

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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|--------------------------------|---|-------------------------|
| DR. SHIVA AYYADURAI, |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. No. 1:20-11889-MLW |
| |) | |
| WILLIAM FRANCIS GALVIN, |) | |
| MICHELLE K. TASSINARI, |) | |
| DEBRA O'MALLEY, |) | |
| AMY COHEN, |) | |
| NATIONAL ASSOCIATION OF STATE |) | |
| ELECTION DIRECTORS, |) | |
| all in their individual |) | |
| capacities, and |) | |
| WILLIAM FRANCIS GALVIN, in his |) | |
| official capacity as the |) | |
| Secretary of the Commonwealth |) | |
| of Massachusetts, |) | |
| Defendants. |) | |

MEMORANDUM AND ORDER

WOLF, D.J.

August 6, 2021

For the reasons stated at the August 4, 2021 hearing, it is hereby ORDERED that:

1. Todd & Weld's Motion to Withdraw as Counsel for Plaintiff (Docket No. 156) is ALLOWED.

2. Timothy Cornell, Esq.'s previously stated desire to withdraw as plaintiff Shiva Ayyadurai's counsel, see Dkt. No. 169 at ¶6 (ex parte and under seal), is WITHDRAWN. Mr. Cornell shall continue to represent plaintiff, including by signing all submissions on plaintiff's behalf and speaking for plaintiff in court, unless the court grants a request to permit "hybrid representation" concerning a particular issue or matter. See

McCulloch v. Velez, 364 F.3d 1, 5 (1st Cir. 2004) (although "hybrid representation occasionally may be permitted in the trial court's discretion," "[s]uch largesse is, however, to be dispensed sparingly") (citing United States v. Nivica, 887 F.2d 1110, 1121 (1st Cir. 1989)).

3. Defendants' Motions to Strike or Seal Plaintiff's July 22, 2021 Memorandum of Law (Docket No. 166) and Revised Proposed Second Amended Complaint (Docket No. 167), which were signed only by plaintiff Shiva Ayyadurai despite the fact that he was represented by counsel (Docket Nos. 172, 175), are ALLOWED. See Fed. R. Civ. P. 11(a). Docket Nos. 166 and 167 are STRUCK from the public record and shall be SEALED. See Fed. R. Civ. P. 5.2(e).

4. By 12:00 noon on August 5, 2021, the parties shall confer regarding the communications concerning the preparation of the July 22, 2021 Memorandum of Law (Docket No. 166) and, if necessary, defendants shall move for an order compelling plaintiff to produce those communications to them.

5. Defendants shall, by 12:00 noon on August 6, 2021, file affidavits concerning any supplemental information that they request that the court consider in deciding whether it is appropriate for the court to sanction plaintiff, including but not limited to by dismissing this case, for his failure to comply with the June 16, 2021 Order (Docket No. 149) or report that they will not be supplementing the record concerning sanctions for that

failure. Defendants may make these submissions under seal and seek to justify the continued sealing of them. See, e.g., F.T.C. v. Standard Fin. Mgmt. Corp., 830 F.2d 404, 410-11 (1st Cir. 1987); United States v. Kravetz, 706 F.3d 47, 59-60 (1st Cir. 2013). A redacted version of any sealed submission shall be filed for the public record.

6. Counsel for plaintiff shall, by August 9, 2021, sign and file a revised Second Amended Complaint which includes only the claim in Count 6 of the First Amended Complaint (Docket No. 23) for injunctive relief against defendants Secretary William Galvin and the National Association of State Election Directors, and which seeks to add Twitter as a defendant, to the extent that counsel can do so consistent with his obligations under Rule 11(b) of the Federal Rules of Civil Procedure.

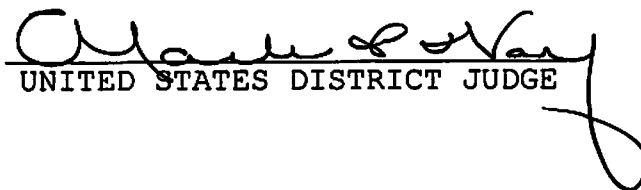
7. By 12:00 noon on August 11, 2021, the parties shall confer and report whether they have agreed on the defendants' reasonable hourly rates and reasonable number of hours worked in connection with defendants' responses to the July 16, 2021 Order (Docket No. 160) that should be used to award fees if the court sanctions plaintiff pursuant to Rule 16(f)(2) of the Federal Rules of Civil Procedure for failing to comply with the June 16, 2021 Order.

8. Defendants shall file any motions to dismiss the revised Second Amended Complaint by August 16, 2021.

9. Plaintiff shall respond to any motions to dismiss by August 23, 2021.

10. A hearing on pending motions shall commence on August 25, 2021, at 9:30 am, and continue on August 26 and 27, 2021, if necessary.

11. The parties shall order the transcript of the August 4, 2021 hearing on an expedited basis.


UNITED STATES DISTRICT JUDGE