

Commonwealth of Massachusetts
Supreme Judicial Court for Suffolk County

Suffolk, ss.

Michael Walsh

SJ-2026-0255

v.

State Ballot Law Commission, et al

EMERGENCY MOTION FOR IMMEDIATE JUDGMENT OR,
IN THE ALTERNATIVE, TEMPORARY RELIEF

Background

Up through June 1, 2026, Michael Walsh filed nomination papers for the Office of Attorney General, to run in the Republican primary. His papers contained roughly 10,723 certified signatures. On June 3, 2026, Mr. Adam Roof filed an objection to the nomination papers alleging deficiencies in the signatures.¹

The objection triggered a compressed ballot-access proceeding. The Commission must issue a decision by the statutory deadline or Walsh appears on the ballot by operation of law. The Commission has scheduled multiple remaining afternoon hearing sessions in an effort to complete the matter before that deadline.

Walsh filed several threshold motions to dismiss. First, Walsh moved to dismiss because Roof failed to comply with the mandatory service requirement of G.L. c. 55B, § 5. That statute requires an objector, not later than the day after filing the objection, to mail a copy of the objection to the challenged candidate by registered or certified mail, return receipt requested. The statute further provides that “[f]ailure to do so shall invalidate any objection filed with the commission.”

Roof did not serve Walsh by registered or certified mail, return receipt requested. Instead, Roof served or attempted to serve Walsh by email and regular first-class mail. Roof’s certificate

¹ Mr. Roof is believed to be the professional Executive Director of the Massachusetts Democratic Party.

of service represented that Walsh had been served by certified mail, but Roof later admitted that certified mail was not used.² Thus, on the service issue, the material fact necessary to decide the threshold jurisdictional question is admitted.

Walsh also moved to dismiss for lack of standing. Roof is registered as a Democrat and, upon information and belief, is the Executive Director of the Massachusetts Democratic Party. Walsh is a Republican candidate for Attorney General, and Roof seeks to challenge Walsh's Republican nomination papers. Roof cannot vote in the Republican primary and has no legally cognizable interest in the Republican nomination process distinct from partisan opposition to Walsh.

Walsh further moved to dismiss the signature-validity allegations because Roof failed timely to file and deliver the challenged-signature list required by 950 CMR 59.04. The purported list was delivered after business hours, by email, without consent to email service, without copies of the challenged nomination papers, without a usable key, and without adequate page-and-line identification sufficient to allow Walsh to prepare his defense.

After those motions were pending, the Secretary produced a log identifying persons who reviewed Walsh's nomination papers. The log showed that Roof did not personally examine Walsh's nomination papers. Walsh therefore moved to strike the objection and moved to dismiss on the ground that the objection was not made on good grounds, because several allegations were represented as made "upon examination" even though Roof himself did not examine the papers.

Argument

I. Immediate judicial relief is available because the Commission is acting beyond its jurisdiction and has already exercised coercive power—the Saint Luke's Exception

² Mr. Roof's submission, at the order of the Commission, revealed that Mr. Roof's assistant, the Deputy Political Director of the Massachusetts Democratic Party, Alex Barusch took the items to the post office.

Immediate judicial relief is available because this case falls within the settled Massachusetts exception permitting court intervention where an administrative or quasi-judicial body is proceeding beyond the scope of its authority. Walsh does not seek ordinary interlocutory review of an evidentiary ruling or discretionary scheduling order. He seeks relief from a statutory tribunal that has already exercised coercive power in a proceeding where the jurisdictional predicate is invalid on admitted facts.

The governing principle is longstanding. In St. Luke's Hospital v. Labor Relations Commission, 320 Mass. 467 (1946), the Supreme Judicial Court recognized that judicial interference with pending administrative proceedings will be rare, but may be necessary where “the board is dealing with a matter that is clearly beyond the scope of its authority.” In that circumstance, a party “may challenge the jurisdiction of the board by invoking the aid of the courts and need not wait until the board has made a final order.” *Id.*

Hathaway Bakeries v. Labor Relations Commission, 316 Mass. 136 (1944), states the same rule in terms of prohibition. A writ of prohibition lies to restrain a court or quasi-judicial body from acting outside its jurisdiction where there is no other adequate remedy. Its function is not to correct ordinary error by a tribunal that has jurisdiction, but to prevent a tribunal from proceeding where it has “no power to make any decision” at all. *Id.* The Commission here is acting in a quasi-judicial capacity. It is adjudicating a ballot objection, ruling on motions, compelling discovery, authorizing third-party discovery, and preparing for evidentiary hearings that may determine whether a statewide candidate appears on the ballot.

Massachusetts Bay Transportation Authority v. Labor Relations Commission, 356 Mass. 563 (1970), confirms that prohibition is an appropriate method of preventing a quasi-judicial body from exercising jurisdiction it does not possess, and of determining whether jurisdiction exists.

Ciszewski v. Industrial Accident Board, 367 Mass. 135 (1975), likewise confirms that exhaustion is not required where administrative remedies would be inadequate or futile, especially where no agency fact-finding is required and the controversy concerns the agency's authority under its enabling statute. Lahey Clinic Foundation, Inc. v. Health Facilities Appeals Board, 376 Mass. 359 (1978), recognizes the same exception for cases where an administrative board is dealing with a matter clearly beyond the scope of its authority, and further recognizes that equitable relief may be available where an agency is acting in violation of law and irreparable injury is threatened.

This case fits those authorities. The Commission is a statutory tribunal. It has no general power to investigate nomination papers unless its statutory jurisdiction has been invoked. G.L. c. 55B, § 4 authorizes Commission action only "upon objection made in accordance with the provisions of this chapter." The objection here was not made in accordance with c. 55B because the Objector failed to comply with the mandatory service requirement of G.L. c. 55B, § 5. Section 5 required the Objector to mail a copy of the objection to Walsh by registered or certified mail, return receipt requested, not later than the day after filing. It then provides that "**[f]ailure to do so shall invalidate any objection filed with the commission.**"

The Objector has admitted the necessary factual predicate: he did not serve Walsh by certified mail. The remaining issue is purely legal. If § 5 means what it says, the objection is invalid. And if the objection is invalid, there is no objection "made in accordance with" c. 55B sufficient to invoke the Commission's jurisdiction under § 4. No further agency fact-finding is required to decide that question.

Nor is Walsh required to wait for a final Commission decision. The Commission has already gone beyond merely considering whether it has jurisdiction. It has exercised jurisdiction. After Walsh raised jurisdictional challenges and opposed discovery on the ground that jurisdiction

must be decided first, the Commission compelled Walsh to answer interrogatories and granted discovery in favor of the Objector, including third-party discovery. At the same time, it left Walsh's jurisdictional motions unresolved.

That action creates present and irreparable harm. A discovery order is coercive process. It imposes legal obligations, compels participation, and allows the Objector to use Commission power against Walsh before the Commission has determined whether the Objector filed a valid objection or has standing to proceed. In a compressed ballot-access proceeding, that harm cannot be remedied adequately after final decision. The Commission must decide by next Friday or Walsh appears on the ballot by operation of law. The Commission has scheduled five short hearing sessions. Discovery, subpoenas, and merits preparation are immediate. By the time ordinary review could occur, the statutory protection against invalid objections would have been lost.

This is therefore not a case about exhaustion or administrative autonomy. It is a case about jurisdiction. The Court need not supervise the Commission's discretion. It need only enforce the statutory limits on the Commission's power. Where the admitted facts establish the service defect, and where the statute supplies the consequence of invalidation, the Court may decide the issue now.

Immediate judicial relief is available and necessary. The Single Justice should exercise jurisdiction, declare the objection invalid, prohibit further Commission proceedings on the objection, vacate the discovery orders entered without a valid jurisdictional predicate, and order dismissal.

II. The objection is invalid and the Commission lacks jurisdiction because the Objector admittedly failed to serve Walsh by registered or certified mail, return receipt requested, as required by G.L. c. 55B, § 5.

The Commission lacks jurisdiction because the Objector failed to comply with the mandatory service requirement of G.L. c. 55B, § 5. That statute does not merely require some form of notice. It requires a specific method of service, within a specific time, and supplies a specific consequence for noncompliance.

The statute provides:

Anyone filing an objection under this section shall not later than the day after which it is filed, mail by registered or certified mail, return receipt requested, a copy of such objection as filed with the commission to the candidate against whose nomination papers, initiative and referendum petition or primary nomination, such objection is made. **Failure to do so shall invalidate any objection filed with the commission.**

G.L. c. 55B, § 5 (emphasis added).

The Commission's regulation repeats the same requirement: "Not later than the day after an objection is filed, the objector shall mail a copy of the objection to the respondent by registered or certified mail, return receipt requested." 950 CMR 59.02(4)(a).

The Objector did not comply. Walsh moved to dismiss on this ground, showing that the Objector served, at most, by email and regular first-class mail, not by registered or certified mail, return receipt requested. The motion further stated that the Objector's certificate of service represented certified-mail service even though the actual mailing was regular first-class mail. The Objector has since admitted the decisive fact: he did not serve Walsh by certified mail.³

³ After the motion to dismiss had been pending before the Commission for some days, the Commission ordered a response on or about June 11, 2025 by 5PM. The response from the Objector disclose an affidavit from Mr. Alex Baurusch who said he went to the postal counter, asked some unknown unnamed postal employee to send all the notices by certified mail, but that they did not do so. Contrary to the defective certificate of service which states that all other notices (to AG Andrea Campbell, and the MassDems and MassGOP) were going regular first class mail and the notice to Walsh was going certified mail return receipt. Mr. Baurusch also averred that he had never sent mail by certified mail before. The remaining portions of the response argued that email service should qualify, despite the express text of the statute. The Objector also argued that the old 1977 statute should be interpreted in light of the modern conveniences of email and the internet.

That admission ends the matter. The remaining question is one of law: whether email and regular mail may substitute for the method the Legislature required where the statute expressly states that failure to comply “shall invalidate” the objection. They may not.

The statutory text is mandatory in three separate respects. First, the objector “shall” mail the objection to the candidate not later than the day after filing. Second, the objector must use “registered or certified mail, return receipt requested.” Third, failure to comply “shall invalidate” the objection. The Legislature therefore specified both the required act and the consequence of failure.⁴

The Court must apply that consequence as written. The Legislature did not say that failure to use certified or registered mail invalidates the objection only if the candidate proves prejudice. It did not say actual notice is enough. It did not say email is sufficient. It did not permit regular first-class mail. It chose a specific method designed to create a reliable, neutral record of timely service in a compressed ballot-access proceeding.

The Commission cannot rewrite that statutory command into a harmless-error rule. When the Legislature specifies a service requirement and then specifies the consequence for noncompliance, neither the Commission nor the Objector may substitute a different rule. The service requirement is not a technicality. It is a statutory condition for maintaining an objection that can threaten a candidate’s place on the ballot.

Nor can the Objector’s claim of actual notice cure the defect. Actual notice and statutory service are not the same thing. Actual notice may explain why Walsh learned of the attempted objection, but it does not transform an invalid objection into a valid one. The Commission’s

⁴ The Respondent also contended below, as he does here, that the Commission has always treated this as jurisdictional. The statute and regulation also require the Secretary and Commission to separately notify the candidate, but the requirement that the Objector provide service in a particular manner and that it is jurisdictional, is not superfluous.

authority depends on a valid objection made in accordance with c. 55B, not on whether the candidate happened to receive informal notice by some other means.

That point is reinforced by G.L. c. 55B, § 4. The Commission may investigate nomination papers only “upon objection made in accordance with the provisions of this chapter.” An objection invalidated by § 5 is not an objection made in accordance with the chapter. It is a legal nullity for purposes of invoking the Commission’s adjudicatory power.

The Commission’s own precedent treats statutory service defects as jurisdictional. Walsh’s motion cited Long v. McCormack, S.B.L.C. 88-13, and Long v. Tierney, S.B.L.C. 88-14, for the proposition that improper mailing deprived the Commission of jurisdiction, as well as Chafee v. Trump, S.B.L.C. 24-01, which recognized that failure to comply with mandatory statutory and procedural notice requirements subjects objections to dismissal.

The result is straightforward. The Objector did not serve Walsh by registered or certified mail, return receipt requested. Section 5 says failure to do so invalidates the objection. Section 4 allows the Commission to proceed only upon an objection made in accordance with c. 55B. Therefore, the Commission lacks jurisdiction.

Because the necessary factual predicate is admitted, no remand or further agency fact-finding is needed. The Single Justice should declare the objection invalid, prohibit further Commission proceedings on that objection, vacate discovery orders entered without a valid jurisdictional predicate, and order dismissal.

III. The objection must be dismissed because the Objector lacks standing to challenge the Republican nomination process.

The objection must also be dismissed because the Objector lacks standing to challenge Walsh’s Republican nomination papers. Standing is jurisdictional. A party who lacks a cognizable

legal interest cannot invoke the adjudicatory power of the Commission. Walsh made a motion below to this effect and the Commission, without any filed opposition, summarily denied it.

The Objector is registered as a Democrat, according to the voter registration certificate he obtained and filed. He is, upon information and belief, the Executive Director of the Massachusetts Democratic Party. Walsh is a Republican candidate for Attorney General. The challenged nomination papers concern Walsh's access to the Republican primary ballot. The Objector cannot vote in that Republican primary. He is not a Republican voter, Republican candidate, Republican committee, Republican party officer, or participant in the Republican nomination process.

His asserted interest is therefore not a legal interest in the Republican nomination process. It is, at most, the political interest of an opposing-party operative in disqualifying a Republican candidate.

That is not standing.

Massachusetts standing doctrine requires a legally cognizable stake, not a generalized political interest. "We treat standing as an issue of subject matter jurisdiction." Ginther v. Commissioner of Insur., 427 Mass. 319, 322 (1998). Standing is a threshold matter, which the objector has the burden of proof. Murchison v. Bd. of Appeals of Sherborn, 485 Mas. 209, 213 (2020) ("a plaintiff ultimately bears the burden of establishing standing"). The Objector has not carried that burden.

The SJC's election-law decisions confirm the point. In Madden v. Secretary of the Commonwealth, 337 Mass. 758 (1958), the Court stated that **"there has been no case holding that a member of one political party has standing to enforce our election statutes in such a way as to challenge the action of members of another political party in making a party nomination."** (emphasis added). That observation is directly applicable here. Roof is not

attempting to vindicate his own right to vote in a primary. He is attempting to challenge the nomination papers of a candidate in another party's primary.

Kelley v. State Ballot Law Commission, 316 Mass. 512 (1944), reinforces the jurisdictional nature of party-status requirements in ballot objections. There, the Court held that the absence of a proper certificate of party enrollment deprived the Commission of jurisdiction to consider objections under the then-applicable statutory scheme. The decision confirms that party status is not an incidental fact in primary-nomination objections. It is jurisdictional to the Commission's authority. *See Also* Slama v. Attorney General, 384 Mass. 620, 624 (1981) (applying standing analysis in election cases because "in election cases, it is neither difficult nor impossible for qualified voters to assert their claims"); Barnes v. Secretary, 348 Mass. 671,674 (1965) (plaintiffs had no standing to raise challenge to ballot question's constitutionality as their rights were not effected).

The Commission's own precedent follows the same line. In Dyson v. Gillett, SBLC 78-1, the Commission found standing where the challenger lived in the district and was registered in the same party as the challenged primary nomination. That case is important because it shows the relevant limiting principle. Same-party standing is one thing. Rival-party intervention in another party's nomination process is another.

This case is the opposite of Dyson. Roof is not a voter in the Republican primary. He is not a member of the party whose nomination process is being challenged. He is the executive director of the opposing political party. His interest is not participation in the Republican nomination process but partisan advantage in the general election.

Allowing such an objection would undermine the structure of party nominations. Primary nominations are intra-party processes. The voters eligible to participate in a party primary, the

candidates seeking that party's nomination, and the party's own associational interests are directly affected by who appears on that primary ballot. A rival-party official has no comparable participatory right. To the contrary, permitting an opposing-party executive to invoke Commission process to challenge another party's nomination papers would allow one party to police, burden, and potentially distort the nomination process of its opponent.

This has a great deal of support in the case law, because primary nominations are intra-party contests. Fulani v. League of Women Voters Educ. Fund, 882 F.2d 621, 629 (2nd Cir. 1989) ("Primary contests, then, are essentially intra-party competitions. Although such candidates are members of the same party, each may have a separate political agenda for the party's future, and they present themselves to those who are eligible to vote in the primary as the candidate who will best represent the party in the general election."). See Tashjian v. Republican Party, 479 U.S. 208 (1986) (striking down state statute that sought to overrule party rule about who may vote in party primaries); California Democratic Party v Jones, 530 U.S. 567, 120 S.Ct. 2402, 147 L.Ed.2d 502 (2000) (a "nonmember's desire to participate in the party's affairs is overborne by the countervailing and legitimate right of the party to determine its own membership qualifications."); Democratic Party of United States v. Wisconsin Follette, 450 U.S. 107, 121 (1981) ("And the freedom to associate for the common advancement of political beliefs, ... necessarily presupposes the freedom to identify the people who constitute the association, and to limit the association to those people only. Any interference with the freedom of a party is simultaneously an interference with the freedom of its adherents").

A construction of the statute allowing cross-party interference should be avoided. If G.L. c. 55B, § 5 were read to permit the executive director of the Democratic Party to challenge the Republican nomination process simply because he is a registered voter somewhere in the

Commonwealth, the statute would raise serious associational concerns. Political parties have a protected interest in determining their own nominees and in structuring their own nomination contests. A nonmember's desire to affect another party's primary is not equivalent to the rights of the party or its voters to choose their nominee.

The Objector may argue that c. 55B permits "any registered voter" of the relevant district to file an objection. But that statutory phrase cannot be read in isolation or without regard to standing. A filing prerequisite is not the same thing as a legally cognizable interest in the particular objection being brought. At minimum, where the objection concerns a party nomination, the objector must have a party nexus sufficient to show that he is protecting his own participatory rights, not merely interfering with an opposing party's candidate selection.

Roof lacks that nexus. He cannot vote in the Republican primary. He is not part of the Republican nomination process. He has identified no injury distinct from partisan opposition to Walsh. His role as Executive Director of the Massachusetts Democratic Party underscores the problem rather than curing it.

Standing is a threshold jurisdictional issue. The Commission could not properly allow Roof to use its coercive discovery process before deciding whether he had standing to invoke that process. By granting discovery in favor of an opposing-party objector while leaving standing unresolved, the Commission allowed a person of disputed jurisdictional status to exercise public power against a rival-party candidate.

The Single Justice should hold that Roof lacks standing to challenge Walsh's Republican nomination papers and order dismissal of the objection.

IV. The Commission was required to order automatic dismissal of the signature-validity allegations because the Objector failed timely to file and deliver the challenged-signature list required by 950 CMR 59.04.

Even apart from the jurisdictional service and standing defects, the Commission was required to dismiss the signature-validity allegations because the Objector failed timely to file and deliver the challenged-signature list required by 950 CMR 59.04(1)(f). The Objector's efforts were wildly insufficient and ineffective.⁵

The regulation is specific. "Not later than the third weekday before the date of the hearing," the objector must file and deliver to the respondent a list of all signatures on the nomination papers that are drawn in question by the objection. 950 CMR 59.04(1)(f). That list must show the page and line where each challenged signature is located and the reason why each signature is alleged to be improper.

This requirement is not decorative. It is the essential notice mechanism in a compressed ballot-objection proceeding. A candidate facing a signature challenge has only a few days to identify the challenged signatures, compare them against nomination papers, contact signers if necessary, review municipal certifications, prepare witnesses, and defend ballot access. The challenged-signature list is what permits that defense to occur.

"Failure to file and deliver such list will result in the Commission's automatic dismissal of any allegations involving the validity of those signatures." MCLE, *Massachusetts Election*

⁵ Pursuant to Statute and Regulation, the Secretary's Office on behalf of the Commission marked up the case for hearing on Tuesday June 16, 2026 in the afternoon. The Respondent, in his motion below, contended as he does here that the "no later than three weekdays" language is intended to guarantee a responding candidate three full weekdays to prepare a defense. Thus the list should have been filed with the Secretary and delivered (in hand or by sufficient pre-mailing actually received) to Walsh by 9AM on Thursday, June 11, 2026. The Objector's counsel emailed a list (without the key to the page numbers) about 6pm on Thursday and the certificate of service indicates that it was mailed first class mail the same day (and not received until Monday June 15th). The Commissioner's regulations, not recognizing email service despite their recent amendment in 2016, provide only for hand delivery or first class mail service (for subsequent filings). The regulation does provide that if hand delivery is made after business hours, the filing is treated as filed the next day (Friday) which all agree was too late. 950 CMR 59.02(8)(b)(2) (in a section termed "timely filing" dealing with different methods of service). When Walsh wrote to complain of this, the Objector's counsel, about noontime on Friday June 12th provided a google drive link which apparently held copies of the papers and the page number key.

Administration, Campaign Finance. And Lobbying Law (5th Ed. 2020) §9.11.3 citing Hurst v. State Ballot Law Comm'n, 427 Mass. 825 (1998).

Likewise, if the list is not sufficiently detailed or delivered timely, it calls for dismissal. “Failure to supply such information affects the respondent’s substantial rights to prepare their case...The Commission requires strict adherence to this rule, given the unusually brief procedural schedule under G.L. c. 55B, §§ 8, 9, and 10.” MCLE, *Massachusetts Election Administration, Campaign Finance. And Lobbying Law* (5th Ed. 2020) §9.11.3 citing Pieroni v. Garron, S.B.L.C. 98-6 (June 18, 1998); Schmidt v. Onessimo, S.B.L.C. 86-2, at 2 (June 16, 1986); Harvey v. Truro, S.B.L.C. 82-3 (June 10, 1982).

The Objector did not comply. Walsh’s motion to dismiss explained that the purported list was emailed after business hours, contained no usable key, did not include copies of the challenged pages, and failed to provide a practical method for identifying the signatures actually challenged. In larger communities, including Attleboro and North Attleboro, the purported challenges were scattered among hundreds of signatures, yet the list did not allow Walsh to determine which signatures were actually at issue.

A list that forces the respondent to guess is not the list required by the regulation. The rule requires page, line, and reason. It does not permit a cryptic index using unexplained internal page numbers. It does not allow an objector to shift the burden to the candidate to reconstruct the objection. And it does not allow a late, after-hours email to substitute for timely delivery of a usable list.

The timing defect independently requires dismissal. The regulation says the list must be filed and delivered “not later than” the third weekday before the hearing. That requirement exists to guarantee the respondent meaningful time to prepare. Service after business hours by email,

without consent to email service, did not provide Walsh the preparation period required by the regulation. Nor did regular mail cure the problem; the certificate of service reflected mailing, but actual delivery would occur later, after the regulatory deadline and too late to protect Walsh's preparation rights.

The consequence of this failure is "automatic dismissal" of the allegations involving the validity of signatures. "Our cases require automatic dismissal under these circumstances, since this failure obviously 'affects' the respondent's 'substantial rights' to prepare his case." Long v. McCormack, S.B.L.C. 88-13 (June 32, 1988) at 2. Walsh's motion cited the Massachusetts election-law treatise and SBLC precedent recognizing that failure to file and deliver the required list results in automatic dismissal of signature-validity allegations. The reason is obvious: failure to supply a timely and usable list affects the respondent's substantial rights to prepare a defense. In ballot-access proceedings, strict adherence is required because the schedule is unusually compressed.

This rule also prevents the objector from using discovery to repair a defective objection. The challenged-signature list is due before the hearing precisely so that the case can proceed on defined issues. An objector who fails timely to identify the challenged signatures cannot later cure that failure through interrogatories, subpoenas, municipal records requests, or evidentiary hearings. Discovery may test properly noticed challenges; it may not create them after the deadline.

The Commission therefore had no discretion to allow the signature-validity allegations to proceed. At minimum, even if the Court did not dismiss the entire objection on service or standing grounds, the signature-validity allegations had to be dismissed automatically because the Objector failed to comply with 950 CMR 59.04.

The Single Justice should order dismissal of all allegations involving the validity of signatures.

V. The objection must be dismissed because it was not made on good grounds: the Objector represented that allegations were made “upon examination,” but the Secretary’s log shows that he did not personally examine the nomination papers.

The objection must also be dismissed because it was not made on good grounds. The statutory objection process is not a license to file speculative allegations and then use Commission discovery to find out whether they might be true. A ballot objection must be grounded when filed.

That requirement matters especially in proceedings before the State Ballot Law Commission. Ballot objections operate on compressed statutory deadlines. They can disrupt campaigns, burden candidates, require emergency hearings, and threaten ballot access. For that reason, the statutes and regulations require objectors to proceed with specificity, timeliness, and good faith. An objection unsupported by good grounds is not a valid invocation of the Commission’s process.

Here, the objection repeatedly asserted that several grounds were made “upon examination” of Walsh’s nomination papers. That representation was material. It told the Commission, the Secretary, and Walsh that the Objector had personally reviewed the nomination papers and was asserting defects based on that examination.

The Secretary’s review log now shows otherwise. Roof did not personally examine Walsh’s nomination papers. The Objector’s assistant may have reviewed materials, but Roof did not conduct the examination that the objection represented as the basis for its allegations.

That defect is not harmless. The objection did not merely say that the Objector was informed by another person, or that allegations were made on information and belief after investigation by an agent. It affirmatively stated that the allegations were made “upon

examination.” Where the Objector did not examine the papers, the stated foundation for the objection was materially inaccurate.

The distinction is important. The Commission’s process is triggered by an objection, not by an open-ended investigation. The Objector’s grounds must exist when the objection is filed. The Objector cannot file broad accusations of fraud, non-genuine signatures, duplicate certifications, ineligible voters, and other defects while misrepresenting the basis for those accusations, and then attempt to use discovery to generate the grounds that were missing at the outset.

Nor can the Objector cure the problem by pointing to an assistant’s review after the fact. The objection was filed by Roof. The certification, responsibility, and statutory role belong to the Objector. If Roof’s allegations were based on another person’s review, the objection should have said so. Instead, the objection represented that its allegations were made “upon examination.” The Secretary’s log shows that representation was not true as to Roof.

This is particularly troubling because the allegations are serious. The objection accuses Walsh’s nomination papers of numerous defects, including non-genuine signatures and fraud-related allegations. Allegations of that nature should not be allowed to proceed unless the Objector can show that they were made on a real, contemporaneous, good-ground basis. A party should not be permitted to launch a ballot challenge through materially inaccurate assertions and then rely on Commission subpoenas, interrogatories, and third-party discovery to search for support.

The Commission’s discovery ruling compounds the problem. Instead of requiring the Objector to establish the grounds for the objection as filed, the Commission granted discovery in favor of the Objector and compelled Walsh to answer interrogatories. That permits the Objector to use Commission process to build a case that the objection did not properly ground at the outset.

The law should not allow that sequence. The objection process is not meant to be a fishing expedition. It is a statutory mechanism for resolving timely, specific, and properly grounded objections. Where the stated foundation of the objection is materially inaccurate, and where the Objector did not personally conduct the examination represented in the pleading, the objection was not made on good grounds.

The Single Justice should dismiss the objection on this ground as well.

VI. The Commission's order compelling discovery before deciding the jurisdictional issues confirms the need for immediate relief and should be vacated.

The Commission's discovery order confirms the need for immediate judicial relief. The Commission did not merely delay ruling on Walsh's jurisdictional motions. It exercised coercive power while leaving those motions unresolved.

That matters. A discovery order is not ministerial. It is an assertion of adjudicatory authority. It imposes legal obligations on a party, authorizes one side to obtain information by compulsory process, and requires participation in the tribunal's proceedings. Where jurisdiction is disputed, compelling discovery necessarily assumes the very power being challenged.

Walsh squarely raised that objection. He opposed the Objector's motion to compel on the ground that discovery was premature because jurisdictional issues had to be decided first. Walsh's opposition cited the rule that jurisdiction is a threshold matter, that subject-matter jurisdiction cannot be conferred by consent or waiver, and that a tribunal should not force a party to litigate in a forum whose power to act remains unresolved.

"The requirement that jurisdiction be established as a threshold matter "spring[s] from the nature and limits of the judicial power of the United States" and is "inflexible and without exception." Steel Co. v. Citizens for Better Environment, 523 U.S. 83, 94-95 (1998) *quoting*

Mansfield, C. & L. M. R. Co. v. Swan, 111 U. S. 379, 382 (1884). Massachusetts Courts hold likewise that jurisdictional issues come first. “Because the question of subject matter jurisdiction goes to the power of the court to hear and decide the matter, we consider that question first...” Ginther v. Commissioner of Ins., 427 Mass. 319 (1998).

The Commission nevertheless granted the Objector’s discovery motions. It compelled Walsh to answer interrogatories. It granted discovery in favor of the Objector, including discovery aimed at third parties. At the same time, it left Walsh’s jurisdictional motions unresolved and did not grant Walsh’s reciprocal request to serve interrogatories on the Objector.

"Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause." Steel Co. v. Citizens for a Better Environment, 523 U.S. 83, 94 (1998), quoting Ex parte McCardle, 74 U.S. (7 Wall.) 506 (1868). If jurisdiction is lacking, orders entered without jurisdiction are void or of no effect. The tribunal should therefore avoid compelling discovery before jurisdiction is established. Fortunato (“any judgment ... would be void and have no effect”); Sullivan v. Smith, 90 Mass.App.Ct. 743 (2016) (“A judgment is void if the court from which it issues lacked jurisdiction over the parties”).

That sequence is incompatible with the jurisdiction-first rule. If the Commission lacked jurisdiction, it lacked power to compel discovery. If the objection was invalid under G.L. c. 55B, § 5, the Commission had no valid predicate to impose discovery obligations at all. And if the Objector lacked standing, he had no right to invoke Commission process against Walsh.

The order compelling discovery therefore operates as a de facto assertion of jurisdiction. The Commission may describe the motions to dismiss as still “pending,” but substance controls. By granting coercive discovery to the Objector, the Commission proceeded as though the objection

were valid enough to support the Commission's power. That is effectively a denial of the protection Walsh sought in his jurisdictional motions.

The harm is immediate. Walsh is now subject to discovery obligations in a ballot-access proceeding that may be jurisdictionally void. The Objector has received the benefit of Commission process before establishing that he filed a valid objection, timely delivered a proper challenged-signature list, or possesses standing. In a compressed election proceeding, that cannot be cured later. The statutory deadline is close, hearings are imminent, and discovery burdens will shape the merits presentation before the threshold defects are ever resolved.

The asymmetry of the Commission's ruling reinforces the prejudice. The Commission granted discovery to the Objector but did not grant Walsh's reciprocal request for interrogatories. Thus, while the Objector is permitted to use discovery to expand or support his objection, Walsh is denied reciprocal tools to test the Objector's standing, good grounds, communications, factual basis, and investigation. That is not a neutral preservation of the status quo. It is one-sided litigation power in a proceeding whose jurisdictional foundation remains disputed.

The Commission's order should be vacated. A tribunal cannot compel a party to litigate first and decide jurisdiction later. Nor can an objector use discovery to cure or supplement defects in an objection that was invalid or unsupported when filed. The proper course is dismissal of the objection on the threshold grounds already presented. At minimum, the discovery order cannot stand because it was entered before the Commission established its authority to proceed.

The Single Justice should vacate the order compelling Walsh to answer interrogatories and any related discovery or subpoena orders, and should order dismissal of the objection.

VII. The Equities and Public Interest favor immediate dismissal

The equities and public interest favor immediate dismissal. This case concerns the enforcement of mandatory ballot-objection rules enacted to protect both candidates and the public.

Walsh does not ask this Court to excuse noncompliance with the election laws. He asks the Court to enforce them. G.L. c. 55B, § 5 required the Objector to serve the objection by registered or certified mail, return receipt requested, and expressly provides that failure to do so invalidates the objection. The public interest is served when election statutes are applied as written.

The Objector has no legitimate reliance interest in prosecuting an objection that the statute declares invalid. Nor is the public harmed by requiring an objector to comply with the statutory prerequisites for invoking the Commission's jurisdiction. Those prerequisites exist because ballot challenges are serious. They can disrupt campaigns, burden candidates, and affect the voters' choices. Strict compliance protects the integrity of the process.

By contrast, Walsh faces immediate and irreparable harm if the objection proceeds. The Commission has compelled discovery, authorized discovery in favor of the Objector, left jurisdictional motions unresolved, and is operating under a compressed deadline. If the proceedings continue, Walsh will be forced to litigate ballot access under an invalid objection during the very period in which he should be campaigning. That harm cannot be adequately remedied after the Commission's statutory deadline has passed.

The public interest also favors preventing one-sided use of Commission process before jurisdiction is established. The Commission's discovery order grants the Objector the benefit of coercive process while denying Walsh reciprocal discovery and while leaving unresolved whether the Objector validly invoked the Commission's jurisdiction at all. That is not a neutral election process.

Immediate dismissal would not interfere with a valid ballot objection. It would recognize that no valid objection exists. The statutory consequence of the admitted service failure is

invalidation. Once the objection is invalid, the Commission has no jurisdictional predicate to proceed, and the equities favor bringing the matter to an end now.

Nor can the Commission preserve its jurisdictional motions in name while allowing the Objector to obtain the benefits of jurisdiction in practice. The Objector may not use discovery to cure an objection that was invalid when filed. The Commission may not use discovery to postpone deciding whether there is a valid objection at all. And the Commission may not compel Walsh to participate in a proceeding whose jurisdictional foundation remains unresolved.

For purposes of emergency relief, the Commission's discovery orders should be treated as a de facto denial of Walsh's jurisdictional motions, or at least as a de facto assertion of jurisdiction sufficient to permit immediate judicial review. The Single Justice should decide the threshold issues now and order dismissal. The Plaintiffs will shortly file a statement of facts and appendix of documents before the Commission to verify the assertions herein.

Respectfully Submitted,

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Certificate of Service

I, Michael Walsh hereby certify that a copy of this was served upon the parties, Atty Corrigan and the Secretary and State Ballot Law Commission, by email and first class mail on this 18th day of June, 2026.

/S/ Michael Walsh