained on [Brady's] nomination papers submitted to the Secretary were 'electronic signatures' obtained using the

process [challenged before the Commission]. No so-called 'wet' signatures were submitted." JSAF 5; RA 173-74. See also Petition, p. 9 (Brady "us[ed] electronic signatures exclusively."); RA 17. As such, if the Commission's Decision is upheld by this Court, all 1,066 of Brady's signatures would be invalidated. Conversely, if the Commission's Decision is reversed, then all 1,066 of Brady's signatures would be considered valid, and she will have sufficient signatures to appear on the ballot.<sup>21</sup>

In these circumstances, Brady's other claims have become moot and need not be addressed. "Litigation is considered moot when the party who claimed to be aggrieved ceases to have a personal stake in the outcome." Blake v. Mass. Parole Bd., 369 Mass. 701, 703 (1976). In other words, where the relief sought is no longer "of any use to the plaintiffs and a decision by the court will not be applicable to existing rights, no decision will be rendered" as the "questions originally involved have become moot."

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<sup>21</sup> As noted above, Brathwaite also made individual signature objections, but counsel for the intervenors has represented to the parties that they do not intend to press these objections.

Mulholland v. State Racing Comm'n, 295 Mass. 286, 289 (1936). Here, Brady's eligibility to appear on the ballot depends on the Court's affirmance or reversal of the Commission's Decision. Adjudication of the claims raised in her Petition will not matter because, if all of her 1,066 electronic signatures are invalidated, she has no way of otherwise reaching the 1,000 signature threshold by pressing the original claims in her Petition. See Affidavit of John R. Milligan, ¶¶ 15-17, SJ-2020-0321 Docket Entry No. 7.<sup>22</sup> These claims are, therefore, moot. See Lockhart v. Att'y General, 390 Mass. 780, 782 (1984) (declining to reach the merits of whether the Attorney General properly refused to certify initiative petition where "the required number of signatures [on the petition] were not obtained" and thus the certification question was "moot".)

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<sup>22</sup> The Affidavit of John Milligan was submitted to the County Court by Ms. Brady in support of her Petition. Mr. Milligan confirms that the "vast majority" of Ms. Brady's "nomination forms were in fact delivered to town and city clerks" within her District. Affidavit of John R. Milligan, ¶ 17. The only forms that could not be delivered were "[a]pproximately fifty (50) electronic nominations" that were printed too late for delivery and "a handful" of forms that "could not be timely delivered to Dukes and Nantucket county clerks offices". Id., ¶¶ 15-16.

**CONCLUSION**

For the foregoing reasons, this Court should affirm the Commission's decision, dismiss Brady's Superior Court Complaint, and dismiss the Petition.

Respectfully submitted,

STATE BALLOT LAW COMMISSION  
and WILLIAM F. GALVIN,  
SECRETARY OF THE COMMONWEALTH

By their attorney,

MAURA HEALEY  
ATTORNEY GENERAL

/s/ Elizabeth Kaplan

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Date: July 9, 2020



**CERTIFICATE OF COMPLIANCE**

I, Elizabeth Kaplan, hereby certify that the foregoing brief complies with all of the rules of court that pertain to the filing of briefs, including, but not limited to, the requirements imposed by Rules 16 and 20 of the Massachusetts Rules of Appellate Procedure. The brief complies with the applicable length limit in Rule 20 because it is 42 pages long (not including the portions of the brief excluded under Rule 20) in 12-point Courier New font, which prints approximately 10 characters per inch.

\_/\_s/ Elizabeth Kaplan\_\_\_\_\_  
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**CERTIFICATE OF SERVICE**

I, Elizabeth Kaplan, Assistant Attorney General, certify that I have served the attached Brief by delivering a copy electronically to:

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**ADDENDUM**

Decision of State Ballot Law Commission, dated June 26, 2020.....	Add. 52
Advisory from William F. Galvin, Secretary of the Commonwealth.....	Add. 73
Order of Judgment, <i>Dennis et al. v. Galvin</i> , SJ-2020-0278.....	Add. 75
Order of Judgment, <i>Better Future Project, Inc.</i> <i>et al. v. Galvin</i> , SJ-2020-0483.....	Add. 80
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G.L. c. 53, § 11.....	Add. 88
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G.L. c. 55B, § 5.....	Add. 91

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

STATE BALLOT LAW COMMISSION

Docket No. 20-06

\_\_\_\_\_  
LEON ARTHUR BRATHWAITE, II,  
Objector

v.

\_\_\_\_\_  
HELEN BRADY,  
Respondent  
\_\_\_\_\_

**DECISION**

For the reasons stated in the attached statement of reasons, the Objection of Leon Arthur Brathwaite, II, is SUSTAINED on the merits and the Secretary is ordered NOT to print the name of Respondent Helen Brady on the primary ballot as a Republican candidate for the office of Representative in Congress in the 9<sup>th</sup> Congressional District.

The Office of the Commission is:

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State Ballot Law Commission  
c/o Elections Division  
Office of the State Secretary  
One Ashburton Place, Room 1705  
Boston, Massachusetts 02108

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STATE BALLOT LAW COMMISSION

  
Hon. Brian Merrick (Ret.), Chair

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Sarah Herlihy, Esq.

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Jennifer Chunias, Esq.

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Macken Toussaint, Esq.

\_\_\_\_\_  
Peggy Ho, Esq.

Dated: June 26, 2020

**IMPORTANT:**

Judicial review of this decision may be sought by civil action under G. L. c. 30A, § 14, within 5 days after receipt of this notice.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

STATE BALLOT LAW COMMISSION  
Docket No. 20-06

\_\_\_\_\_  
LEON ARTHUR BRATHWAITE, II,  
Objector

v.

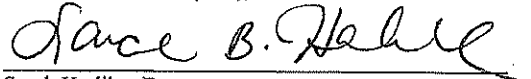
HELEN BRADY,  
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STATE BALLOT LAW COMMISSION

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Hon. Brian Merrick (Ret.), Chair

  
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v.

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HELEN BRADY,  
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**DECISION**

For the reasons stated in the attached statement of reasons, the Objection of Leon Arthur Brathwaite, II, is SUSTAINED on the merits and the Secretary is ordered NOT to print the name of Respondent Helen Brady on the primary ballot as a Republican candidate for the office of Representative in Congress in the 9<sup>th</sup> Congressional District.

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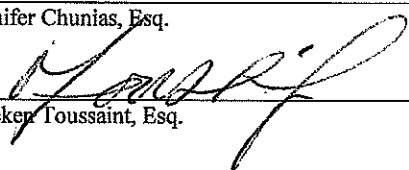
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legality, validity, completeness and accuracy of the Respondent's nomination papers and other actions required by law to give candidates access to the ballot. G. L. c. 55B, § 4 (2018 ed.).

Based upon the testimony and evidence submitted, the Commission finds, rules and concludes that the nomination papers submitted for certification to local election officials and ultimately filed with the Secretary of the Commonwealth were not the "native" nomination papers actually signed, in person and in real time, by the voter in accordance with the standards and requirements set out in the Goldstein Case and thereby are in violation of the legal requirements prescribed to gain access to the ballot.

## **II. OBJECTION**

A timely Objection was filed by Leon Arthur Brathwaite, II, a registered voter in the 9<sup>th</sup> Congressional District.<sup>3</sup>

All the nomination papers obtained and filed with the Secretary of the Commonwealth by the Respondent were electronically signed using the process described below. The Objection alleged, *inter alia*, that the manner and process used for obtaining a voter's signature was in violation of the Goldstein Case, most particularly, that the "native" nomination paper the voter was provided after completing the online signature process was not the nomination paper that was ultimately submitted to local election officials and the Secretary of the Commonwealth.

The Objection also challenged several other signatures for reasons unrelated to the Goldstein Case. However, as noted earlier, given the Commission's holding in this case, there was no need to consider them.

## **III. PRELIMINARY AND PROCEDURAL MATTERS**

On June 16, 2020 a hearing on this Objection was held. The Commission considered

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<sup>3</sup> As will be discussed below, the original Objection was captioned as filed by Leon Arthur Brathwaite, III. The Commission found this to be a scrivener's error.



several preliminary matters before hearing the Objection itself.<sup>4</sup>

**A. Motion to Dismiss (1)**

The Respondent filed a Motion to Dismiss claiming that the Commission lacked subject matter jurisdiction of the Objection because the Objector is seeking to “reverse the holding” in the Goldstein Case. The Motion further states that the Objection is not within the jurisdiction of the Commission because the Objection involved “important questions of public policy.” As support of this position, the Motion relies upon the language in section 4 of chapter 55B of the General Laws which states “[t]he Commission shall have no jurisdiction with respect to public policy questions.”

After hearing and consideration, the Commission DENIED this Motion. The objection alleges that the Respondent failed to comply with the legal requirements for obtaining electronic signatures as set out in the Goldstein Case, and did not ask the Commission to “reverse” the Goldstein Case. Indeed, a Single Justice of the Supreme Judicial Court stayed its proceedings in a pending case before it involving the Respondent, recognizing that there may be issues that must initially be heard by the Commission prior to moving forward with the case before the Single Justice.

As for matters of public policy, the provision the Respondent cites as supporting their position relates to public policy questions which are ballot questions as set forth in the provisions of section 19 of chapter 53 of the General Laws over which the Commission does not have jurisdiction. This case does not involve a public policy ballot question. Moreover, as a quasi-

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<sup>4</sup> The hearing was held in person in the large conference room on the 21<sup>st</sup> floor of One Ashburton Place, Boston, Massachusetts. The Commission issued a COVID-19 protocol, consistent with Department of Public Health guidelines, that all parties were required to follow. The hearing room was sufficiently large enough to accommodate social distancing. Physically present at the hearing were the Chairman and one other Commissioner. Two other Commissioners participated remotely through the State’s remote meeting program allowing them to hear testimony, see the witness and speak. Two attorneys from the Secretary’s Office and a stenographer were also present. Only those associated the particular case being heard were allowed in the conference room at any given time.

judicial body, the Commission routinely considers, where relevant, public policy in its decision-making process.

**B. Motion to Dismiss (2)**

The second Motion to Dismiss (2) filed by the Respondent relates to the captioning of the objection. The Objector is referred to as Leon Arthur Brathwaite, III when it should have referenced the Objector as the Leon Arthur Brathwaite, II.

The Commission DENIED this Motion considering it a scrivener's error as noted by Objector's counsel and since the Certificate of Voter Registration accompanying the Objection properly references "Leon Arthur Brathwaite, II."

**C. Objector's Motion to Amend**

The Objector filed a Motion to Amend the caption of the pleadings to read "Leon Arthur Brathwaite, II" which the Commission ALLOWED having found the error to be a scrivener's error.

**D. Objector's Motion for Summary Decision**

The Objector filed a Motion for Summary Decision. All the Parties and witnesses were present and prepared to move forward. The Commission DENIED this Motion and the matter proceeded to hearing.

**E. Motion to Impound Exhibit 7 and Exhibit 7A**

During the course of the hearing, the Respondent introduced Exhibits 7 and 7A, which were computer printouts of spreadsheets provided by the developer and vendor of the program used by the Respondent to collect electronic signatures. These exhibits contain personal information that had been inputted and uploaded to the program by the individual voters during the signature gathering process. As described below, after it was entered by the voter this

information was then stored by the developer in a way that permitted the personal information provided by all individuals who used the program to be exported en masse into an Excel spreadsheet. This information included, among other information, the signer's name, email address and phone number. Given the personal proprietary nature of the information contained in Exhibits 7 and 7A, the Respondent requested that these Exhibits be impounded. The Commission ALLOWED this Motion without objection.

#### **IV. HEARING**

Evidence was received on Tuesday, June 16, 2020. One witness, Mr. Brian Fitzgibbons, testified and twenty-one (21) exhibits were received. The matter having been heard and after consideration of the pleadings, stipulation, evidence and arguments of the Parties, the Commission finds, rules and concludes as set forth in the following sections of this Decision.

#### **V. FINDINGS OF FACT**

1. Leon Arthur Brathwaite, II, the Objector in this matter, is a registered voter from the 9<sup>th</sup> Congressional District.
2. Helen Brady, the Respondent in this matter, is a Republican candidate for United States Congress from the 9<sup>th</sup> Congressional District.
3. In order to qualify for the ballot as a candidate for Representative in Congress, the Respondent was required to submit at least 1,000 certified signatures to the Secretary of the Commonwealth by June 2, 2020. The statutory number of 2,000 set for the in § 44 of chapter 53 of the General Laws was reduced pursuant to the Goldstein Case.
4. The Respondent timely submitted 1,066 certified signatures to the Secretary of the Commonwealth.
5. All the signatures contained on the Respondent's nomination papers submitted to the

Secretary were “electronic signatures” obtained using the process described below.

No so-called “wet” signatures were submitted.

6. As a result of the decision in the Goldstein Case, candidates could, in addition to in person signatures, transmit nomination papers electronically and obtain electronic signatures in the manner prescribed in the case and the court ordered Advisory issued by the Secretary of the Commonwealth.
7. The Goldstein Case and the Advisory of the Secretary of the Commonwealth established the legal standard by which electronic signatures were to be obtained.
8. For the task of collecting signatures for nomination papers, the Respondent engaged the services of Brian Fitzgibbons, owner of VenueX Media to provide a website to sign the Respondent’s nomination papers. His company employs 3 other individuals.
9. Mr. Fitzgibbons provided the testimony concerning the website(s) and process he created to collect electronic signatures for candidates and how it worked. The general website he created was [www.nominationpapers.com](http://www.nominationpapers.com). Any candidate who contracted with him could imbed the VenueX product on their own website or he would create a personal page for the candidates. The Commission found his testimony to be credible.
10. Mr. Fitzgibbons created a page for the Respondent ([www.nominationpapers.com/HelenBrady](http://www.nominationpapers.com/HelenBrady)) whereby a voter<sup>5</sup> could electronically sign the Respondent’s nomination papers using a stylus, finger or mouse. (Exhibit 2).
11. This website did not have a function to allow a nomination paper with the candidate’s information, but that was otherwise blank, to be downloaded and printed and then

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<sup>5</sup> The Commission recognizes that not all signers of nomination papers are registered “voters.” For purposes of this discussion there is no need to make a distinction, the Commission references all signers as “voters.”

signed by hand.

12. When a voter clicked on the website for the Respondent, they would see an image of the Respondent's nomination paper, both front and back, with a colored block on the first signature line with the typed words "sign here." That image of the Respondent's nomination paper was pre-populated with the required candidate information in a serif font using upper- and lower-case letters. (Exhibit 2).
13. In order to "sign" the nomination paper, the voter was required to type in their first name, last name, email address, phone number, and full address including city or town, state and zip code. With the exception of a voter's phone number, a voter was required to provide all of this information in order to submit the nomination paper as described in Finding 15.
14. Below these information fields was a blank box where the voter signed their name using their finger, mouse or stylus. This blank box was not located on the actual image of the nomination paper. The blank box was separate from the nomination form and its purpose was to capture an electronic image of the voter's signature.
15. Once the voter entered the required information and signed in the blank box, the voter could then click the submit button located at the bottom of the page. After the voter clicked submit, they could view an image of the nomination paper that they signed and download the nomination paper showing their signature. It would also show, immediately next to their electronic signature in the column labeled "I. SIGNATURE," the date and time it was signed with the words "Signed at" in the same column, and with their street address typed into the column labeled "II. NOW REGISTERED AT," and the name of the city or town populated onto the paper by the

website provider. (Exhibit 3). We refer to this pdf as the “Voter Nomination Paper” in this Decision.

16. Mr. Fitzgibbons testified that the voter was automatically emailed a copy of this “Voter Nomination Paper as described in Finding 15 as a “receipt.”
17. The Voter Nomination Paper that was sent to the voter was not the one submitted by the campaign for certification. Instead, each voter’s individual signature image and additional information provided by the voter as described in Finding 13 was saved and stored separately by the vendor in an electronic database, independent of the Voter Nomination Paper. The program also stored the date and time the voter signed the petition as well as the voter’s IP address.
18. The nomination paper website contained no notification informing the voter that their individual signatures and other information provided were being saved and stored by the website provider.
19. In the next step in the process, the vendor separately created signed nomination papers to be submitted for certification. We will refer to the pdfs created in this process as the “Submitted Nomination Papers.” In this process, the vendor did not submit the Voter Nomination Paper, i.e., the pdf that had already been sent to the voter (as described in Finding 15), for certification. Instead, separate from the process where the voter interacted electronically with the nomination form, the vendor took the information that it had collected and stored in the database, including the image of the voter’s signature, and later created nomination forms to be submitted for certification by inserting the collected information on a blank nomination paper for the Respondent. Mr. Fitzgibbons testified that this was like a “mail merge” where

numerous “signed” nomination forms were generated in batches from the data collected by the vendor. The nomination papers created in this “mail merge” were what was subsequently provided to the Respondent to print for submission to the local registrars for certification. These Submitted Nomination Papers were pre-populated with the required candidate information in san serif font using only upper-case letters. (Exhibit 1).

20. According to Mr. Fitzgibbons the, reason why signatures were stored and saved separately is because it allowed his company to use the image that was captured of the signature in the blank box described in Finding 14 to adjust the placement and size of the signature image on the signature line of the Submitted Nomination Paper when the “mail merge” was done. When the signatures were inserted into the Submitted Nomination Paper created by the “mail merge” the date stamp that the voter saw on the Voter Nomination Paper was no longer present. Instead, the printed name of the voter appeared on the Submitted Nomination Paper where the date stamp had been on Voter Nomination Paper.
21. This Submitted Nomination Paper which was provided to the Respondent’s campaign and submitted to the local registrars for certification was never shown or provided to the original signer.
22. Mr. Fitzgibbons further testified that all the signature images of those signing the Respondent’s nomination papers were stored in a separate file and that his company maintained control of the file.
23. Mr. Fitzgibbons testified that these signature images could be applied and used on other documents.

24. There was no testimony or evidence presented indicating that the signature images or any other voter information obtained on behalf of the Respondent were used or applied to any other document or nomination paper other than those of the Respondent. There was testimony from Mr. Fitzgibbons, which we credit, that no such thing was done with the information collected by the candidates who used VenueX. It was clear from Mr. Fitzgibbons' testimony, however, that this was quite feasible.
25. The Commission credits Mr. Fitzgibbons' testimony, and received no evidence to the contrary, that the persons listed on the petitions sent to the campaign and subsequently certified by local registrars had, if fact, signed or at least made some mark with a computer mouse or stylus in the signature box before clicking "Submit" on the screen to place Respondent's name on the ballot.<sup>6</sup>
26. The Submitted Nomination Papers of the Respondent ultimately certified by local registrars and submitted to the Secretary of the Commonwealth were not the same downloaded image and .pdf of the nomination paper that the voter actually signed. In short, the Voter Nomination Papers (what the voter saw and signed) and the Submitted Nomination Papers (what was submitted for certification) were different.
27. The nomination papers the Respondent submitted for certification to local registrars were not the "native" electronic document the voter initially signed.
28. The nomination papers the Respondent submitted for certification to local registrars were not signed by the voter using a computer mouse or stylus applied to the signature line of the nomination paper screen image to sign their actual original signature in person and in real time.

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<sup>6</sup> This applies to only those signatures considered by the Commission. See footnote 2 supra.



## **VI. ISSUES OF LAW AND CONCLUSIONS**

### **A. Jurisdiction**

The Commission's jurisdiction in this matter is governed by Massachusetts General Laws Chapter 55B, § 4 which states in part,

The Commission may investigate upon objection...the legality, validity, completeness and accuracy of all nomination papers and actions required by law to give candidates access to a state ballot....

G. L. c. 55B, § 4 (2018 ed.).

Here the Objector is alleging, *inter alia*, that the Respondent's nomination papers do not comply with the legal requirements of the Goldstein Case. Such a matter is well within the jurisdiction of the State Ballot Law Commission.

### **B. Evidentiary Standard Used by the Commission**

The Commission's findings are based on substantial evidence, which is defined as "such evidence as a reasonable mind might accept as adequate to support a conclusion." G. L. c. 30A, § 1(6) (2012 ed.); Capezzuto v. State Ballot Law Commission, 407 Mass. 949, 952 (1990); Hershkoff v. Registrars of Voters of Worcester, 366 Mass. 570, 574 (1974); Labor Relations Commission v. University Hospital, Inc., 359 Mass. 516, 521; (1971); Almeida Bus Lines, Inc. v. Department of Public Utilities, 348 Mass. 331, 341 (1965).

In proceedings before the Commission, the objector has the burden of going forward. Hamill v. Sawyer, SBLC 90-14 (June 27, 1990). The objector must meet his burden of proof by proving his allegations by a preponderance of the evidence. DeJong v. Owens, SBLC 90-10 (June 22, 1990).

### **C. The Goldstein Case Remedied the Severe Unconstitutional Burden on the Fundamental Rights of Qualified Persons Seeking Access to the Ballot During the COVID-19 Pandemic**

The public health emergency in Massachusetts arising from the COVID-19 pandemic significantly and unconstitutionally impacted a qualified person's access to the ballot. Due to

public health restrictions imposed by the Governor’s Executive Order and the Department of Public Health’s further guidance, usual and accepted practices of obtaining a voter’s signature on a nomination paper could no longer be employed. “With the onset of the pandemic and the impositions that followed...candidates could not safely and reasonably gather voter signatures in the usual ways, namely, going to places where large numbers of potential registered voters are likely to be, such as town centers, malls, grocery stores or political meetings” Goldstein Case, at 13. This situation significantly and unconstitutionally impacted a would-be candidate’s ability and right to obtain signatures for their nomination papers which are required by law to qualify for ballot access. While the relief from such circumstances is generally within the purview of the Legislature, no “fix” had been enacted. Goldstein Case, at 14. Consequently, the Court was compelled to act.

In order to remedy the unconstitutional ballot access issues, the Court modified the statutory ballot access requirements in the least intrusive manner to allow candidates a constitutionally acceptable process to gain ballot access. “We recognize, though, that where these extraordinary circumstance require us to make policy judgments that, in ordinary times would be best left to the Legislature, our remedy must be “no more intrusive than it ought reasonably be to ensure the accomplishment of the legally justified results.” Goldstein Case at 22.

This was accomplished by 1) changing the number of certified signatures required to qualify for the ballot, 2) changing the filing deadline for the candidates for district and county offices and lastly, 3) allowing electronic transmission of nomination papers and the use of electronic signatures, which is the subject matter of the Objection before the Commission.

The first two remedies were relatively straight forward and, while being important elements in remedying the constitution infirmity of the existing situation, these changes did little to intrude upon the existing statutory process. The last remedy, the manner in which a candidate could obtain signatures, was far less straight forward. The Court was presented with the

proposal to use of electronic signatures as an alternative to the traditional “wet” signatures for signing nomination papers.

Due to the in-person restrictions imposed by the pandemic, obtaining in-person “wet” signatures was a very limiting option. Consequently, the use of electronic signatures was presented as an alternative. However, the Court found that this option introduced problems of “logistics of, and potential problems with, collecting and verifying electronic signatures.”

Goldstein Case, at 28.

The parties to the Goldstein Case, which included candidates and the Secretary of the Commonwealth, were directed to present submissions as to issues and potential problems associated with electronic signatures. “Their [the parties] submissions have convinced us [the Court] that there are too many issues and unanswered questions to allow us confidently to impose a remedy that would transform a nomination system that required “wet” signatures into one that permitted a broad range of electronic signatures, including a printed name...there are...potential logistical, legal and cyber-security related concerns...” Goldstein Case, at 28.

Given this new and untested potential remedy of using electronic signatures, the Secretary offered a more modest “means to include electronic signatures” as part of a remedy which both the Plaintiff candidates and Court found attractive. Goldstein Case at 29. The remedy ultimately adopted by the Court for the use of electronic signatures was specific, clear and precise.

The Court set forth the following guidance on the use of electronic signatures:

...candidates seeking to be on the ballot for the September 1 primary election be allowed to scan and post or otherwise distribute their nomination papers online. Voters may then download the image of the nomination papers and either apply an electronic signature with a computer mouse or stylus, or print out a hard copy and sign it by hand. The signed nomination paper can then be returned to the candidate, or a person working on the candidate’s behalf, either in electronic form (by transmitting the “native” electronic document or a scanned paper document) or in paper form (by hand or mail). The candidates will still have to submit the nomination papers to local election officials in hard copy paper format...

Goldstein Case at 29. (emphasis supplied). The Court further ordered that the Secretary “forthwith to provide clear guidance to prospective candidates as to how this electronic signature collection process may be accomplished effectively...” Id.

Accordingly, in furtherance of the Court’s Order, the Secretary issued an Advisory incorporating the Court’s decision into more specific guidelines.<sup>7</sup> Specifically, and relevant and applicable to the issues before the Commission, the Secretary’s Advisory was clear and unequivocal as to the types of signatures obtained electronically that would be acceptable under the terms of the Court’s Decision. The Secretary’s Advisory stated that, “[n]omination papers transmitted to voters electronically must be signed by the voter. The voter can sign by either a) using a computer mouse or stylus applied to the signature line of the nomination paper screen image to sign their actual original signature in person and in real time or b) printing out the transmitted nomination paper and affixing their original signature by hand (“wet signature”).<sup>8</sup> The signed nomination paper can then be returned to the campaign electronically by a computer transmission, scan, facsimile, or by mail.” (emphasis supplied).

**D. The Respondent’s Nomination Papers that were Ultimately Submitted to Local Registrars for Certification were NOT “Native” Documents**

Brian Fitzgibbons, the Owner of VenueXMedia, the website company engaged by the Respondent to design and administer the “Sign Nomination Papers for HELEN BRADY” website testified in detail about how the website worked. Mr. Fitzgibbons testified that a voter seeking to sign the Respondent’s nomination paper would go the website. Exhibit 2. Once at the website, the voter would see an image of both the front and back of a nomination paper with a “SIGN HERE” box over the first line where a voter would normally sign on the nomination paper. However, this was for visual effect only. Before actually viewing their signature on the

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<sup>7</sup> The Secretary’s full Advisory was submitted to the Court without objection of the Parties or the Court.

<sup>8</sup> The Commission takes judicial notice that some computer software such as Adobe allow a document to be downloaded and signed on the user’s own computer screen without the need for the process used here and with the ability for the user to retain control of the document, signature and any information entered.

nomination paper, the voter would then be required to provide their name, address, including city or town and zip code, email address and phone number (the phone number was the only optional field).

After entering the required information, the voter would then “sign” their name in a blank box at the bottom of the page using a mouse or stylus. This blank box used to capture the voter’s signature was independent and apart from the actual signature line on the nomination paper where the “SIGN HERE” language appeared on the image of the nomination paper. The voter would then click the “Submit” button at the bottom of the page. An image of the Voter Nomination Paper would then appear with an image of the voter’s signature appearing on the nomination paper with a date and time stamp next to their name in the appropriate signer column and their address typed into the appropriate registered address column and the city or town typed onto the appropriate box on the nomination paper.

The image of that Voter Nomination Paper appearing on the computer screen could be viewed and/or downloaded and printed by the voter for their records and was emailed to the voter as a pdf document immediately after the voter submitted the form. In a separate process, the website administrator, not the voter, would “create” and “transmit” a different nomination paper, the Submitted Nomination Paper, seemingly signed by the voter to the candidate for submission to local registrars. Mr. Fitzgibbons’ testimony was clear and undisputed that the nomination paper shown to the voter with their signature appearing on it was **not the same** nomination paper ultimately submitted to the local registrars.

Mr. Fitzgibbons further testified that the voter’s signature image was uploaded and stored in a separate file, as was all of the additional information provided by the voter. This was done so it could then be inserted on another blank nomination paper. Mr. Fitzgibbons explained that this permitted the vendor to adjust the size and placement of the signature image to fit in the signature column with the addition of the voter’s printed name. It was this, developer created Submitted Nomination Paper that was ultimately provided to the campaign to be printed and thereafter submitted to the local registrars for certification. This Submitted Nomination Paper

was not the original “native” image that the voter viewed their electronically applied their signature to, nor was it the “native” document made available for the voter to print out.

Additionally troubling to the Commission was the fact that the voter’s signature was being uploaded and stored in a separate file apparently without the knowledge and consent of the voter. Nowhere on the website was it disclosed that this was being done with a voter’s signature. Further, the process required a voter to provide information beyond what is required for their name to be certified, including an email address. The website did not disclose what was being done or who had access to the voter’s information, including their email address, telephone number, if provided, and IP address, all of which is being stored by the vendor.

Accordingly, the Commission finds rules and concludes that the process used by the Respondent to collect electronic signatures was in violation of the Goldstein Case in that a “native” nomination paper was not submitted to the local registrars for certification.

**E. The Electronic Signature Gathering Process was in Violation of the Secretary’s Advisory**

As noted above, the Court, as part of its Opinion, directed the Secretary of the Commonwealth to issue further and more specific guidelines as to the implementation of the Court’s decision. This Advisory was filed without objections of the Parties or Court.

The Secretary’s Advisory was clear as to what type of electronic signatures were acceptable. The voter could sign the computer image of the nomination paper on the computer screen “using a computer mouse or stylus applied to the signature line of the nomination paper screen image to sign their actual original signature in person and in real time.” (emphasis supplied).

The testimony and exhibits unquestionably demonstrate this was not done. A voter signing a box independent from the signature line on the image of the nomination paper is not consistent with the Secretary’s Advisory. In even further violation of the Court’s Decision and the Secretary’s Advisory is the process described by the vendor of “mail merging” the voter’s

signature, printed name and address onto a totally different nomination paper by the website administrator unbeknownst to the voter.

Accordingly, the Commission finds rules and concludes that voter's signature was not applied to the image of the nomination paper that was actually submitted for certification "using a computer mouse or stylus applied to the signature line of the nomination paper screen image to sign their actual original signature in person and in real time" as required by the Secretary's Advisory issued in conformity with the Goldstein Case.

**F. In Addition to Violations of the Goldstein Case and the Secretary's Advisory, the Electronic Signature Gathering Process Used by the Respondent Was Violative of Public Policy**

A person's signature is the proprietary property of the individual within their exclusive control and use. It is clear from the Goldstein Case and the Secretary's Advisory that the electronic gathering procedure articulated by the Court and the Secretary recognized that fundamental principle. The use of electronic signatures within the requirement and standards of the decision in the Goldstein Case and the Advisory clearly allowed the voter to retain control over the use of their signature by signing a screen image on their own computer, with that nomination paper being provided to the campaign or saved to their own computer for future transmission to a campaign or their local election official for certification at their sole discretion.

The process used by the Respondent failed to comply with the processes set out in the Goldstein Case and Secretary's Advisory. Instead, the website used by the Respondent used a process that covertly took away the voter's control of their own signature and the nomination paper they signed.

An additional and very troubling aspect of the Respondent's electronic gathering process is the seemingly cavalier manner in which a voter's signature and other personal information was handled.<sup>9</sup> At no point was a voter made aware that their signature image would be maintained in

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<sup>9</sup> Allowing a website to upload, maintain and control a voter's signature was never contemplated or allowed under the Goldstein Case.

a file. More disturbing is the fact that Mr. Fitzgibbons testified that their software allowed for a voter's signature to be downloaded and applied to another document.<sup>10</sup> Such software tempts malicious actions and can result in misuse.

Accordingly, the Commission finds that the electronic signature gathering process used by the Respondent, was not only contrary to the holding in the Goldstein Case, but violative of public policy.

## **VII. CONCLUSION**

The Objector has proven his case based upon a preponderance of the evidence. The Commission therefore, finds, rules and concludes that the electronic signatures gathered by the Respondent were done so in violation of, both collectively and severally, the holding in the Goldstein Case, the guidelines set out in the Secretary's Advisory and standards of public policy.

Accordingly, the Secretary is ORDERED not to print the name of Helen Brady on the ballot as a Republican candidate for Representative in Congress from the 9<sup>th</sup> Congressional District.

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<sup>10</sup> As noted, there was no testimony or evidence introduced indicating that this occurred. Mr. Fitzgibbons directly stated under oath that the Respondent's signatures were only used for the Respondent's own nomination papers.



**ADVISORY**  
FROM  
**WILLIAM F. GALVIN**  
**SECRETARY OF THE COMMONWEALTH**  
CONCERNING  
THE COLLECTION OF SIGNATURES FOR THE 2020 STATE PRIMARY AND  
GENERAL ELECTIONS<sup>1</sup>

The Massachusetts Supreme Judicial Court has ruled that, due to the difficulty of obtaining signatures on nomination papers during the current pandemic, certain accommodations shall be made for the 2020 State Primary and State Election.

On Friday April 17, 2020, the Supreme Judicial Court of Massachusetts in the case of [Goldstein v. Secretary of the Commonwealth \(SJC 12931\)](#), adopted alternative signature gathering procedures recommended by Secretary William F. Galvin and has directed the Secretary to issue, consistent with the Court's decision, guidance as to the type of signatures and nomination papers that are acceptable for submission to the local election officials and the Secretary's Office under these extraordinary circumstances.

**NOMINATION PAPERS**

Nomination papers originally printed by the State Secretary may be reduced to a letter sized document, as long as the document is an EXACT copied image of the state issued nomination paper and is printed double-sided.

The nomination papers may be transmitted to the voter for their signature by mail or electronic transmission. Electronic transmission includes email or by posting on a website. If the exact copied image of the nomination paper is transmitted electronically, it is understood that both the front and back will be transmitted to the voter and returned to the campaign. Thereafter and prior to submission to the local election officials and the Secretary's Office, the respective campaigns must reproduce the two pages of the signed nomination paper to a single, double-sided sheet of paper and submit each such nomination paper sheet to local election officials in a double-sided, hard copy paper format. Single-sided sheets or two sheets stapled or otherwise attached together ARE NOT ACCEPTABLE.

Please note that any nomination papers provided by candidates must contain the necessary information before being transmitted to a voter for their signature. This

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<sup>1</sup> This advisory is limited to party and non-party candidates for district and county offices and party candidates for federal offices. This advisory does not apply to non-party candidates for federal offices.

includes the candidate's name, street number and name, city or town of residence or some clearly identifiable reference thereto, the office sought, district name, and party, if running in a party primary. Failure to complete the nomination papers with the required information prior to circulation shall result in disqualification of any voter signatures contained thereon.

### SIGNATURES ACCEPTABLE FOR SUBMISSION

Nomination papers transmitted to voters electronically must be signed by the voter. The voter can sign by either *a)* using a computer mouse or stylus applied to the signature line of the nomination paper screen image to sign their actual original signature in person and in real time or *b)* printing out the transmitted nomination paper and affixing their original signature by hand ("wet signature"). The signed nomination paper can then be returned to the campaign electronically by computer transmission, scan, facsimile, or by mail.

Those authorized to sign on behalf of a disabled voter may write the name of the voter in the same manner as described above with the authorized person writing the name of the voter using a computer mouse or stylus applied to the signature line of the nomination paper screen image, in person and in real time, or by printing out a hard copy of the nomination paper for the authorized person to write the name of the voter in by hand.

**NOTE:** Only signatures of voters or writings of authorized representatives who actually sign in person and in real time using a stylus or mouse applied to the signature line on the electronic screen image of the nomination paper or by a "wet signature" or an authorized writing on the hard copy of the nomination paper are acceptable.

**Computer generated generic signatures of a voter's name ARE NOT ACCEPTABLE.** For example, the following is not acceptable:

	CHECK	I. SIGNATURE to be made in person with name substantially as registered (except in case of physical disability as stated above)	II. NOW REGISTERED AT (street, number and apartment number, if any) (city or town will be the same as stated below)	WARD	PREC.
1		George Washington	1 Main Street		
2		<i>Abraham Lincoln</i>	<i>12 Cherry Tree Lane</i>		
3					

COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT FOR SUFFOLK COUNTY

SUFFOLK, ss.

No. SJ-2020-278

GREGORY DAVID DENNIS, et al.,

Petitioners,

v.

WILLIAM FRANCIS GALVIN, in his  
Official Capacity as Secretary of the Commonwealth of  
Massachusetts,

Respondent.

**JUDGMENT**

This matter came before the Court on the Emergency Petition for Declaratory Relief filed by Gregory David Dennis, et al. (“Petitioners”) against William Francis Galvin, in his Official Capacity as Secretary of the Commonwealth of Massachusetts (the “Secretary”), dated April 27, 2020 (the “Petition”).

For good cause stated in the Petition, after notice and a hearing as appropriate under the circumstances, by agreement of all parties, and because there is a pandemic in the Commonwealth that has led to social distancing and the Governor declaring a State of Emergency, the Court hereby enters judgment in the above-captioned matter declaring as follows:

1. This Agreed Judgment applies to the following ballot initiative petitions and only with respect to the signing, collection, verification, and certification of signatures to be submitted to local election officials for certification on or before June 17, 2020 and thereafter filed with the Secretary on or before July 1, 2020, regardless of whether the pandemic, State of Emergency and/or social distancing continues through that date:

A. 19-06: Initiative Law to Enhance, Update and Protect the 2013  
Motor Vehicle Right to Repair Law;

B. 19-10: Initiative Petition for a Law to Implement Ranked-Choice Voting in Elections;

C. 19-11: An Act Establishing Adequate Funding for Residents of Massachusetts Nursing Homes; and

D. 19-14: Initiative Petition for a Law Relative to the Sale of Beer and Wine by Food Stores (the foregoing, together, the “Initiative Petitions”).

2. In addition to other methods of signing, collection, verification, and certification of signatures permitted by applicable law with respect to the Initiative Petitions, and notwithstanding anything in applicable law including, without limitation, 950 CMR 48.00, et seq., to the contrary, (a) proponents of the Initiative Petitions shall be permitted to distribute, collect, and deliver for filing, electronically signed ballot question petitions, as set forth in the Court’s Order in Goldstein et al. v. Secretary of State, SJC No. 12931, and in this Judgment, and (b) no ballot question petition (the “Form”) or signature shall be disallowed or disqualified for any act permitted hereby or by Goldstein, but all other statutory and regulatory requirements not modified by this Judgment or Goldstein shall remain in effect and applicable.

3. Specifically, but without limitation,

A. Proponents of the Initiative Petitions shall be allowed to post the .pdf version of both sides of the Form, as provided by the Secretary to the proponents of the Initiative Petitions, for online distribution to voters.

B. Voters may download and print a hard copy of the Form, sign it by hand, and write or type the voter’s address and municipality in the spaces prescribed in 950 CMR 48.04(8) and (9). Voters may deliver signed Forms to proponents of the ballot question Initiative Petitions in paper form (by hand or mail) or by electronic image, meaning a scanned copy or photograph of the Form, sent by electronic mail or by facsimile. Signed Forms may not be submitted to local election officials electronically and must be submitted by the proponents of the Initiative Petitions consistent with the following: G.L. c. 53, § 7 and 950 CMR 48.06.

C. Voters who wish to sign the Form online shall apply an electronic signature with a computer mouse, stylus, or finger, in person directly on the Form. A typewritten name, uploaded image, or computer-generated generic signature shall not be considered a genuine signature of a voter. A voter shall be deemed to have applied their signature directly on the Form if (i) the voter can clearly identify the location on the Form where they would be affixing their signature, (ii) the voter engages in the physical act of signing their name either on the image of the Form itself or in a separate signature box that is made available by an act of the voter, such as a mouse click, (iii) the signature is affixed to the electronic version of the Form in a manner where its position on the document cannot be changed, and (iv) the signature is visible to the voter in the clearly identified location before the Form is transmitted to proponents of the Initiative Petitions. The voter’s address and municipality may be written (in the manner described in the first sentence of this paragraph (C)) or typewritten in the spaces prescribed in 950 CMR 48.04(8) and (9). The voter’s name

may be typewritten in the same space as the signature, as a supplement to, but not in lieu of, the voter's electronic signature. The signed Form may be delivered to the proponents of the Initiative Petitions directly as an electronic document by electronic mail, or indirectly by electronic transmission through a third-party electronic signature provider.

D. Voters shall not be required to provide any personal information to access an online version of the Form other than their name, address and municipality. If a third-party electronic signature provider requires an email address to access the Form, voters shall have the option to submit a personal email address or an email address directed to the proponents of the applicable Initiative Petition, such as in the form of [optout@ballotppetition.org](mailto:optout@ballotppetition.org). Proponents of an Initiative Petition who enter into an agreement with a third-party electronic signature provider shall include provisions in such agreement that bar the provider from (i) retaining any personal information of the voter, including any image of the voter's signature, except as necessary to provide a report to the proponents of an Initiative Petition of the names and addresses of voters who signed the Form and the metadata associated with such signatures, after transmitting the signed Form to one of the proponents of the Initiative Petitions; and (ii) using the personal information for any purpose whatsoever. Proponents of the Initiative Petition who enter into an agreement with a third-party electronic signature provider shall ensure that, before being asked to sign a Form electronically, voters shall be informed what information is being collected and for what purposes it will be used, consistent with the limitations set forth in this Order. The voters shall also be informed that they need not provide a genuine email address and can instead provide a dummy address or an address in the form of [optout@ballotpitions.org](mailto:optout@ballotpitions.org).

4. A Form shall not be disqualified or disallowed for having extraneous markings under 950 CMR 48.07(2)(a) by reason of markings generated by the process of scanning the petition or of sending the Form by facsimile, or, in the case of a photograph of the signed Form, where such photograph extends beyond the margins of the Form itself, so long as the text of the Form remains legible when printed and so long as such markings or differences cannot reasonably be construed to, in any way, affect the Form's neutral form and content so as it remains free from advocacy by those for or against the proposed law. Any additional markings associated with a signature signed electronically shall be considered extraneous markings.

5. Signed Forms returned to proponents of the Initiative Petitions by electronic means shall be printed by such proponents in a manner consistent with 950 CMR 48.03 before they are delivered to the applicable municipal registrars of voters for certification. If voters return the Form with both pages printed or imaged single-sided, rather than double-sided, the proponents may copy the two single-sided pages to one double-sided page for submission to municipal registrars of voters and the Secretary, and such Form shall be deemed an "exact copy" of the Form. In doing so, the proponents of the Initiative Petitions shall retain until November 3, 2020, the original single-sided pages received from the voter or a scanned version thereof.

6. An officer of a ballot question committee for an Initiative Petition that makes a Form available for electronic signature in the manner described in paragraph 3 shall submit an affidavit to the Secretary no later than July 1, 2020, affirming that, to the best of their knowledge and belief, all signatures collected electronically were collected in compliance with paragraph 3

hereof.

7. This Court shall retain jurisdiction to resolve any disputes between one or more of the Petitioners and the Secretary arising out of or related to this Agreed Judgment.

SO ORDERED.

Dated:

By the Court, (Lenk, J.)

/s/ Barbara A. Lenk

Barbara A. Lenk

Associate Justice

AGREED AS TO FORM

WILLIAM FRANCIS GALVIN,  
in his Official Capacity as  
Secretary of the Commonwealth  
of Massachusetts

By his attorneys,  
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ATTORNEY GENERAL,

/s/ Anne Sterman

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KAREN MOREY KENNEDY,  
RANKED CHOICE VOTING 2020  
COMMITTEE

By their attorneys,

/s/ Thomas O. Bean

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Of Counsel:

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For Initiative Petition 19-06:  
THE MASSACHUSETTS RIGHT TO REPAIR  
COMMITTEE and GLENN WILDER

By their attorneys,

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COMMITTEE FOR SAFE AND FAIR COMPETITION,  
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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT  
FOR SUFFOLK COUNTY  
No. SJ-2020-0483

BETTER FUTURE PROJECT, INC. and ACT ON MASS., INC.

v.

WILLIAM FRANCIS GALVIN, in his  
Official Capacity as Secretary of the  
Commonwealth of Massachusetts,

JUDGMENT

This matter came before the Court on the  
Emergency Complaint for Declaratory Relief filed by  
Better Future Project, Inc. and Act on Mass., Inc.

For good cause stated in the Complaint, by  
agreement of all parties, and because there is a  
pandemic in the Commonwealth that has led to social  
distancing and the Governor declaring a State of  
Emergency, the Court hereby enters judgment in the  
above-captioned matter declaring as follows:

1. This Agreed Judgment applies to the  
following non-binding public policy question petitions  
("Public Policy Petitions") and only with respect to  
the signing, collection, verification, and  
certification of signatures to be submitted to local  
registrars for certification on or before July 8, 2020  
and thereafter filed with the Secretary on or before  
August 5, 2020, regardless of whether the pandemic,  
State of Emergency and/or social distancing continues  
through that date:

A. Shall the representative for this  
district be instructed to vote in favor of the changes  
to the Legislature's rules that would make the results  
of all votes in Legislative committees publicly  
available on the Legislature's website?; and



B. Shall the representative for this district be instructed to vote in favor of legislation that would require Massachusetts to achieve 100% renewable energy use within the next two decades, starting immediately and making significant progress within the first five years while protecting impacted workers and businesses?

2. In addition to other methods of signing, collection, verification, and certification of signatures permitted by applicable law with respect to the Public Policy Petitions, and notwithstanding anything in applicable law including, without limitation, G.L. c. 53, §§ 19-22, to the contrary, (a) proponents of the Public Policy Petitions shall be permitted to distribute, collect, and deliver for filing, electronically signed petitions, as set forth in the Court's Order in Goldstein et al. v. Secretary of State, SJC No. 12931, Dennis et al. v. Secretary of State, SJ-2020-278, and in this Judgment, and (b) no public policy question petition (the "Form") or signature shall be disallowed or disqualified for any act permitted hereby or by Goldstein or Dennis, but all other statutory and regulatory requirements not modified by this Judgment, Goldstein or Dennis shall remain in effect and applicable.

3. Specifically, but without limitation,

A. Proponents of the Public Policy Petitions shall be allowed to post the .pdf version of both sides of the Form, as provided by the Secretary to the proponents of the Public Policy Petitions, for online distribution to voters. The form posted by the proponents must be pre-populated with the question, district name and district type.

B. Voters may download and print a hard copy of the Form, sign it by hand, and write or type the voter's address and municipality in the spaces prescribed. Voters may deliver signed Forms to proponents of the Public Policy Petition in paper form (by hand or mail) or by electronic image, meaning a scanned copy or photograph of the Form, sent by electronic mail or by facsimile. Signed Forms may not be submitted to local registrars electronically and must be submitted by the proponents of the Public

Policy Petitions consistent with existing statutory requirements.

C. Voters who wish to sign the Form online shall apply an electronic signature with a computer mouse, stylus, or finger, in person directly on the Form. A typewritten name, uploaded image, or computer-generated generic signature shall not be considered a genuine signature of a voter. A voter shall be deemed to have applied their signature directly on the Form if (i) the voter can clearly identify the location on the Form where they would be affixing their signature, (ii) the voter engages in the physical act of signing their name either on the image of the Form itself or in a separate signature box that is made available by an act of the voter, such as a mouse click, (iii) the signature is affixed to the electronic version of the Form in a manner where its position on the document cannot be changed, and (iv) the signature is visible to the voter in the clearly identified location before the Form is transmitted to proponents of the Public Policy Petitions. The voter's address and municipality may be written (in the manner described in the first sentence of this paragraph (C)) or typewritten in the spaces prescribed. The voter's name may be typewritten in the same space as the signature, as a supplement to, but not in lieu of, the voter's electronic signature. The signed Form may be delivered to the proponents of the Public Policy Petitions directly as an electronic document by electronic mail, or indirectly by electronic transmission through a third-party electronic signature provider. The voter may request a copy of the signed petition directly from the proponents, which shall be the exact same as the petition form submitted to the local election officials for certification.

D. Voters shall not be required to provide any personal information to access an online version of the Form other than their name, address and municipality. If a third-party electronic signature provider requires an email address to access the Form, voters shall have the option to submit a personal email address or an email address directed to the proponents of the applicable Public Policy Petition,

such as in the form of  
optout@publicpolicypetition.org. Proponents of a  
Public Policy Petition who enter into an agreement  
with a third-party electronic signature provider shall  
include provisions in such agreement that bar the  
provider from (i) retaining any personal information  
of the voter, including any image of the voter's  
signature, except as necessary to provide a report to  
the proponents of a Public Policy Petition of the  
names and addresses of voters who signed the Form and  
the metadata associated with such signatures, after  
transmitting the signed Form to one of the proponents  
of the Public Policy Petitions; and (ii) using the  
personal information for any purpose whatsoever.  
Proponents of the Public Policy Petition who enter  
into an agreement with a third-party electronic  
signature provider shall ensure that, before being  
asked to sign a Form electronically, voters shall be  
informed what information is being collected and for  
what purposes it will be used, consistent with the  
limitations set forth in this Order. The voters shall  
also be informed that they need not provide a genuine  
email address and can instead provide a dummy address  
or an address in the form of  
optout@publicpolicypetition.org.

4. A Form shall not be disqualified or  
disallowed for having extraneous markings by reason of  
markings generated by the process of scanning the  
petition or of sending the Form by facsimile, or, in  
the case of a photograph of the signed Form, where  
such photograph extends beyond the margins of the Form  
itself, so long as the text of the Form remains  
legible when printed and so long as such markings or  
differences cannot reasonably be construed to, in any  
way, affect the Form's neutral form and content so as  
it remains free from advocacy by those for or against  
the proposed law. Any additional markings associated  
with a signature signed electronically shall be  
considered extraneous markings.

5. Signed Forms returned to proponents of the  
Public Policy Petitions by electronic means shall be  
printed by such proponents before they are delivered  
to the applicable local registrar for certification.  
If voters return the Form with both pages printed or  
imaged single-sided, rather than double-sided, the

proponents may copy the two single-sided pages to one double-sided page for submission to local registrar and the Secretary, and such Form shall be deemed an "exact copy" of the Form. In doing so, the proponents of the Public Policy Petitions shall retain until November 3, 2020, the original single-sided pages received from the voter or a scanned version thereof.

6. An officer of an organization for a Public Policy Petition that makes a Form available for electronic signature in the manner described in paragraph 3 shall submit an affidavit to the Secretary no later than August 5, 2020, affirming that, to the best of their knowledge and belief, all signatures collected electronically were collected in compliance with paragraph 3 hereof.

7. This Court shall retain jurisdiction to resolve any disputes between one or more of the Petitioners and the Secretary arising out of or related to this Agreed Judgment.

SO ORDERED.

/s/David A. Lowy  
Associate Justice

Entered:

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT  
FOR SUFFOLK COUNTY  
No. SJ-2020-444

SELINA CHRISTIAN

v.

WILLIAM FRANCIS GALVIN,  
in his official capacity as Secretary of the Commonwealth

**JUDGMENT**

This matter came before the Court on the Petition filed by Selina Christian (“Petitioner”) against William Francis Galvin, in his Official Capacity as Secretary of the Commonwealth of Massachusetts (the “Secretary”), dated May 28, 2020 (the “Petition”).

For good cause stated in the Petition, because there is a pandemic in the Commonwealth that has led to social distancing and the Governor declaring a State of Emergency, the Court hereby enters judgment in the above-captioned matter declaring as follows:

1. This Agreed Judgment applies to all non-party candidates for federal office (“non-party candidates”) who seek placement on the ballot for the November, 2020 statewide election, for whom nomination signatures are due to be submitted to local election officials for certification on or before July 28, 2020 and thereafter filed with the Secretary on or before August 25, 2020.

2. The minimum signature requirements in G.L. c. 53, § 6 shall be reduced by 50% to 5,000 for candidates for Electors of President, 5,000 for candidates for U.S. Senate, and 1,000 for candidates for U.S. House of Representatives.

3. In addition to other methods of signing, collection, verification, and certification of signatures permitted by applicable law, and notwithstanding anything in applicable law including, without limitation, 950 CMR 48.00, et seq., to the contrary, (a) non-party candidates shall be permitted to distribute, collect, and deliver for filing, electronically signed ballot question petitions, as set forth in the Court’s Order in Goldstein et al. v. Secretary of State, SJC No. 12931, Dennis et al. v. Secretary of State, SJ-2020-278, and in this Judgment, and (b) no signature submitted for certification by a non-party candidate shall be disallowed or disqualified for any act permitted hereby or by Goldstein or Dennis, but all other statutory and regulatory requirements not modified by this Judgment or Goldstein or Dennis shall remain in effect and applicable.

4. Specifically, but without limitation,

A. Nomination papers originally printed by the Secretary may be reduced to a letter-size document, so long as the document remains an exact copied image of the nomination paper and is printed double-sided.

B. Non-party candidates shall be allowed to post a .pdf version of their nomination paper for online distribution to voters.

C. Nomination papers posted online must contain the candidate's name, street number and name, city or town of residence or some clearly identifiable reference thereto, the office sought, and district name, so that this information is provided to the voter before the voter is asked to sign. For candidates for Elector of President, nomination papers posted online must also include the name of both the presidential and vice-presidential candidates, as well as the names and addresses of 11 elector candidates.

D. Voters may download and print a hard copy of the nomination paper, sign it by hand, and write or type the voter's address and municipality in the spaces prescribed in 950 CMR 48.04(8) and (9). Voters may deliver signed nomination papers to the non-party candidates in paper form (by hand or mail) or by electronic image, meaning a scanned copy or photograph of the nomination paper, sent by electronic mail or by facsimile. Signed nomination papers may not be submitted to local election officials electronically and must be submitted by non-party candidates consistent with the following: G.L. c. 53, § 7 and 950 CMR 48.06.

E. Voters who wish to sign the nomination paper online shall apply an electronic signature with a computer mouse, stylus, or finger, in person directly on the nomination paper. A typewritten name, uploaded image, or computer-generated generic signature shall not be considered a genuine signature of a voter. A voter shall be deemed to have applied their signature directly on the nomination paper if (i) the voter can clearly identify the location on the nomination paper where they would be affixing their signature, (ii) the voter engages in the physical act of signing their name either on the image of the nomination paper itself or in a separate signature box that is made available by an act of the voter, such as a mouse click, (iii) the signature is affixed to the electronic version of the nomination paper in a manner where its position on the document cannot be changed, and (iv) the signature is visible to the voter in the clearly identified location before the nomination paper is transmitted to the non-party candidate. The voter's address and municipality may be written (in the manner described in the first sentence of this paragraph (C)) or typewritten in the spaces prescribed in 950 CMR 48.04(8) and (9). The voter's name may be typewritten in the same space as the signature, as a supplement to, but not in lieu of, the voter's electronic signature. The signed nomination paper may be delivered to the non-party candidate directly as an electronic document by electronic mail, or indirectly by electronic transmission through a third-party electronic signature provider.

F. Voters shall not be required to provide any personal information to access an online version of the nomination paper other than their name, address and municipality. If a third-party electronic signature provider requires an email address to access the nomination paper, voters shall have the option to submit a personal email address or a dummy email address directed to the non-party candidate, such as in the form of optout@candidateName.org. Non-party candidates who enter into an agreement with a third-party electronic signature provider shall include provisions in such agreement that bar the provider from (i) retaining any personal information of the voter, including any image of the voter's signature, except as necessary to provide a report to the non-party candidates of the names and addresses of voters who signed the

nomination papers and the metadata associated with such signatures, after transmitting the signed nomination paper to the non-party candidate; and (ii) using the personal information for any purpose whatsoever. Non-party candidates who enter into an agreement with a third-party electronic signature provider shall ensure that, before being asked to sign a nomination paper electronically, voters shall be informed what information is being collected and for what purposes it will be used, consistent with the limitations set forth in this Order. The voters shall also be informed that they need not provide a genuine email address and can instead provide a dummy address or an address in the form of optout@candidatename.org.

5. Nomination papers returned to non-party candidates by electronic means shall be printed by such candidates in a manner consistent with 950 CMR 48.03 before they are delivered to the applicable municipal registrars of voters for certification. If voters return the nomination paper with both pages printed or imaged single-sided, rather than double-sided, the non-party candidate may copy the two single-sided pages to one double-sided page for submission to municipal registrars of voters and the Secretary, and such nomination paper shall be deemed an “exact copy” of the nomination paper. In doing so, the non-party candidates shall retain until November 3, 2020 the original single-sided pages received from the voter or a scanned version thereof.

6. A non-party candidate who makes their nomination papers available for electronic signature in the manner described in paragraph 4 shall submit an affidavit to the Secretary no later than August 25, 2020, affirming that, to the best of their knowledge and belief, all signatures collected electronically were collected in compliance with paragraph 3 hereof.

7. This Court shall retain jurisdiction to resolve any disputes between the Petitioner and the Secretary arising out of or related to this Judgment.

SO ORDERED.

Dated: June 29, 2020

By the Court, (Lowy, J.)

/s/ Maura S. Doyle

Maura S. Doyle, Clerk

Massachusetts General Laws Annotated

Part I. Administration of the Government (Ch. 1-182)

Title VIII. Elections (Ch. 50-57)

Chapter 53. Nominations, Questions to be Submitted to the Voters, Primaries and Caucuses (Refs & Annos)

M.G.L.A. 53 § 11

§ 11. Certificates of nomination and nomination papers; objections; filing

[Currentness](#)

When certificates of nomination and nomination papers have been filed, and are in apparent conformity with the law, they shall be valid unless written objections are made. Such objections shall be filed, as to state offices, with the state secretary, and, as to city or town offices, with the city or town clerk in accordance with the provisions of chapter fifty-five B.

**Credits**

Amended by St.1933, c. 313, § 3; St.1937, c. 77, § 3; St.1937, c. 212, § 1; St.1943, c. 334, § 6; St.1956, c. 135; St.1977, c. 927, § 4.

[Notes of Decisions \(3\)](#)

M.G.L.A. 53 § 11, MA ST 53 § 11

Current through Chapter 87 of the 2020 2nd Annual Session

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Massachusetts General Laws Annotated

Part I. Administration of the Government (Ch. 1-182)

Title VIII. Elections (Ch. 50-57)

Chapter 53. Nominations, Questions to be Submitted to the Voters, Primaries and Caucuses (Refs & Annos)

M.G.L.A. 53 § 19

§ 19. Questions of public policy submitted in certain districts upon application

[Currentness](#)

On an application signed by twelve hundred voters in any senatorial district, or by two hundred voters in any representative district, asking for the submission to the voters of that senatorial or representative district of any question of instructions to the senator or representatives from that district, and stating the substance thereof, the attorney general shall upon request of the state secretary determine whether or not such question is one of public policy, and if such question is determined to be one of public policy, the state secretary and the attorney general shall draft it in such simple, unequivocal and adequate form as shall be deemed best suited for presentation upon the ballot. Upon the fulfilment of the requirements of this and the two following sections the state secretary shall place such question on the official ballot to be used in that senatorial or representative district at the next state election.

[Notes of Decisions \(22\)](#)

M.G.L.A. 53 § 19, MA ST 53 § 19

Current through Chapter 87 of the 2020 2nd Annual Session

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Massachusetts General Laws Annotated  
Part I. Administration of the Government (Ch. 1-182)  
Title VIII. Elections (Ch. 50-57)  
Chapter 55B. The State Ballot Law Commission (Refs & Annos)

M.G.L.A. 55B § 4

§ 4. Powers and duties of commission

Currentness

The commission may investigate upon objection made in accordance with the provisions of this chapter the legality, validity, completeness and accuracy of all nomination papers and actions required by law to give candidates access to a state ballot or to place an initiative or referendum on a state ballot.

The commission shall have jurisdiction over and render a decision on any matter referred to it, pertaining to the statutory and constitutional qualifications of any nominee for state, national or county office; the certificates of nomination or nomination papers filed in any presidential or state primary, state election, or special state primary or election, the withdrawal of nomination for any state, county, or federal office after the time to do so has expired or any ineffective withdrawal; the filing of nomination papers under a false name, or fictitious nominees; and the fraudulent or forged signing of statewide initiative or referendum petitions, or any other objection relating to the signatures on such petitions. The commission shall have no jurisdiction with respect to public policy questions, nor city or town candidates and ballot questions.

The commission may summon witnesses, administer oaths, and require the production of books, records and papers at a hearing before it upon any matter within its jurisdiction.

Witnesses shall be summoned in the same manner, be paid the same fees, and be subject to the same penalties as witnesses in civil cases before the courts. Any member may sign a summons or administer an oath. In the event that said commission fails to render its decision within the time required in this chapter on any matter so referred, the state secretary shall, notwithstanding such failure, proceed forthwith to cause to be printed the ballots for such primaries or elections. Petitions for judicial review of decisions of the commission, under the provisions of chapter thirty A, shall be filed in the court within five days after receipt of the notice of the final decision of said commission. The commission shall establish rules of procedure in conformance with the provisions of chapter thirty A governing the conduct of hearings and investigations which shall be made available in printed form to each party prior to appearance or testimony before the commission.

**Credits**

Added by St.1977, c. 927, § 14. Amended by St.1980, c. 134, § 8; [St.1988, c. 296, § 25](#); [St.1990, c. 526, § 39](#).

[Notes of Decisions \(6\)](#)

M.G.L.A. 55B § 4, MA ST 55B § 4

Current through Chapter 87 of the 2020 2nd Annual Session

Massachusetts General Laws Annotated  
Part I. Administration of the Government (Ch. 1-182)  
Title VIII. Elections (Ch. 50-57)  
Chapter 55B. The State Ballot Law Commission (Refs & Annos)

M.G.L.A. 55B § 5

§ 5. Objections; federal, state, and county offices

Currentness

Objections to certificates of nomination and nomination papers for candidates at a presidential primary, state primary, or state election shall be filed with the state secretary within seventy-two hours succeeding five o'clock post meridian of the last day fixed for filing nomination papers.

Candidates challenging the registrars' failure to certify names on their nomination papers shall do so in accordance with the provisions of [section six](#).

Objections relating to the original signers of an initiative or referendum petition shall be filed with the state secretary within five days after the original petition has been filed with the state secretary.

Objections that signatures appearing on an initiative or referendum petition have been forged or placed thereon by fraud and that in consequence thereof the petition has not been signed by a sufficient number of qualified voters actually supporting such petition, as required by the constitution, or any other objection relating to signatures on such petitions, may be filed with the state secretary not later than five o'clock post meridian on the thirtieth day succeeding the last day for filing such initiative petition. Objections that the supplemental signatures necessary to place an initiative petition on the ballot after rejection by the legislature, have been forged or placed thereon by fraud and that in consequence thereof the petition has not been signed by a sufficient number of qualified voters actually supporting such petition, or any other objection relating to signatures on such petitions, as required by the constitution shall be filed not later than five o'clock post meridian on the seventh day succeeding the last day for filing such additional signatures.

Objections to nominations at state primaries shall be filed with the state secretary within six days succeeding five o'clock in the afternoon of the day of holding such primaries.

Objections to nomination papers of candidates to be voted for at primaries or general elections may be made by any registered voter of the district in which a candidate seeks nomination. Such objection shall not be valid unless it contains the voting address of the person filing the objections, as shown upon the current annual register of voters.

Objections to signatures appearing on an initiative or referendum question may be made by any registered voter of the commonwealth.

Such objections shall contain in detail each ground for protest with respect to said nomination papers, initiative and referendum petitions or primary nominations. Each objection, or objections by any person to any candidate or initiative referendum petition shall be accompanied by a nonreturnable filing fee of twenty-five dollars. If the commission declines jurisdiction of such objection the filing fee shall be returned.

Anyone filing an objection under this section shall not later than the day after which it is filed, mail by registered or certified mail, return receipt requested, a copy of such objection as filed with the commission to the candidate against whose nomination papers, initiative and referendum petition or primary nomination, such objection is made. Failure to do so shall invalidate any objection filed with the commission.

No objection shall be considered by the commission unless such objection is accompanied by a certificate of voter registration issued by the board of registrars of voters, or the clerk of the same, where the person filing the objection resides, stating that he is a registered voter in the district of the candidate being challenged.

The certificate of registration shall be substantially as follows:

**The Commonwealth of Massachusetts  
Certificate of Voter Registration**

I hereby certify that \_\_\_\_\_ is a registered voter at  
\_\_\_\_\_(street and number), \_\_\_\_\_(ward &  
precinct) in this city or town.

Clerk of Board of Registrars of Voters

or

Election Commissioners of

\_\_\_\_\_  
(City-Town)

All objections filed under this section shall be forwarded to the commission by the state secretary.

**Credits**

Added by St.1977, c. 927, § 14. Amended by St.1980, c. 134, § 9; [St.1988, c. 296, § 26](#); [St.1990, c. 526, §§ 40, 41](#).

[Notes of Decisions \(3\)](#)

M.G.L.A. 55B § 5, MA ST 55B § 5

Current through Chapter 87 of the 2020 2nd Annual Session