

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ROBERT O'SHEA, CHAIRMAN OF THE WARD
6 DEMOCRATIC COMMITTEE, ET AL.,

Plaintiffs,

v.

BOSTON CITY COUNCIL,

Defendant.

Civil Action No. 1:220cv012048-PBS

PLAINTIFFS' OPPOSITION TO DEFENDANT'S
MOTION FOR CLARIFICATION OF SCHEDULING ORDER DEADLINES

Now comes the Plaintiffs and respectfully submit this opposition to Defendant's Motion for Clarification of Scheduling Order Deadlines on the grounds that the motion seeks to alter rather than clarify a clear directive of this Court granting Plaintiffs leave to file an Amended Complaint as to additional defendant parties and plaintiff parties by February 27, 2023. In support of this opposition, the Plaintiffs state as follows:

1. After conferring, the parties filed their Joint Scheduling Statement on January 20, 2023. Regarding the amendment of pleadings, Plaintiffs had proposed to Defendant that the "parties agree that all pleadings are to be amended on or before February 23, 2023" and noted that they intended to amend the complaint to include additional plaintiffs and/or defendants. The parties could not reach agreement on this matter and no statement regarding the amendment of pleadings was included in the Rule 16 Joint Statement.

2. At the parties' Rule 16 conference on January 23, 2023, Plaintiffs **did not** ask the Court "to include a date by which they could seek to amend their pleadings," as misperceived by Defendant's counsel. Rather, Plaintiffs' counsel informed the Court that Defendant declined to agree to Plaintiffs'

request to file an Amended Complaint by February 27, 2023, and indicated that Plaintiffs would be able to amend their complaint to add the City of Boston and the Supervisor of Elections as party defendants and various additional plaintiff parties by that deadline. The Court agreed with Plaintiffs' proposed schedule for the amendment of pleadings and ordered that the parties' Joint Statement be adopted with one added modification as follows: "1) Any Amendments must be filed by 2/27/2023" (Dkt. No. 37, Jan. 23, 2023).

3. To the best of their memory and perceptions, Plaintiffs' counsel attest that there was no discussion initiated by Defendant's counsel whereby the Court clarified that Plaintiffs would need to move to amend their complaint and could not just file as a matter of right. Indeed, the clear intention of the Court to grant the Plaintiffs leave to file an Amended Complaint, rather than leave to file a motion seeking the Court's leave to amend their complaint, is manifested by the Court's directive to the Clerk to enter on the Docket the Court's Electronic Order to adopt the parties' Joint Statement and modify it to require that "[a]ny Amendments be filed by 2/27/2023."

4. The Court's efficient adjudication of a basic component of a Fed. R. Civ. P. 16(f) Scheduling Order ~ the setting of specific deadlines for amendments to the pleading ~ is entirely consistent with established case law on the granting of leave to amend pleadings pursuant to Fed. R. Civ. P. 15(a). See *Foman v. Davis*, 371 U.S. 178, 182 (1962).

5. Accordingly, there is no substantive or procedural confusion regarding the Court's Electronic Order establishing the February 27, 2023, deadline for the filing of any amendments to Plaintiffs' complaint that requires clarification.

WHEREFORE, the Plaintiffs respectfully request that the Court deny Defendant's motion to amend the Court's Electronic Order establishing the February 27, 2023, deadline for filing amendments to the complaint.

Respectfully Submitted,
Plaintiffs,
By their Attorneys,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was filed through the ECF System and will be served upon the attorney of record for each party registered to receive electronic service on this the 21st day of February 2023.

/s/ Glen Hannington
Glen Hannington, Esquire