

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS
SOUTHERN DISTRICT

SUPERIOR COURT

No. 226-2022-CV-00233

603 Forward, et al.

v.

David M. Scanlan, et al.

No. 226-2022-CV-00236

Manuel Espitia, Jr., et al.

v.

David Scanlan, et al.

ASSENTED TO MOTION TO CONSOLIDATE

Secretary of State David M. Scanlan and Attorney General John M. Formella, named as defendants in their official capacities in each of the above-captioned matters, by and through the Office of the Attorney General, move to consolidate both matters into a single docket. In support of this request, the defendants state as follows:

1. The superior court has discretionary power to “consolidate two or more cases,” “limited only by the requirements of justice.” *Associated Home Utilities, Inc. v. Town of Bedford*, 120 N.H. 812, 815 (1980).

2. The Superior Court Civil Rules contemplate that a court may consolidate two or more cases when, among other things, they “involv[e] common issues of law.” Super. Ct. R. 12(b).

3. The plaintiffs in the above-captioned cases filed complaints in the same county one business day apart, challenging recently enacted Senate Bill 418 (“SB 418”).

4. In each case, the respective plaintiffs ask the Court to declare SB 418 unconstitutional and to permanently enjoin its implementation and enforcement.

5. The plaintiffs in the second-filed case challenge SB 418 under Part I, Article 2-b of the New Hampshire Constitution.

6. The plaintiffs in the first-filed case, while also bringing claims under other theories, likewise assert a claim under Part I, Article 2-b.

7. Given that both sets of plaintiffs challenge the same law, seek the same ultimate relief, and assert a common legal theory, consolidation of these matters is appropriate.

8. The defendants therefore respectfully request that both complaints be consolidated in into a single docket.

9. The defendants further request that the Court set a single deadline of August 26, 2022, by which the defendants shall respond to both complaints. To the extent the defendants file a motion to dismiss in lieu of answers, the defendants assent to the plaintiffs having 30 days to respond to any such motion.

10. The plaintiffs in each case, through counsel, assent to the relief requested in this motion.

11. A copy of this motion is being filed in each of the above-captioned cases.

WHEREFORE, the defendants respectfully request that this Honorable Court:

A. Grant this motion to consolidate;

B. Consolidate each of the above-captioned cases into a single docket;

- C. Set a single deadline of August 26, 2022, by which the defendants shall answer or otherwise plead;
- D. Allow the plaintiffs 30 days to object or respond to any motion to dismiss, to the extent the defendants file one in lieu of an answer; and
- E. Grant such other and further relief as justice may require.

Respectfully submitted,

David M. Scanlan, in his official capacity as
Secretary of State

&

John M. Formella, in his official capacity as
Attorney General

By their attorney,

JOHN M. FORMELLA
ATTORNEY GENERAL

Date: July 19, 2022

By: /s/ Samuel Garland

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion was sent via the Court's electronic filing system to all parties of record.

Date: July 19, 2022

/s/ Samuel Garland
Samuel R.V. Garland.