

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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ROBERT DRAPER, et al.		)	
		)	
Plaintiffs,		)	
		)	
v.		)	1:14-CV-12471-NMG
		)	
MARTHA COAKLEY, in her official capacity as		)	
ATTORNEY GENERAL OF MASSACHUSETTS		)	
		)	
Defendant.		)	
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**DEFENDANT’S MOTION TO DISMISS  
ALL CLAIMS OR STAY PROCEEDINGS ON ABSTENTION GROUNDS**

Plaintiffs challenge the constitutionality of a regulation, 940 Mass. Code Regs. 16.05(3), which sets safety standards for handguns sold by handgun dealers. Martha Coakley, Attorney General for the Commonwealth of Massachusetts, hereby moves to dismiss this action pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6). The grounds for this motion are set forth in detail in the accompanying memorandum of law but can be summarized as follows.

1. Plaintiffs all lack standing to bring their claims;
2. Plaintiffs fail to state any claims upon which relief can be granted; and
3. In the alternative, if Massachusetts courts could offer an interpretation of 940 Mass. Code Regs. 16.05(3) that would render the constitutional issues moot, this Court should abstain and allow Massachusetts courts a full opportunity to interpret the regulation.

WHEREFORE, the Attorney General respectfully requests that this Court dismiss Plaintiffs' complaint, with prejudice.

**REQUEST FOR ORAL ARGUMENT**

Pursuant to Local Rule 7.1(d), the Attorney General requests a hearing on this dispositive motion, on the ground that oral argument is likely to be of assistance to the Court.

MARTHA COAKLEY  
ATTORNEY GENERAL

/s/ Glenn Kaplan  
Glenn Kaplan, BBO# 567308  
Assistant Attorney General  
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Dated: August 22, 2014

**LOCAL RULE 7.1(a)(2) CERTIFICATION**

I hereby certify that I attempted to confer with counsel for Plaintiffs via phone and e-mail on August 20-21, 2014. I received responses from counsel for Plaintiffs on August 21, 2014. Counsel did not consent to the dismissal of the action.

/s/ Glenn Kaplan  
Glenn Kaplan, BBO# 567308  
Assistant Attorney General

**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed through the Electronic Case Filing (ECF) system and thus copies will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF); paper copies will be sent to those indicated on the NEF as non registered participants on or before August 22, 2014.

/s/ Glenn Kaplan  
Glenn Kaplan, BBO# 567308  
Assistant Attorney General