

**COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION ONE
CIVIL ACTION NO. 17-CI-1348**

FILED ELECTRONICALLY

JEFFREY C. MAYBERRY, et al.

PLAINTIFFS

v.

**OFFICER AND TRUSTEE DEFENDANTS’
JOINER IN OBJECTION TO FURTHER PROCEEDINGS IN
THIS ACTION AND MOTION TO ENFORCE MANDATE AND VACATE
CONSOLIDATION ORDER**

KKR & CO., L.P., et al.

DEFENDANTS

* * * *

Come Defendants, Brent Aldridge, T.J. Carlson, David Peden, and William Thielen (collectively, the “Officer Defendants”) and William S. Cook, Jennifer Elliott, Thomas Elliott, Bobby D. Henson, Vince Lang, Timothy Longmeyer, and Randy Overstreet (collectively, the “Trustee Defendants”) and hereby join in the Objection to Further Proceedings in this Action and Motion to Enforce Mandate and Vacate Consolidation Order filed by Defendant Prisma Capital Partners LP and others and now scheduled for argument on Monday, August 24, 2020.

As the Officer and Trustee Defendants have already stated in their Opposition to the Commonwealth’s Motion to Intervene in this action, where, as here, a plaintiff lacking constitutional standing to pursue particular claims has nevertheless commenced an action based on those claims, the court in which the action is filed “cannot hear the case.” *Commonwealth Cabinet for Health & Family Servs. v. Sexton*, 566 S.W.3d 185, 196 (Ky. 2018) (emphasis in original). Because the court acquires no jurisdiction over the matter, its sole authority to act in the matter is to announce that it has no authority to act and dismiss the case. *Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 94 (1992). That is undoubtedly why the Kentucky Supreme Court

stated in its Opinion in *Overstreet v. Mayberry*, No. 2019-SC-000041-TG, 2020 WL 4047469, at *2 (Ky. 2020): “Because we find that the Plaintiffs lack an injury in fact sufficient to support constitutional standing, **we dismiss this case** and do not reach the immunity issue.” (emphasis supplied).

Consolidation of another action into (or with) a non-justiciable case is inconsistent with this well recognized limitation on the authority of the courts in which non-justiciable cases have been filed.

Accordingly, the Officers and Trustees Defendants respectfully request that the Court vacate the order consolidating the Commonwealth’s new lawsuit and the captioned case and, in accordance with the Kentucky Supreme Court’s direction, dismiss this case and conduct no further proceedings in it.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The above signature certifies that on August 18th, 2020, the foregoing was electronically filed with the Clerk of the Court using the Court's e-filing system and pursuant to Notices of E-Service served via email pursuant to CR 5.02(2), to the following:

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