

**Commonwealth of Massachusetts
The Trial Court**

Worcester, ss.

Superior Court Department
Worcester Division

)
Scott Lively, and)
Committee to Elect Scott Lively)
Plaintiffs,)
)
vs.)
)
Massachusetts Republican Party,)
Massachusetts Republican)
State Committee,)
Charles D. Baker,)
Baker Committee,)
Kirsten Hughes.)
Matthew St. Hillaire,)
Bradley Jones Jr.,)
Kevin McNamara, and)
Does 1-25,)
Defendants)
_____)

DOCKET NO. 18 CV 802 B

FIRST AMENDED COMPLAINT

Introduction

1. This is a **First Amended Complaint**, asking for compensatory, punitive and injunctive relief, by Scott Lively a Republican candidate for governor of Massachusetts, and his campaign committee, against Defendants the Massachusetts Republican party, its state committee, and various executives and representatives of that party.
2. The First Amended Complaint details a pattern of corruption within the Massachusetts Republican Party at the highest levels, designed to illegally favor defendant Charles Baker for re-election as governor, and to exclude plaintiff candidate Scott Lively.

3. The defendant State Committee of the Massachusetts Republican party violated its own By-Laws which prohibit the Committee or its employees from giving an endorsement or financial help to any candidate running in a primary, by endorsing Charles Baker for governor and by assisting him to get ballot signatures and do fund-raising.
4. The Executive Director of the State Committee, Matt. St. Hillaire, had assured Lively that it would be scrupulously neutral during the primary, and not favor any candidate.
5. Once this violation of the By-Laws was discovered by Lively, the Executive Committee of the Republican State Committee passed a resolution changing the By-Laws to prohibit the party from giving Lively any assistance, based on his political and religious beliefs, while authorizing expenditures, endorsement, and assistance for Charles Baker, changing the campaign rules during the primary season.
6. Lively's beliefs are fully within the mainstream of the Republican Party, whose national platform "condemns" the *Obergefell v. Hodges* gay marriage ruling as unlawful, and asserts "the sanctity of human life and affirm[s] that the unborn child has a fundamental right to life which cannot be infringed."
7. Defendants Baker and Jones have defamed Lively for his beliefs and for adhering to the Republican Platform, stating that there is no place "in any life" for these beliefs, and that his views are "violent and extremist."
8. This complaint seeks damages for the conspiracy amongst the defendants to violate the Republican By-Laws, for interfering with Lively's campaign, for committing unfair and deceptive trade practices, and for interfering with his right to equal protection of his religious beliefs. It seeks to enjoin the party from changing its By-Laws mid-campaign.

9. The Massachusetts Republican State Committee was sued in 2014 by Mark Fisher for violating the party by-laws and convention rules to keep him off the ballot, and it paid out approximately \$450,000 in damages and attorneys fees for both sides.
10. Because the Baker campaign and its fellow conspirators were well aware of the by-law restriction to not endorse a candidate or favor a particular primary campaign with resources, and had been successfully sued for such behavior during the last election cycle, this complaint seeks punitive damages in the amount of seven million dollars (\$7,000,000.00), the amount the Baker campaign held at the time of the violation.

Parties

11. Plaintiff, Scott Lively, (“Lively”) is a natural person with a domicile in Worcester, Massachusetts. He was, at all relevant times, a Republican candidate for the office of governor of Massachusetts.
12. Plaintiff, Committee to Elect Scott Lively, (“Lively Committee”) is a duly formed campaign committee, registered with the Massachusetts Office of Campaign and Political Finance, with a principal place of business in Holyoke, Massachusetts.
13. Defendant Massachusetts Republican Party (“MassGOP”) is a political party and legal entity, duly existing under M.G.L. c. 50, § 1, with a principal place of business in Boston, Massachusetts.
14. Defendant Massachusetts Republican State Committee (“State Committee”) is the governing body of the Republican Party in Massachusetts, authorized under M.G.L. c. 52, § 1, with a principal place of business in Boston, Massachusetts.
15. Defendant Charles D. Baker (“Baker”), is the Republican governor of the Commonwealth

of Massachusetts, and a candidate for re-election to the office of governor as a Republican in the 2018 election, with a domicile in Swampscott, Massachusetts, and a business address of the State House, Boston, Massachusetts.

16. Defendant, Baker Committee, is a duly formed campaign committee, registered with the Massachusetts Office of Campaign and Political Finance, with a principal place of business in Beverly, Massachusetts.
17. Defendant Kirsten Hughes (“Hughes”), is the chairman of the Massachusetts Republican Party and chairman of the Massachusetts Republican State Committee, with a principal place of Business at Boston, Massachusetts.
18. Defendant Matthew St. Hillaire (“St. Hillaire”) is the Executive Director of the Massachusetts Republican State Committee, with a principal place of business in Boston, Massachusetts.
19. Defendant Bradley Jones Jr. (“Jones”) is a member of the Massachusetts Republican State Committee, a duly elected representative to the General Court of Massachusetts, and House Republican (minority) leader, with a domicile in North Reading, Massachusetts.
20. Defendant Kevin McNamara (“McNamara”) was, at all pertinent times, an employee of the Massachusetts Republican State Committee.
21. Does 1-25 are as-yet-unknown defendants who have damaged plaintiffs and deprived Plaintiff Lively of rights under the laws and Constitution of the Commonwealth of Massachusetts, including individual members of Defendant Republican State Committee who conspired to violate Lively’s rights. Their identity will be obtained through discovery.

Factual Allegations

22. On or about November 30, 2017, Scott Lively filed a form with the Massachusetts Office of Campaign and Political Finance to create the “Committee to Elect Scott Lively”, which officially allowed him to begin his candidacy for governor of the Commonwealth.
23. Lively was aware of the neutrality provision of the By-Laws of the State Committee which would regulate the conduct of the campaign, and relied on it to plan his campaign strategy and activities.
24. Thereafter, Lively began to campaign by attending events, contacting potential supporters, raising funds, and contacting local Republican Committees.
25. A candidate for governor must obtain 10,000 signatures of registered voters in order to be nominated and placed on the primary ballot for the office.
26. One of the main methods for a candidate to obtain signatures is through involvement with local town Republican committees.
27. The By-laws of the Republican State Committee (“By-laws”), Art. IV, Section 7 states:

Unless approved by two-thirds (2/3) majority vote of the entire Executive Committee, neither the State Chair nor any person employed by the State Committee, shall assist, aid, or publicly endorse any candidate in favor of another candidate in either a contested Republican primary or in any contested election for office within the State Committee. Violation of this section shall constitute grounds for removal of the State Chair or employee.
28. On January 19, 2018, Defendant St. Hillaire had assured Lively in person that the MassGOP would maintain scrupulous neutrality in the primary election, per the party By-Laws.
29. Sometime in February of 2018, prior to the primary election, at least one employee of the state party, Defendant Kevin McNamara, along with other yet-unknown persons affiliated with the MassGOP and the State Committee, began to set up outings around the state to

gather signatures for the campaign of defendant Charles Baker.

30. On information and belief, Defendants Baker, Hughes, St. Hillaire and Jones planned and ordered these activities by agents of the State Committee to endorse and work for Defendant Baker and the Baker Committee prior to the primary election.
31. On information and belief, the State Committee expended funds on behalf of Baker and the Baker Committee to assist in gathering signatures, setting up meetings, setting up fundraisers, obtaining support from local Republican Committees, and obtaining endorsements of various politicians and supporters.
32. These endorsement and signature gathering activities by the State Committee on behalf of Baker had the effect of shutting out Lively from obtaining signatures from many venues, as the MassGOP was seen as already endorsing Baker.
33. These activities of endorsement and signature gathering by the State Committee for Baker required the plaintiffs to expend their own funds to gather signatures and raise support, while Baker was able to use money from the MassGOP and/or the State Committee.
34. The defendants, acting in unity, had the ability to favor the Baker candidacy and to deprive the Lively candidacy of help, organization, fund raising, endorsements, assistance in gathering signatures, local party assistance and much else, in violation of the State Committee By-Laws.
35. Each defendant agreed with and endorsed the common scheme engaged in by the defendants to not comply with the state committee By-Laws by endorsing Baker and by giving him and the Baker Committee financial and other assistance personally and through the State Committee, and by depriving Lively of the same endorsement and assistance.

36. Other unknown persons on the State Committee and unknown employees of the State Committee also agreed with and participated in the common scheme of endorsement of and assistance to Baker and the Baker Committee in violation of the State Committee By-Laws.
37. On or about February 14, 2018, after discovering that the State Committee and MassGOP had endorsed Baker and assisted Baker and the Baker Committee, Plaintiff Lively wrote to defendant St. Hillaire and demanded that the Party's collusion with the Baker campaign cease, that the Party compensate him and his campaign for its financial expenses and losses due to that violation, and that the party require accountability for the perpetrators of this violation.
38. On or about February 17, 2018, Defendant Jones, a member of the State Committee, wrote to his fellow State Committee members in a letter stating:

It sickens me to think that we would be extorted into putting our Party's resources - and, more importantly, the credibility of our institution, our elected officials, and our candidates - behind someone who appeared in a state-owned Russian TV propaganda video, claims that the Holocaust was perpetrated by homosexuals, and is credited with inspiring Ugandan laws that made homosexuality a crime punishable by death.
39. In his February 17 letter, Jones further elaborated:

On this point, let's be very clear; this is not about differences of opinion on certain social issues. Mr. Lively's rhetoric and record are not socially conservative. They are violent and extremist.
40. The statements by Jones cited above about Lively are false.
41. Lively immediately wrote Mr. Jones, and demanded that he retract these false statements.
42. Jones has not retracted his false public statements about Lively.
43. The Republican Party platform opposes, "any restrictions or conditions that would discourage citizens from participating in the public square or limit their ability to promote

their ideas. . .”

44. On or about February 20, 2018, during the primary election period, the Executive Committee of the Republican State Committee voted to change the By-Laws to allow the party to endorse and assist Baker and the Baker Committee.
45. On the same date, the State Committee voted to prohibit any assistance to Lively, based on his religious and political beliefs.
46. Lively’s beliefs are virtually identical with those set out in the National Republican Platform, including, but not limited to, that homosexual marriage should be condemned, that the Supreme Court ruled wrongly on homosexual marriage, that marriage is between one man and one woman, that unborn children have a right to life, that Planned Parenthood should be de-funded, that Republicans should be tolerant of the free speech of those whose beliefs are different, and that the president of the United States, a member of the Republican Party, should be supported.
47. The MassGOP held its state convention on April 28, 2018 at the DCU Center in Worcester.
48. In order for a candidate to obtain a place on the Republican Party primary ballot, the candidate must obtain the vote of 15% of the delegates to the state convention.
49. Lively was required to pay \$25,000 to the MassGOP in order to give a speech at the state convention.
50. Lively gave a short candidate speech at the state convention, to which defendant Hughes and Baker reacted negatively.
51. Prior to Lively’s speech, Defendant Hughes, along with other as-yet-unknown defendants, attempted to change the rules of the convention to use paper ballots rather than the

electronic voting required by the rules, right before the gubernatorial voting, stating the electronic voting system was temporarily not working.

52. Lively discovered the plan by Hughes and unknown defendants to disable the electronic voting system prior to the vote, and demanded that it be restored.
53. The defendants then informed Lively that the electronic voting system was suddenly operational again and the vote would proceed according to the rules.
54. The official count showed that Lively obtained votes of nearly 28% of the delegates.
55. On information and belief, Lively actually received more votes than shown the official tally would show, due to machinations by the defendants.
56. After the convention, defendant Baker stated publicly that:

"There's no place and no point in public life, in any life, for a lot of the things Scott Lively says and believes."
57. By this statement, Baker, as head of the executive branch of government in Massachusetts, and the titular head of the Massachusetts Republican Party, attempted to exclude and to persuade others to exclude Lively from his right to free speech and from participation in the Republican party due to his religious beliefs.
58. Based upon information and belief, defendant Baker has, as Governor, operated a system of illegal and/or unethical patronage by which he provides jobs, positions and other emoluments to financial supporters and State Committee Members and/or their relatives, and takes positions on public policy matters that are favorable to donors, in return for campaign contributions and political loyalty.
59. Baker's patronage system gave Baker and the Baker Committee inordinate influence over State Committee Members and other Delegates to the Convention, which Baker, the Baker Committee, the Mass GOP and other Defendants fully exploited by making it

known that the open ballot would be monitored in real time by pro-Baker agents to ensure loyalty to Baker, and by employing surrogates to denigrate and slander Lively to Delegates prior to the vote.

60. Several State Committee Members and other Delegates favorable to Lively complained privately to Lively and to the Lively Committee that they were afraid to vote for Lively for fear of retribution by Governor Baker.
61. Due to the threats and influence of Baker and the Baker Committee, Lively received fewer votes than he would have otherwise received, due to fear of reprisal by Baker against the delegates.
62. Following the state convention, the Lively Committee obtained and submitted in excess of the requisite 10,000 signatures to various city and town clerks.
63. Although Lively has now qualified for the primary ballot, the actions of the defendants have severely damaged his reputation, fund raising, local party cooperation, publicity, and ability to obtain support from Republican voters.
64. During the 2014 Republican state convention, Baker associates, defendant Hughes, and other party insiders kept a candidate, Mark Fisher, from obtaining the 15% convention endorsement, by violation of party rules in the way it counted blank ballots.
65. Fisher had obtained just over 15% of the convention votes per the convention rules. The State Committee then did a re-count, including blank ballots in the total, in violation of the convention rules, which resulted in a vote for Mr. Fisher of just under 15%, thus excluding him from the primary ballot.
66. This violation of the rules left Baker as the only Republican candidate for governor in 2014.

67. Mr. Fisher brought a civil action against the Mass State Committee and other defendants herein for damages, (Suffolk Superior Court Docket No. SUCV2014-01072-A), which was eventually settled in Mr. Fisher's favor, with total outlay of approximately \$450,000, including attorneys fees for both sides.
68. The defendants were thus on notice that breaking the rules of the party in order to favor one candidate over another was not legally acceptable.

Count I

Breach of Contract - MassGOP and State Committee Only

69. All factual allegations set forth above are incorporated into this count.
70. The By-Laws of the State Committee constitute a contract between the State Committee and the members of the party and its potential candidates.
71. Defendant St. Hillaire confirmed that the By-Laws would remain as written and that the party would show no favoritism to any candidate during the primary season, as set forth in the By-Laws
72. The defendants breached their contract with the plaintiffs when they endorsed Baker for governor, provided financial assistance to Baker, supported his signature gathering effort during the primary election period, as well as gave him other assistance, prior to any change in the By-Laws.
73. These actions by the defendants damaged the Plaintiffs financially, by requiring plaintiffs to expend funds to a) obtain signatures; b) obtain support for the convention vote; c) raise support at local city and town committees d) advertise his candidacy; and e) generally counter the actions and endorsement of Baker by defendants, in amounts to be proved at

trial.

Count II

Promissory Estoppel - Defendants MassGOP and State Committee Only

74. All factual allegations set forth above are incorporated into this count.
75. The MassGOP and its State Committee made representations to all candidates prior to election season in the form of its By-Laws.
76. One such By-Law required that the party and that State Committee remain neutral during the primary campaign, not endorse any candidate and not support any candidate.
77. Defendant St. Hillaire explicitly told plaintiffs they could rely upon the neutrality provision in the By-Laws, and that the defendants would not show favoritism toward any candidate during the primary.
78. The By-Laws were intended to be in place during the entire election season, and thus to induce reliance on the part of plaintiffs as to whether they would enter the race for governor, and how they would conduct their campaign.
79. The MassGOP and the State Committee changed its By-Laws during the primary campaign to endorse Defendant Baker and the Baker Committee, to repudiate Lively, and to allow expenditures of party funds to assist Baker and the Baker Committee.
80. By changing the By-Law upon which Lively relied and entered the race, he suffered damage to his reputation, expenses to obtain signatures, difficulty in fund raising, lagging support amongst the party and local committees, a smaller vote count at the convention, and other monetary damages to be proved at trial.

Count III

Intentional Interference With Contractual Relations - All Defendants

81. All factual allegations set forth above are incorporated into this count.
82. All Defendants interfered with the plaintiffs' contractual relations with the MassGOP and its local affiliates by endorsing Baker during the primary campaign and assisting the Baker Campaign with personnel and financial assistance in violation of its By-Laws, and by making defamatory statements about Lively.
83. Defendants interfered with the plaintiffs' contractual relations with the MassGOP and its members when they threatened certain delegates at the state convention that they must support Baker.
84. Defendants' actions were done intentionally, in order to deprive Lively of a place on the Republican primary ballot, to dampen his delegate totals at the convention, to inhibit gathering of signatures and make it more costly, to make fund raising more difficult, and to interfere with his relationship with local party affiliates..
85. The plaintiffs have been damaged by the defendants' actions as set out above, in amounts to be proved at trial.

Count IV

Unfair and Deceptive Trade Practices (M.G.L. c. 93A, § 11) - Defendants MassGOP and State Committee Only

86. All factual allegations set forth above are incorporated into this count.
87. At all pertinent times, defendants MassGOP and the State Committee were engaging in trade or commerce.
88. The defendants' actions in endorsing Baker, assisting Baker's campaign to gather

signatures, doing fund raising during the primary campaign, and other actions to assist Baker, in violation of its By-Laws, is an unfair and deceptive trade practice.

89. When spokesmen for the defendants MassGOP and the State Committee, such as defendants Jones and Baker, made false statements in public about Lively, in order to harm his candidacy, that was an unfair and deceptive trade practice.
90. When defendants and their agents threatened delegates at the state convention that they must vote for Baker for governor, and not Lively, that was an unfair and deceptive trade practice.
91. The defendants' actions and statements by its agents were willful and wanton and done in bad faith with malice.
92. The actions of the defendants violated M.G.L. c. 93A, § 11.
93. The Plaintiffs were damaged by loss of reputation, for expenditures to obtain signatures and to obtain support for the convention vote, by dampened fundraising efforts, and by investment of time and money to counter the actions of defendants, all as set out above, in amounts to be proved at trial.

Count V

Defamation - Lively v. Defendants Jones and Baker

94. All factual allegations set forth above are incorporated into this count.
95. The defendants Jones and Baker published oral defamatory statements about the plaintiff Lively as set out in Paragraphs 38-39 and 57 above, which were then republished and reported in various mass media outlets throughout the state.
96. The statements by the defendants were materially false statements of fact.

97. The defendants acted with actual malice, in order to harm Lively's candidacy.
98. The statements by defendants were slander *per se*, as the words used by the defendants alleged that Lively was "violent", that his opinions did not even belong in this life, and prejudiced him in his office, profession, and business.
99. The plaintiff suffered damage as a result of the defamatory publication, including loss of reputation and economic losses as set out above, amounts to be proved at trial.

Count VI

Mass. Equal Rights Act (M.G.L. c. 93. § 102) All Defendants

100. All factual allegations set forth above are incorporated into this count.
101. The defendants have, through their actions and through their statements, discriminated against Lively based on his religious creed.
102. Defendant Baker illustrated the discrimination by his statement, "There's no place and no point in public life, in any life, for a lot of the things Scott Lively says and believes."
103. The State Committee has voted to not allow any MassGOP or State Committee support to the plaintiffs due to Lively's religious creed.
104. The Plaintiffs have been damaged by loss of reputation, for expenditures to obtain signatures and to obtain support for the convention vote, by dampened fundraising efforts, and by investment of time and money to counter the actions of defendants, all as set out above, in amounts to be proved at trial.

Count VII

Civil Conspiracies - All Defendants

105. All factual allegations set forth above are incorporated into this count.
106. The defendants agreed to act together to intentionally interfere with Lively's contractual relations with MassGOP and the State Committee, as set out above.
107. The defendants agreed to act together to change the State Committee By-Laws during the primary season to favor Baker and the Baker Committee, after assuring Lively that there would be no such favoritism.
108. The defendants agreed to act together to commit unfair and deceptive trade practices against Lively, as set out above.
109. The defendants agreed to act together to threaten delegates at the state convention to vote for Baker and to not vote for Lively.
110. The defendants agreed to act together to deprive Lively of the right to hold and express his religious beliefs.
111. The defendants intended to deprive Lively of the legal rights enumerated above.
112. The defendants, acting in concert, had the peculiar power of coercion to deprive Lively of the rights and contractual benefits enumerated above, that they would not have had if they acted independently.
113. Plaintiffs were damaged as set out above in amounts to be proven at trial.

Count VIII

Injunction - All Defendants

114. All factual allegations set forth above are incorporated into this count.

115. The Plaintiffs are entitled to an injunction requiring the MassGOP and the State Committee to return its By-Laws to their pre-election state, and to enjoin the defendants from showing favoritism to Baker and the Baker Committee financially and with endorsements during the primary season.
116. The plaintiffs are likely to be successful on the merits of this case, as the defendants changed the By-Laws during the primary campaign, after promising to keep them intact, and by deliberately interfered with Lively's campaign as set out above, and defamed Lively.
117. The Plaintiff will suffer irreparable harm if an injunction is not issued, since a Republican primary election will be held on September 4, 2018, and the time period during which Lively can recover campaign support, financial support and party support lasts only three months.
118. If an injunction is issued, the defendants will suffer only the harm of returning the rules to their *status quo ante* prior to the campaign season.
119. A significant matter of public interest and policy is at stake, regarding a change of the rules of a political primary during the primary season itself, after a candidate has already established a legal candidacy.

WHEREFORE, the Plaintiffs respectfully request that this court issue a judgment for the following relief:

- A. An accelerated schedule for discovery and trial, due to the urgency of the matter and public policy issues involved;
- B. A temporary and permanent injunction enjoining the defendants from changing the

Republican State Committee By-Laws during the current campaign.

- C. A judgment for money damages against each defendant in amounts to be proved at trial for breach of contract and for intentional interference with contractual relations;
- D. A judgment for money damages against defendants Baker and Jones for defamation;
- E. A judgment for money damages against defendants MassGOP and the State Committee for committing unfair and deceptive trade practices, multiplied due to the Defendants' willful and malicious violation of M.G.L. c. 93A.
- F. A judgment for money damages against all defendants for violation of the Plaintiff's equal rights under M.G.L. c. 93, § 102, and punitive damages in the amount of \$7,000,000.00;
- G. A judgment for money damages against all defendants for their conspiracy in interfering with the plaintiffs' contractual relations, conspiracy of committing unfair and deceptive trade practices, and conspiracy to deprive Lively of his protected equal rights.
- H. Removal of all officials of the MassGOP and the State Committee who violated Art. IV, Section 7 of the State Committee By-Laws, by endorsing, providing money for, or services for Defendant Baker prior to changing the By-Law on February 20, 2018.
- I. An award of costs.
- J. An award of attorneys fees for deprivation of equal rights and committing unfair and deceptive trade practices.
- K. Any other relief that the court deems just.

The Plaintiff demands trial by jury on all counts which may be tried to a jury.

Respectfully Submitted,
The Plaintiffs
By counsel,

Dated: June 5, 2018

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Certificate of Service

I, Gregory A. Hession, hereby certify that I have sent the foregoing First Amended Complaint to all Defendants via First Class Mail, on June 5, 2018.

Gregory A. Hession J.D.