

DOCKET NO. HHB-CV18-6044479-S

JOE MARKLEY and ROB SAMPSON,
Petitioners-Plaintiffs

v.

STATE ELECTIONS ENFORCEMENT
COMMISSION,
Respondent-Defendant.

SUPERIOR COURT

JUDICIAL DISTRICT OF NEW BRITAIN

August 30, 2021

PLAINTIFFS' REPLY TO SPECIAL DEFENSES

Petitioners-Plaintiffs Joe Markley and Rob Sampson (“Plaintiffs”) submit the following reply to Respondent-Defendant State Elections Enforcement Commission’s (“Defendant” or “SEEC” or “Commission”) Answer and Defenses, dated July 30, 2021.

ANSWER TO FIRST SPECIAL DEFENSE

1. Each paragraph of the First Special Defense is denied. Each paragraph contains legal conclusions to which no answer is required.
2. Furthermore, the Commission’s conclusory statements fail to show any required element of a Separation of Powers claim under Conn. Const. art. II that is not supported by the Complaint’s assertions.

ANSWER TO SECOND SPECIAL DEFENSE

1. Each paragraph of the Second Special Defense is denied. Each paragraph contains legal conclusions to which no answer is required.
2. Furthermore, the Commission’s conclusory statements fail to show any required element of a First Amendment claim that is not supported by the Complaint’s assertions.
3. Paragraph 2 is denied because it ignores that First Amendment injury extends to punishment for engaging in protected speech.
4. Furthermore, Paragraph 2 ignores the unconstitutional conditions in the Citizens Election Program and Connecticut’s direct restrictions on candidate speech.

ANSWER TO THIRD SPECIAL DEFENSE

1. Each paragraph of the Third Special Defense is denied. Each paragraph contains legal conclusions to which no answer is required.
2. The Commission's conclusory statements fail to show any missing element of an unconstitutional conditions claim in the Complaint's assertions.
3. Paragraph 2 is denied because it incorrectly asserts that an unconstitutional conditions claim requires that someone be compelled to receive a voluntary, conditioned benefit.
4. Furthermore, Paragraph 2 ignores the paragraphs of the Complaint alleging that the unconstitutional conditions in the Citizens Election Program.

ANSWER TO FOURTH SPECIAL DEFENSE

1. Each paragraph of the Fourth Special Defense is denied. Each paragraph contains legal conclusions to which no answer is required.
2. Furthermore, the Commission's conclusory statements fail to show any required element of an unconstitutional vagueness claim that is not supported by the Complaint's assertions.
3. Plaintiffs deny that they knew that the Citizen Election Program requirements prohibited their communications.

ANSWER TO FIFTH SPECIAL DEFENSE

1. Each paragraph of the Fifth Special Defense is denied. Each paragraph contains legal conclusions to which no answer is required.
2. Paragraphs 1 and 2 are denied because they contradict the unconstitutional conditions doctrine.
3. Paragraph 1 is denied because it ignores that constitutional challenges may be raised in both pre-enforcement and enforcement challenges.

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CERTIFICATION

I hereby certify that a copy of the foregoing was filed and served on the following counsel of record on this date:

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Dated: August 30, 2021

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