

**COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
DIVISION I  
CIVIL ACTION NO. 18-CI-00379**

*Electronically filed*

COMMONWEALTH OF KENTUCKY etc. et al.

PLAINTIFFS

v.

MATTHEW G. BEVIN, etc. et al.

DEFENDANTS

\* \* \* \* \*

**NOTICE**

Please take notice that, pursuant to the Local Rules, this Motion for a Protective Order will be heard on Monday, May 7, 2018 at 9:00 a.m., or as soon thereafter as counsel may be heard, in Franklin Circuit Court, Division I, 222 Saint Clair Street, Frankfort, KY 40601.

**MOTION FOR PROTECTIVE ORDER**

The Plaintiff, Kentucky State Lodge Fraternal Order of Police (“FOP”), by counsel and pursuant to CR 26.03, hereby moves the Court to enter a Protective Order prohibiting Defendant Matthew G. Bevin (“Bevin”) from taking the deposition of the FOP in this matter. In support of this motion, Plaintiff states:

On April 30, 2018, Counsel for the Governor served the attached Notice of Deposition (Exhibit A) seeking to depose the FOP, through its representative(s), on May 9, regarding facts alleged in the Complaint. However, no facts appear to be in issue; instead, the questions to be resolved by the Court are purely legal. In these circumstances, discovery is neither necessary nor appropriate.

Moreover, the purpose of verifying the Complaint was to assure compliance with the requirements of CR 65 for immediate relief. But the issue of immediate relief is now moot in that

the Court is proceeding directly to the merits of the legal issues in the case. If an actual issue of material fact should present itself, the taking of depositions could be revisited. There is no purpose in depositions at present.

Following a status hearing on April 19, in which the Court did not entirely foreclose the possibility of discovery, but noted generally that it did not seem necessary at the time, this matter was set for an expedited briefing schedule with the Plaintiffs' first brief to be filed May 2. The schedule does not provide for discovery, and contemplates that the case is ready for resolution on the merits through briefing.

Upon a showing of good cause, the Court is empowered to issue protective orders under CR 26.03, limiting or prohibiting discovery "to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense." Deposition of an FOP representative is not reasonably calculated to lead to the discovery of admissible evidence, and would be unduly burdensome where there are no facts in dispute. In addition, the tight briefing schedule for motions regarding the merits of the case makes the taking of deposition impracticable in the short time frame available. For these reasons, the FOP respectfully submits that a protective order prohibiting the deposition is warranted.

RESPECTFULLY SUBMITTED,

*s/David Leightty*

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KENTUCKY STATE LODGE FRATERNAL  
ORDER OF POLICE

**CERTIFICATE OF SERVICE**

It is hereby certified that the foregoing was electronically filed via the Court's electronic filing system on this 2nd day of May, 2018, which will send a copy to all counsel of record.

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*s/David Leighty*

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## EXHIBIT 1

**COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
DIVISION I  
CASE NO. 18-CI-379**

COMMONWEALTH OF KENTUCKY,  
*ex rel.* ANDY BESHEAR, ATTORNEY GENERAL, *et al.*

PLAINTIFFS

V.

MATTHEW G. BEVIN, in his official capacity  
as Governor of the Commonwealth of Kentucky, *et al.*

DEFENDANTS

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**NOTICE OF DEPOSITION**

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Under CR 30.02(6), please take notice that undersigned counsel will take the deposition of Plaintiff Kentucky State Lodge Fraternal Order of Police ("FOP") at 700 Capital Avenue, Room 110, Frankfort, Kentucky 40601 on May 9, 2018 at 3:00 p.m. EDT. The deposition will be taken before a notary public, and the testimony will be recorded stenographically and by video to be used for all purposes permitted by the Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence.

FOP shall designate a representative or representatives who can testify about the allegations that FOP's President Berl Perdue, Jr. verified in the Verified Complaint filed in this action.

Submitted by,



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FRANKLIN CIRCUIT COURT  
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COMMONWEALTH OF KENTUCKY etc. et al.

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\* \* \* \* \*

**ORDER**

Upon motion of the Plaintiff, Kentucky State Lodge Fraternal Order of Police (“FOP”), by counsel, for a Protective Order pursuant to CR 26.03, prohibiting Defendant Matthew G. Bevin from taking the deposition of the FOP. The Court, having reviewed the Motion and being otherwise sufficiently advised, IT IS HEREBY ORDERED that FOP’s Motion for Protective Order is GRANTED.

SO ORDERED, this \_\_\_\_ of May, 2018.

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JUDGE, FRANKLIN CIRCUIT COURT  
DIVISION I

Tendered by:

s/David Leightty  
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