

COMMONWEALTH OF MASSACHUSETTS

ESSEX, SS

LYNN DISTRICT COURT  
C.A. NO:

IN RE: 2008 MASSACHUSETTS  
BALLOT QUESTION 3

**COMPLAINT AND REQUEST FOR INQUEST**

**Introduction**

Through the instant action, the undersigned petitioners respectfully request the court conduct an inquest pursuant to G.L. c. 55, §§35 *et seq.*, as reasonable grounds exist for believing that laws relating to elections within the Commonwealth have been violated. Specifically, and as set forth more fully below, the petitioners allege violations of G.L. c. 56, §§32 and 42 by the proponents of Ballot Question 3 in the November 2008 election.

Although the instant action is styled as a "complaint", in accordance with the language set forth in G.L. c. 55, §35, there are no named defendants, as the petitioners request that the court exercise its discretion, conduct an inquest in this matter, and determine whether any particular person should be charged.

**Allegations**

1. The undersigned petitioner, John O'Donnell, is an individual residing at 20 Sparhawk Road in Lynn, Essex County, Commonwealth of Massachusetts.
2. The undersigned petitioner, Albert G. Smith, Jr., is an individual residing at 10 Pine Street in Raynham, Bristol County, Commonwealth of Massachusetts.
3. The undersigned petitioner, Michael B. Curran, is an individual residing at 41 Wheeler Circle, Apt. 157, in Stoughton, Norfolk County, Commonwealth of Massachusetts.
4. The undersigned petitioner, Casey B. O'Neil, is an individual residing at 51 Adams Avenue, Saugus, Essex County, Commonwealth of Massachusetts.

5. On November 4, 2008, Massachusetts voters approved Ballot Question 3, sometimes referred to as the "Greyhound Protection Act", a measure which bans betting or wagering on the speed or ability of dogs in the Commonwealth as of January 1, 2010. Mass. St. 2008, c. 388.

6. Prior to the election, in television, newspaper, and radio advertisements, and in pamphlets distributed throughout the Commonwealth, supporters of Ballot Question 3, including the Massachusetts Society for the Prevention of Cruelty to Animals ("MSPCA") and The Humane Society of the United States ("HSUS"), which were co-sponsors of Ballot Question 3, repeatedly made false statements with regard to the size of the enclosures used by the greyhound racing industry in Massachusetts. These false statements were designed to affect the vote on Ballot Question 3 as they mischaracterized the enclosures as "small cages barely large enough for [the dogs] to stand up or turn around".

7. 205 CMR 12.00 is titled, "The Humane Handling, Care, Treatment, And Transportation Of Racing Greyhounds". The shape and size of kennel crates is governed by 205 CMR 12.04(4), which states: "The shape and size of the enclosure shall afford ample space for the greyhounds to comfortably turn around, stand erect, sit or lie down without obstruction, interference, or impediment by the presence of food and water bowls. Minimum dimensions shall be 32 inches wide, 42 inches deep and 34 inches high." Both MSPCA and HSUS participated in the process of enacting 205 CMR 12.00.

8. The false statements published by supporters of Ballot Question 3 relative to the size of the enclosures used by the greyhound racing industry in Massachusetts were violations of G.L. c. 56, §42, which reads in pertinent part: "No person shall publish or cause to be published in any letter, circular, advertisement, poster or in any other writing any false statement in relation to any question submitted to the voters, which statement is designed to affect the vote on said question."

9. Prior to the election, in writings distributed through mailings, pamphlets and posted on the internet, supporters of Ballot Question 3 misrepresented the adoption rate of retired greyhounds in Massachusetts as thirty-one percent. The Massachusetts greyhound racing industry in fact achieves a one hundred percent adoption rate for its retired racers that are placed in the adoption program.

10. The false statements published by supporters of Ballot Question 3 relative to the adoption rate of retired greyhounds in Massachusetts were violations of G.L. c. 56, §42, which reads in pertinent part: "No person shall publish or cause to be published in any letter, circular, advertisement, poster or in any other writing any false statement in relation to any question submitted to the voters, which statement is designed to affect the vote on said question."

11. Prior to the election, in television, newspaper, and radio advertisements, and in pamphlets distributed throughout the Commonwealth, supporters of Ballot

Question 3 repeatedly published video and/or photographs depicting the cruel treatment of greyhounds in other states and countries for the purpose of misleading Massachusetts voters into believing the depicted abuse had occurred or was occurring in Massachusetts.

12. The false statements published through and alongside video and/or photographs by supporters of Ballot Question 3 depicting the cruel treatment of greyhounds in other states and countries for the purpose of misleading Massachusetts voters were violations of G.L. c. 56, §42, which reads in pertinent part: "No person shall publish or cause to be published in any letter, circular, advertisement, poster or in any other writing any false statement in relation to any question submitted to the voters, which statement is designed to affect the vote on said question."

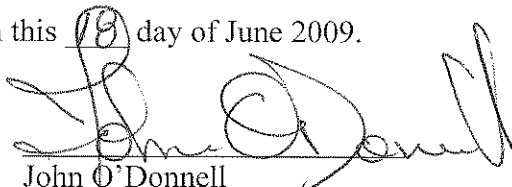
13. Prior to the election, the MSPCA, co-sponsor of Ballot Question 3, sent out emails offering free computer desktop wallpaper to those who took a pledge to vote "yes" on Question 3.

14. Prior to the election, the MSPCA posted on its website an offer of free computer desktop wallpaper to those who took a pledge to vote "yes" on Question 3.

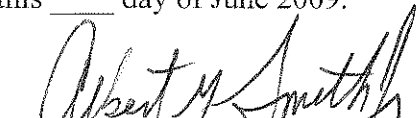
15. The offers by the MSPCA of free computer desktop wallpaper to those who took a pledge to vote "yes" on Question 3 was a violation of G.L. c. 56, §32, which reads in pertinent part: "No person shall, directly or indirectly, pay, give or promise to a voter, any gift or reward to influence his vote or to induce him to withhold his vote."

WHEREFORE, for all of the foregoing reasons, the petitioners respectfully request the court conduct an inquest into the above allegations pursuant to G.L. c. 55, §35 et seq.

Subscribed and sworn to under oath this 18 day of June 2009.

  
John O'Donnell

Subscribed and sworn to under oath this \_\_\_ day of June 2009.

  
Albert G. Smith, Jr.

Subscribed and sworn to under oath this \_\_\_\_ day of June 2009.



Michael B. Curran

Subscribed and sworn to under oath this 18 day of June 2009.



Casey B. O'Neil

Respectfully submitted,  
on behalf of Petitioners,



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Dated: June 18, 2009