

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RICHARD J. LYMAN, WILLIAM F. WELD, and
ROBERT D. CAPODILUPO,

Plaintiffs,

v.

CHARLES D. BAKER, in his official capacity as
Governor of the Commonwealth of Massachusetts;
and WILLIAM FRANCIS GALVIN, in his official
capacity as Secretary of the Commonwealth of
Massachusetts,

Defendants.

CIVIL ACTION
NO. 18-10327-PBS

DEFENDANTS' NOTICE OF SUPPLEMENTAL AUTHORITY

Defendants respectfully submit this Notice to apprise the Court of a supplemental authority in support of Defendants' Motion to Dismiss Complaint (Dkt. # 21).

On September 21, 2018, a federal court in the Central District of California dismissed a complaint raising the same constitutional claims asserted here. *See* Order Re: Defendants' Motion to Dismiss the Complaint for Declaratory and Injunctive Relief, in *Rodriguez v. Brown*, No. 18-01422 (C.D. Cal.) (Dkt. # 83) (Marshall, J.) (copy attached). *Rodriguez* is one of the other pending cases filed by plaintiffs' counsel challenging "winner take all" methods for selecting Presidential Electors.

The court in *Rodriguez* dismissed the complaint with prejudice pursuant to Fed. R. Civ. P. 12(b)(6), concluding that the plaintiffs failed to state a claim under the Fourteenth or the First Amendment. The court relied on the Supreme Court's decisions in *McPherson v. Blacker*, 146

U.S. 1 (1892), and *Williams v. State Board of Elections*, 288 F. Supp. 622 (E.D. Va. 1968) (three-judge court), *aff'd per curiam*, 393 U.S. 320, *reh'g denied*, 393 U.S. 1112 (1969), as binding precedent that controlled the issues presented.

Respectfully submitted,

GOVERNOR CHARLES D. BAKER and
SECRETARY WILLIAM F. GALVIN,

By their attorneys,

MAURA HEALEY
ATTORNEY GENERAL

/s/ Amy Spector

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Dated: September 24, 2018

Certificate of Service

I hereby certify that the above Notice, which I filed electronically through the Court's electronic case filing system on September 24, 2018, will be sent electronically to all parties registered on the Court's electronic filing system.

/s/ Amy Spector

Amy Spector