

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION II
CIVIL ACTION NO. 04-CI-01537

FILED
DEC 19 2004
CLERK OF COURT

CHARLOTTE WOOD, et al

PLAINTIFFS

V.

**MOTION TO DISMISS PART OF COMPLAINT
AND FOR JUDGMENT ON THE PLEADINGS**

COMMONWEALTH OF KENTUCKY,
Ex re. Trey Grayson, Secretary of State,
In his official capacity

DEFENDANT

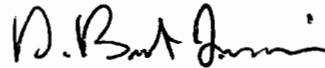
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Intervening Defendant Gregory D. Stumbo, Attorney General of the Commonwealth of Kentucky, moves pursuant to Ky.Civ. R 12.02(a) and 12.03 to dismiss Count I of the complaint in this "election challenge" for lack of jurisdiction; and he moves for judgment on the pleadings on Count II of the complaint. This Court should reject the plaintiffs' challenge to the constitutional amendment and declare the amendment was lawfully enacted pursuant to Section 265 of the Constitution of Kentucky. General Stumbo refers to his supporting Memorandum of Law as grounds for this motion.

WHEREFORE, the Commonwealth ex rel Stumbo demands that Count I of the Complaint be dismissed for lack of jurisdiction and failure to plead a justiciable controversy, and that the Court uphold the challenged amendment against the contention that it concerns more than one "unrelated subject." The Attorney General requests a declaratory judgment, recovery of the Commonwealth's costs, and any other relief to which movant or the Commonwealth may appear entitled.

Respectfully submitted,

GREGORY D. STUMBO
ATTORNEY GENERAL




D. BRENT IRVIN
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NOTICE

The foregoing motion will be heard at the regular motion of the Franklin Circuit Court on Monday the 13th day of December, beginning at the hour of 9:00 a.m., or as soon thereafter as counsel may be heard.

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing were mailed this 30th day of November, 2004, to: Hon. Trey Grayson, Secretary of State, 700 Capitol Avenue, Suite, 152, Frankfort, KY 40601; William Rambicure, Esq., 219 East High Street, Lexington, KY 50507; and J. Stan Lee, Esq., Vimont & Wills PLLC, 155 E. Main Street, Ste. 300, Lexington, KY 40507-1317



D. Brent Irvin
Assistant Attorney General