



representative party are typical of the claims or defenses of the class, and (4) the representative party will fairly and adequately protect the interests of the class.

The first three prerequisites to class certification are clearly satisfied. At oral argument on May 15, defendants' counsel represented that more than 2000 people are subject to the registration requirements of the Connecticut statute. See May 15th Hearing on Motions, Tr. at 11. All class members share the common question of law whether the statute violates a registrant's constitutionally protected liberty interest in not being designated a currently dangerous sex offender without notice and an opportunity to be heard. Plaintiff's claim is typical because defendants have denied all class members notice and an opportunity to be heard.

With regard to the fourth prerequisite to class certification, John Doe adequately represents the interests of the class. His counsel have experience prosecuting class actions and the Court has observed first-hand their conduct in this case. There is no apparent conflict of interest between John Doe and other class members.

Because these requirements are satisfied, the action may be maintained as a class action under Rule 23(b)(2) provided the defendants have acted on grounds generally applicable to the class. It is undisputed that they have. Accordingly, class certification is proper.

The only other matter that requires comment is the applicability of the line of cases associated with Galvan v. Levine, 490 F.2d 1255, 1261 (2d Cir. 1973), which teach that in circumstances like this class certification might well be unnecessary or at most a formality. See Vulcan Soc'y of N.Y. City Fire Dep't v. Civil Serv. Comm'n., 490 F.2d 387, 399 (2d Cir. 1973) ("If the examination procedures were found unconstitutional as regards the named plaintiffs, they were equally so as regards all eligible blacks and Hispanics, and it would be unthinkable that the municipal defendants would insist on other actions being brought."). Galvan is inapplicable because defendants have clearly stated that, in the absence of class certification, they will not extend the benefit of the Court's ruling in favor of John Doe to similarly situated registrants unless and until the ruling is affirmed on appeal. Given the defendants' position, class certification is essential.<sup>1</sup>

Dated at Hartford, Connecticut, this 18th day of May 2001.

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Robert N. Chatigny  
United States District Judge

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<sup>1</sup> Also, the Galvan line of cases is limited to suits seeking prohibitory injunctive relief. While "[t]he distinction between mandatory and prohibitory injunctions is not without ambiguities or critics," Jolly v. Coughlin, 76 F.3d 468, 474 (2d Cir. 1996), the element of the permanent injunction in this case requiring defendants to take down the website is mandatory.