

**COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION I
CIVIL ACTION NO. 17-CI-01348**

JEFFREY C. MAYBERRY, *et al.*

PLAINTIFFS

v.

ORDER

KKR & CO. LLP, *et al.*

DEFENDANTS

This matter is before the Court on both the Office of the Attorney General's ("OAG") Motion for Extension of Time, and Tia Taylor, Ashley Hall-Nagy, and Bobby Estes' (the "Tier 3 Group") Motion to Intervene. Both Motions were argued before the Court during its regular Motion Hour on Monday, February 8, 2021.

Hon. Victor Maddox presented the OAG's Motion. The OAG informed the Court that the Retirement Systems has entered into a contract with a law firm to perform an independent investigation into the nature and scope of Defendants' conduct alleged to be improper or illegal in this case. The OAG argues that the information gleaned from this investigation will be directly relevant and important to the OAG's forthcoming Amended Complaint and requests time for the work to be done in accordance with the contract between the Retirement Systems and the independent law firm. The OAG requests an additional six weeks before it files its Amended Complaint.

Hon. Michelle Lerach and Hon. James Baskin presented the Tier 3 Group's Motion. The Tier 3 Group argues that because the OAG has a Complaint presently on file in this case, the Court will be able to evaluate whether the OAG adequately represents the interests of the Tier 3 Group without having to wait for the OAG's Amended Complaint and will not have to evaluate them in a vacuum. It argues that the Retirement Systems had already performed a similar investigation to

determine the legitimacy of the Original Plaintiff's claims; the Tier 3 Group argues it should not have to wait for another investigation into the legitimacy of its claims since its claims and those of the Original Plaintiffs are substantially the same. And, they argue that the OAG and the Retirement Systems are situated fundamentally differently than one another as entities, with damages for recovery on behalf of the Commonwealth and damages recovered on behalf of the Retirement Systems on a derivative basis will be paid to the state treasury and to the Retirement Systems' trust fund, respectively.

As this Court has noted, this is a case which has been plagued by extensive delay. While the OAG should be permitted to submit its Amended Complaint following completion of the Retirement Systems' investigation so as to allow the Amended Complaint to be more fully developed, the Court does not believe that it should wait to receive arguments in response to the Tier 3 Group's Motion to Intervene. The Court will allow the Attorney General to delay his filing of his Amended Complaint, but sees no reason to further delay the consideration of the motion to intervene by the Tier 3 Group. The Tier 3 Group has asserted arguments for intervention, that will need to be addressed regardless of what the OAG will submit in its Amended Complaint. Accordingly, the Court **ORDERS** the following:

- (1) The OAG shall have until April 12, 2021 to file its Amended Complaint;
- (2) Any party that opposes the Tier 3 Group's Motion to Intervene shall have until March 2, 2021 to file a Response;
- (3) The Tier 3 Group shall have until March 8, 2021 to file its Reply;
- (4) The upcoming February 22, 2021 Status Conference is rescheduled for Monday, April 19, 2021 at 2:00 p.m. via Zoom. The Court will distribute the Zoom link in advance; and

(5) The Tier 3 Group’s Motion for Entry of Pretrial Order No. 1 and Motion for Accounting shall be rescheduled for a time after the Court has ruled on the Tier 3 Group’s motion to intervene.

So **ORDERED** this the 18th day of February, 2021.



PHILLIP J. SHEPHERD, JUDGE
Franklin Circuit Court, Division I

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