UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION AT FRANKFORT

SAMANTHA WIGGINTON, *et al.*,

Plaintiffs,

v.

COMMONWEALTH OF KENTUCKY, *et al.*,

Defendants.

CIVIL No. 3:26-cv-00035-CHB

DEFENDANT MILLER'S RESPONSE TO PLAINTIFFS' EXPEDITED MOTION TO EXTEND PRELIMINARY INJUNCTION DISCOVERY

Comes Defendant, Thomas B. Miller, in his official capacity as the Commissioner of the Department of Revenue, Finance and Administration Cabinet, Commonwealth of Kentucky ("Commissioner Miller"), by and through counsel, and in response to Plaintiffs' Expedited Motion to Extend Preliminary Injunction Discovery and for Expedited Consideration [DN. 117], states as follows:

As stated in the telephonic conference with the Magistrate Judge on September 29, 2026, Commissioner Miller does not object to Plaintiffs' proposed extension of the deadline for preliminary injunction discovery to October 23, 2026, for the purpose of conducting depositions that had been previously noticed or attempted, but which had yet to occur due to scheduling issues.

With that said, Commissioner Miller asserts that the Department of Revenue has complied with this Court's directive to participate in "limited discovery," and respectfully requests that the Plaintiffs not be granted an unlimited discovery extension.

As directed by this Court at the September 3, 2026, status conference, counsel for the Department provided Plaintiffs' counsel with the records that the Department of Revenue produced in response to two requests made pursuant to the Kentucky Open Records Act that appeared to be related to the case. Counsel also served its responses to Plaintiffs' Consolidated First Limited Interrogatories, Requests for Production, and Requests for Admission.

In addition, counsel for the Plaintiffs and Commissioner Miller met and conferred, where counsel for Commissioner Miller indicated there were no additional documents responsive to Plaintiffs' discovery requests, and Plaintiffs' counsel indicated that the Rule 30(b)(6) deposition of the Department of Revenue would focus on collection procedures following debt referrals by the universities to the Department. Relying on counsel's statements during the meet and confer, the Department of Revenue presented a corporate representative with knowledge of the process after a debt referral is received by the Department to be deposed on September 11, 2026.

However, Plaintiffs' counsel did not limit his questions to the Department's post-referral debt collection process. Instead, counsel questioned the witness about the pre-referral process and technical submission process/requirements, about which the designated witness had only general knowledge. The Department's witness identified two other Department workers who had more specific knowledge about those topics. Further, Plaintiffs' counsel questioned the Department's witness about the Department's responses to the Open Records requests and the Department's document-gathering process related to those requests Counsel objected to this line of questioning repeatedly, indicating that these questions were not matters to be discussed as agreed in the conference, and they were also beyond the scope of the topics listed in the deposition notice. Ultimately, the deposition was adjourned before it could be completed due to scheduling conflicts of the witness and Plaintiffs' counsel.

Counsel for Commissioner Miller and the Plaintiffs selected a mutually agreed-upon date (September 22, 2026) to continue the Department's corporate representative deposition. On that date, the Department presented as additional witnesses the two Department staff members who had been identified in the first part of the deposition, as well as the employee responsible for overseeing the Department's Open Records responses. Counsel also produced additional records to Plaintiffs' counsel that were not responsive to the Open Records requests but that had been referenced in the first part of the Department of Revenue's corporate representative's deposition. Despite counsel's attempt to complete the record via additional corporate representatives' testimony, Plaintiffs' counsel was unwilling to finish the deposition at that time and suggested a conference with the Magistrate Judge, instead.

Counsel for the Commissioner and the Department of Revenue presented its witnesses in good faith and with the goal of sharing clear information about the debt referral processes (both pre-referral and post-referral) for the continuing deposition on September 22, 2026. The Department's designated witnesses are prepared to discuss in more detail the pre-referral processes Plaintiff's counsel had questions about on September 11, 2026, including questions concerning the debt submission process/submission portal, and the Open Records process used in responding to the two Open Records requests that appear to be related to this case.

As set forth above, Commissioner Miller has no objection to extending time in order to permit Plaintiffs' counsel to pursue discovery from the federal agencies, complete the deposition of the Kentucky State University President, and complete the Department of Revenue's corporate representative deposition as set out above. However, Commissioner Miller respectfully requests that the Plaintiffs be limited to the discovery requests and deposition topics that their counsel has already identified and not be permitted to expand discovery on an unlimited basis.

Respectfully submitted,

/s/ Catherine A. Poole
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Counsel for Commissioner Thomas Miller

CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2026, I electronically filed the foregoing Response via the Court's CM/ECF system, causing counsel of record to be served.

/s/ Catherine A. Poole
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