

## COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT  
TRIAL COURT OF THE COMMONWEALTH  
CIVIL ACTION NO. 15-0494E

1A AUTO, INC. and  
126 SELF STORAGE, INC.,

Plaintiffs,

V.

MICHAEL SULLIVAN, Director,  
Office of Campaign and Political Finance,

Defendant.

## PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs, by and through their undersigned counsel, respectfully move pursuant to Mass. R. Civ. P. 65 for a preliminary injunction. Attached hereto is a Memorandum in Support of Plaintiffs' Motion for Preliminary Injunction, which demonstrates in detail the grounds for granting this motion. In short, the grounds for this motion are as follows:

1. Plaintiffs seek this injunction to halt a brazen discrimination in Massachusetts law: G.L. c. 55, § 8 bans businesses from making political contributions, while allowing robust contributions by unions.

2. Issuance of a preliminary injunction to abate the Section 8 contribution ban is appropriate here because: (1) Plaintiffs are likely to succeed on the merits; (2) they are likely to suffer irreparable harm in the absence of preliminary relief; (3) the risk of irreparable harm to Plaintiffs outweighs the potential harm to Defendant; and (4) an injunction is in the public interest. *Tri-Nel Mgmt., Inc. v. Bd. of Health of Barnstable*, 433 Mass. 217, 219 (2001).

3. Plaintiffs are likely to succeed on the merits because, on its face and as enforced by Defendant, G.L. c. 55, § 8 imposes an outright ban on political contributions by business corporations to candidates, parties, and political committees, both directly from their general corporate treasuries and indirectly from business-controlled political action committees (“PACs”). Meanwhile, unincorporated groups, including labor unions, are allowed to contribute thousands of dollars to candidates, parties, and political committees, both directly from their general treasuries and indirectly from union-controlled PACs. There is no legitimate justification for allowing unions to contribute thousands of dollars to candidates, parties, and political committees, while completely banning any contributions from businesses. This lopsided ban on political contributions violates Plaintiffs’ rights of equal protection, free speech, and free association protected by the Massachusetts and United States constitutions.

4. The ongoing deprivation of Plaintiffs’ constitutional rights constitutes irreparable harm. *T & D Video, Inc. v. City of Revere*, 423 Mass. 577, 582 (1996). Because Plaintiffs raise a substantial constitutional claim, no further showing of irreparable harm is necessary. *Id.*

5. The balance of equities tips in Plaintiffs’ favor because the contribution ban is unnecessary to assuage concerns “properly addressed by contribution limitations and disclosure requirements.” *Opinion of the Justices to the House of Representatives*, 418 Mass. 1201, 1210 n.8 (1994).

6. It is obvious that the public interest is served by requiring strict adherence to the Constitution, which is all that Plaintiffs request here. See *Bettigole v. Assessors of Springfield*, 343 Mass. 223, 236 (1961).

///

///

///

///

WHEREFORE, Plaintiffs respectfully ask this Court to declare G.L. c. 55, § 8 unconstitutional and enjoin Defendant from enforcing G.L. c. 55, § 8 to the extent that it prohibits Plaintiffs from contributing to political candidates, PACs, or party committees.

Respectfully submitted,

1A AUTO, INC. and 126 SELF STORAGE, INC.,

By their attorneys,



James Manley (*admitted pro hac vice*)

Aditya Dynar (*admitted pro hac vice*)

**Scharf-Norton Center for  
Constitutional Litigation at the  
GOLDWATER INSTITUTE**

500 E. Coronado Road

Phoenix, AZ 85004

602-462-5000

[litigation@goldwaterinstitute.org](mailto:litigation@goldwaterinstitute.org)

Gregory D. Cote, BBO # 645943

McCarter & English, LLP

265 Franklin Street

Boston, MA 02110

(617) 449-6500

[gcote@mccarter.com](mailto:gcote@mccarter.com)

April 16, 2015

**CERTIFICATE OF SERVICE**

I, James Manley, hereby certify that on this 16<sup>th</sup> day of April, 2015, a true and accurate copy of the foregoing Motion for Preliminary Injunction was served via overnight mail, postage prepaid, upon the following:

Tori T. Kim  
Assistant Attorney General  
Office of Attorney General Maura Healey  
One Ashburton Place  
Boston, MA 02108  
*Attorney for Defendant*