

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION II

CIVIL ACTION No. 17-CI-574

Order
17-CI-574

ENTERED
JAN 23 2018
FRANKLIN CIRCUIT COURT AMY FELDMAN, CLERK

FRED ZUCKERMAN, et al.,

PLAINTIFFS

vs.

MATTHEW G. BEVIN, GOVERNOR, et al.,

DEFENDANTS

ORDER

This matter is before the Court upon Plaintiffs' *Motion for Partial Summary Judgment* and Defendants' *Motion to Dismiss*. The case was called before the Court during its regular civil motion hour on Wednesday, September 20, 2017. Upon review of the parties' briefs and papers, and after being sufficiently advised, the Court hereby **GRANTS** Defendants' *Motion* and **DENIES** Plaintiffs' *Motion*.

STATEMENT OF FACTS

The Kentucky General Assembly enacted HB 1, the Kentucky Right to Work Act (KRTW Act) with the goal of attracting new investment and creating new jobs within the Commonwealth on January 7, 2017. Governor Bevin signed it into law on January 9, 2017.

On May 25, 2017, Plaintiffs challenged the legislation arguing that the law Defendants seek to enforce takes union members' property without just compensation, violates the equal protection and arbitrary action provisions of the Kentucky Constitution, is special legislation, and lacks a stated emergency necessary to quickly enact the statute. On June 23, 2017, Defendants moved the Court for dismissal of this matter. The Court

allowed movant employees to intervene in this matter on July 25, 2017. Plaintiffs' moved for partial summary judgment on December 13, 2017.

I. THE COURT WILL FIRST REVIEW PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT.

STANDARD OF REVIEW

Summary judgment is appropriate when the Court concludes that no genuine issue of material fact for which the law provides relief exists. CR 56.03. Summary judgment "shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, stipulations, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." CR 56.01.

The moving party bears the initial burden of showing the non-existence of a genuine issue of material fact, and the burden then shifts to the opposing party to affirmatively show the absence of a genuine issue of material fact. *Jones v. Abner*, 335 S.W.3d 471, 475 (Ky. Ct. App. 2011). The movant will only succeed by showing "with such clarity that there is no room left for controversy." *Steevest, Inc. v. Scansteel Service Ctr.*, 807 S.W. 2d 476, 482 (Ky. 1991). "The inquiry should be whether, from the evidence on record, facts exist which would make it possible for the non-moving party to prevail. In the analysis, the focus should be on what is of record rather than what might be presented at trial." *Welch v. Am. Publ'g Co. of Kentucky*, 3 S.W.3d 724, 730 (Ky. 1999). In reviewing Motions for Summary Judgment, the Court views all facts in the light most favorable to the non-moving party and resolves all doubts in its favor. The Court will only grant summary judgment when the facts indicate that the nonmoving

party cannot produce evidence at trial that would render a favorable judgment. *Steelvest*, 807 S.W. 2d at 480.

The Court recognizes that the summary judgment is a device that should be used with caution and is not a substitute for trial. “[T]he proper function of summary judgment is to terminate litigation when, as a matter of law, it appears that it would be impossible for the respondent to produce evidence at the trial warranting a judgment in his favor.” *Jones v. Abner*, 335 S.W.3d at 480. Thus, this Court finds that summary judgment will be proper when it is shown with clarity from the evidence on record that the adverse party cannot prevail, as a matter of law, under any circumstances.

ANALYSIS

1. The KRTW Act does not constitute a regulatory taking.

The Kentucky Constitution deals with takings in two sections. First, Section 13 of the Constitution states:

No person shall, for the same offense, be twice put in jeopardy of his life or limb, nor shall any man’s property be taken or applied to public use without the consent of his representatives, and without just compensation being previously made to him.

Further, Section 242 reads that:

Municipal and other corporations, and individuals invested with the privilege of taking private property for public use, shall make just compensation for property taken, injured or destroyed by them; which compensation shall be paid before such taking, or paid or secured, at the election of such corporation or individual, before such injury or destruction. The General Assembly shall not deprive any person of an appeal from a preliminary assessment of damages against any such corporation or individual made by Commissioners or otherwise; and upon appeal from such preliminary assessment, the amount of such damages shall, in all cases, be determined by a jury, according to the course of the common law.

The Kentucky Constitution “has been interpreted repeatedly to prohibit the taking of private property for public use without compensation, and this prohibition has been consistently construed to forbid the taking of private property for private uses.” *City of Owensboro v. McCormick*, 581 S.W.2d 3, 5 (Ky. 1979) (citing 29A C.J.S. *Eminent Domain* § 29 (1965)). The requirements for a taking, based on federal law, require Plaintiffs to prove that the KRTW Act takes their property without just compensation. *Prater v. City of Burnside*, 289 F.3d 417, 425 (6th Cir. 2002) (quoting *Murray v. United States*, 817 F.2d 1580, 1583 (Fed. Cir. 1987)). The Court holds that Defendants’ enforcement of the KRTW Act does not take Plaintiffs’ property.

The Court finds that Plaintiffs lack a property interest which the government could take, despite Plaintiffs’ assertion that future union services and union security contract clauses both constitute property interests. First, Plaintiffs liken the union services to those uncompensated counsel provided to indigent criminal defendants in *Bradshaw v. Ball*, 487 S.W.2d 294 (Ky. 1972). In that case, the Kentucky Supreme Court held that requiring counsel to represent indigent criminal defendants for free amounted to a substantial property deprivation without just compensation. *Id.* at 298-99. Plaintiffs analogize this principle to union services, such as negotiation and grievance processing, because under the KRTW Act unions must provide these services to non-members with no compensation. Next, Plaintiffs contend that union security contract clauses are property interests because the clauses allow unions to be the exclusive bargaining representative for an organization and guarantee a shared cost between dues paying members and service-fee-paying-non-members.

The Court agrees with Plaintiffs that the law recognizes contracts as viable property interests. *Lynch v. United States*, 292 S.W. 571, 578 (1934). The Court also recognizes that collective bargaining agreements existing prior to the enactment of the KRTW Act are vested property rights. However, the Court finds that a distinction exists between future union security contracts and existing union security contracts.

A property interest is a legal creation of “existing rules or understandings that stem from an independent source such as state law” define. *Calvert Investments, Inc. v. Louisville & Jefferson County Metro. Sewer Dist.*, 847 F.2d 304, 307 (6th Cir. 1988) (quoting *Board of Regents v. Roth*, 408 U.S. 564, 577 (1972)). Prior to the enactment of the KRTW Act, unions enjoyed a property interest in union security contracts. The contracts were standard practice in certain industry labor contracts and governed labor relations. Unions, acting as the exclusive bargaining agent, negotiated the terms of the contracts as part of the collective bargaining agreements with employers. The Taft-Hartley Act, the federal law governing union security contracts, defined these contracts to constitute a cognizable property interest. However, in its creation, Congress limited the Taft-Hartley Act from serving as an immortal fixture of American labor policy by allowing states to alter state labor policy. 29 U.S.C. § 164(b) (2017). The law limits the application of future contracts if “in any State or Territory in which such execution or application is prohibited by State or Territorial law.” 29 U.S.C. § 164(b) (2017).

The Court agrees with Defendants’ reasoning that the enforceability of union security contracts, based upon the Taft-Hartley Act, depends on a state’s legislation surrounding the contracts. When the Kentucky General Assembly passed the KRTW Act and the Governor signed the legislation into law, as permitted by federal law, the Act

erased unions' future property interest in security contracts. Existing union security contracts remain a vested property interest and are enforceable. However, following the enactment of the KRTW Act, any future union security contracts no longer have federally sourced statutory muster and no longer constitute a cognizable property interest for unions.

The General Assembly is the body charged with the task of legislating the Commonwealth to best serve the people, as a majority of duly elected representatives see fit. The KRTW Act overwrote the Commonwealth's former labor policy, and it voided Plaintiffs' property interest in future union security contracts. To not apply the new law would frustrate the General Assembly's ability to legislate within the Commonwealth. The Court cannot continue to recognize and enforce a future property interest which simply does not exist under the KRTW Act – to do so would improperly credit the former law and discredit the current law.

The Court also holds that unions do not have a cognizable property interest in union services. The KRTW Act does not prevent unions from collecting dues from members or employees operating under existing union security clauses; nor does the KRTW Act limit the ability of a union to serve as the exclusive bargaining agent for a given industry or organization. The KRTW Act only limits the unions' ability to collect dues from non-members. Without a future contractual obligation for non-members to pay dues to unions or charities, the union does not have a property interest in the exclusive bargaining services they provide in the future to non-members. Unions do have a vested property interest in the dues for services that they collect from union security contracts enacted prior to the KRTW Act.

The Court further holds that the KRTW Act does not constitute a taking. In *Commonwealth of Kentucky, Natural Resources & Environmental Protection Cabinet v. Stearns Coal & Lumber Co.*, 678 S.W.2d 378 (KY. 1984), the Kentucky Supreme Court created a test relevant to determining if an action constituted a regulatory taking:

(1) the economic impact of the law on the claimant, (2) the extent to which the regulation has interfered with distinct investment-backed expectations, (3) the “character” of the governmental action, that is whether the action is a physical invasion versus a public program adjusting the benefits and burdens of economic life to promote the common good, (4) what uses the regulation permits, (5) that the inclusion of the protected property was not arbitrary or unreasonable, and (6) that judicial review of the agency decision was available.

Id. at 381. The Court finds that Plaintiffs have not met the *Stearns Coal* test. First, the Court finds that the economic impact of the law on Plaintiffs is limited to the lack of dues unions will be able to collect from non-members. However, under the National Labor Relations Act (NLRA), unions may allow employees to present grievances to the employer without assistance from the union. Courts have ruled that unions have discretion to consider factors whether pursuing the grievance is in the best interest of the union or the bargaining unit as a whole. *Neal v. Newspaper Holdings, Inc.*, 349 F.3d 363, 369 (7th Cir. 2003). The Court finds that the economic impact of lost non-member fees is not grievous enough to constitute a taking. Next, unions have long known that the privilege of exclusive representation comes with the obligation of exclusively representing all members of an organization. Under the Taft-Hartley allowance for state right-to-work laws, a state may change its labor policy. Unions have had notice of a potential change in state legislation, and the reality that legislation may change has long colored the scope of a union’s investment backed expectations.

The third prong of the test requires the governmental action to “promote the common good.” Just as the NRLA’s enactment served to enable unions to balance power with employers, Kentucky legislators have determined that the common good now is best served by enacting right-to-work legislation. The Court is not the body aptly equipped to determine what legislation is for the common good. The General Assembly deemed the purpose of the KRTW Act as creating jobs and attracting business investment in the Commonwealth. This aim, the Court finds, is reasonably related to the purpose of promoting the common good. Next, the regulation does not define how unions manage members and non-members, so unions are left to their discretion for operation. The KRTW Act is not arbitrary nor unreasonable, and judicial review remains available for all union procedures. Therefore, the Court finds that no regulatory taking occurs by enforcing the KRTW Act.

The Court is further persuaded by a recent decision in *Sweeney v. Pence*, 767 F.3d 654 (7th Cir. 2014), in which the Court differentiated the role of federal and state law regarding the alleged taking of union property. In that case, the 7th Circuit Court held that Indiana’s right-to-work law, which is similar to Kentucky’s law, did not take unions property. Rather, the Court determined that:

The Union’s alleged deprivation is the product of federal law and the Indiana statute operating in tandem. Because it is federal law that provides a duty of fair representation, Indiana’s right-to-work statute does not “take” property from the Union – it merely precludes the Union from collecting fees designed to cover the costs of performing the duty.

Id. at 666. It is the federal law, not Kentucky law, that potentially constitutes a taking from the union. The NRLA imposes the duty of fair representation on unions, which requires the expenditure of union funds for the collective bargaining and exclusive

representation of union members and non-members, not the KRTW Act. Therefore, Kentucky's limitation of employees from whom unions can collect dues is not a taking of union property but rather is a prevention of Kentucky employees paying compulsory union dues. The takings issue is more apt to be brought before federal law makers and federal judiciaries.

The Court holds that unions do not have a vested property interest in future union security contracts or union services. Unions do have an ongoing property interest in union security contracts formed prior to the enactment of the KRTW Act. Additionally, the Court also finds that the KRTW Act does not constitute a regulatory taking of union property.

2. The KRTW Act does not violate the equal protection provisions of the Kentucky Constitution.

The Court holds that the KRTW Act does not violate the Kentucky Constitution's equal protection provisions. "Sections 1, 2, and 3 of the Kentucky Constitution[,] which provide that the General Assembly is denied arbitrary power and shall treat all persons equally, suffice to embrace the equal protection clause of the Fourteenth Amendment." *Tabler v. Wallace*, 704, S.W.2d 179, 183 (Ky. 1985). The Court reviews laws for disparate treatment of like situated groups of people. *Vision Mining, Inc. v. Gardner*, 364 S.W.3d 455, 465 (Ky. 2011). However, statutory classifications are not per se unconstitutional. See *Vision Mining, Inc. v. Gardner*, 364 S.W.3d 455, 465 (Ky. 2011) (citing *Romer v. Evans*, 517 U.S. 620, 631 (1996)). For laws dealing with social or economic policy, the Court is to apply a rational basis analysis which requires a rational relationship between the law and a legitimate state purpose. *D.F. v. Codell*, 127 S.W.3d 571, 575 (Ky. 2003).

The Court holds that rational basis review applies to the KRTW Act because the law does not attack either an individual's fundamental right nor the status of a protected class of people; and thus, the law does not require strict or intermediate scrutiny when evaluating its purpose. *Local 514 Transp. Workers Union of Am. v. Keating*, 358 F.3d 743, 754 (10th Cir. 2004); *Sweeny*, 767 F.3d at 670-1. The Court looks to the legislation to see if a reasonable basis exists for its enactment. Creating jobs and increasing business investiture in the Commonwealth is both a legitimate state function and the stated goal of the KRTW Act. The Court is not the appropriate body to weigh the effectiveness of the legislation, but rather merely must find that a rational basis exists to uphold a law. The Court finds that a rational basis exists for the legislation because it is economic policy, enacted by the legislature, with the aim to increase business investment and development in the Commonwealth.

The legislation does not treat unions differently than similarly situated organizations because unions are unique, federally created entities. First, Plaintiffs compare themselves to chambers of commerce. However, chambers of commerce are voluntary, non-profit lobbying groups. Membership in a chamber of commerce is not mandatory, and chambers of commerce may only collect dues from those individuals and businesses who seek to participate in the lobbying collective. Chambers of commerce are not federally mandated entities, and they do not have exclusive bargaining power to negotiate on behalf of all businesses in each community. Labor unions, conversely, maintain exclusive bargaining authority for all members and non-members in a shop. Therefore, chambers of commerce's inability to collectively bargain for all businesses, unlike a union's ability to bargain for all members and non-members of an organization,

differentiate the two entities. Chambers of commerce are not like-situated peers to the labor union.

Next, professional licensing organizations are also different than unions. The state, not federal, government creates and maintains professional licensure standards boards. These organizations were created to benefit the public welfare by standardizing skills that professionals may inflict on the public, and to “raise the quality of professional services.” *Kentucky Bar Association v. Welke*, 766 S.W.2d 633, 634 (Ky. 1989). Professional standards boards do not act as a bargaining agent for all members of the profession. The purpose of these organizations is inherently distinct from that of a labor union. The Court finds that no similarity exists between unions and professional standards or licensing organization for the purpose of an equal protection analysis. Without disparate treatment between like groups, the Court holds that the KRTW Act does not treat a specific group differently than another and thus does not violate equal protection guaranteed by the Kentucky Constitution.

3. The KRTW Act has a rational basis for its existence, and it is reasonably tailored to meet the purpose of fulfilling its purpose.

Plaintiffs argue that the KRTW Act legislates economic policy for stated economic reasons but does not have a “substantial and justifiable reason” to support the classifications it makes. *Cain v. Lodesar Energy, Inc.*, 302 S.W.3d 39, 43 (Ky. 2009). To bolster this argument, Plaintiffs cite a recent Franklin Circuit Court decision, *Claycomb v. Commonwealth of Kentucky, Cabinet for Health and Family Services, ex. Rel. Vicki Yates Brown Glisson*, Civil Action No. 17-CI-708, at 1 (Franklin Circuit Court, Div. I, Oct. 30, 2017), for the proposition that Kentucky’s Constitution guarantees a heightened standard

of review for cases implicating a violation of equal protection. However, as the Court stated above, the KRTW Act does not implicate any form of an equal protection violation. The statutory classification created by the KRTW Act is one that is purely economic, so the KRTW Act must only have a rational relationship to a legitimate state purpose. *D.F. v. Codell*, 127 S.W.3d at 576. As the Court stated above, the purpose for the KRTW Act is to promote business investment and development within the Commonwealth.

The judiciary is not the appropriate body to weigh the aptness of a policy the legislature enacted, but must ensure that a rational basis exists for a given statute – which is present in the KRTW Act. The issues of fact which Plaintiffs raise are not genuine issues of material fact, but rather they are facts to be debated at the time of enacting legislation. The General Assembly is the body tasked with weighing the merits of right-to-work legislation, not the Court. With a finding that a legitimate state interest exists, and that the statute is reasonably tailored to meet that end, the Court holds that the statute survives rational basis scrutiny.

4. The KRTW Act is not special legislation.

The Court holds that the KRTW Act does not constitute special legislation because the Act does not distinguish any class or group to whom the law applies. The KRTW Act § 1 defines an employee to be “any person employed by or suffered or permitted to work for a public or private employer.” Ky. Rev. Stat. § 336.130 (3)(b). Therefore, it is clear that the Act applies to all employees in the state. In fact, the only citizens of the Commonwealth to whom the KRTW Act are non-employed people. Further, the penalties enumerated in the KRTW Act § 3 apply to all persons in the

Commonwealth who violate the act. Unions, while mentioned in the Act, are not the exclusive targets of a penalty for which a punishment may be given. The Court, as analyzed above, holds that unions are not similarly situated to any other professional organization in existence in the Commonwealth. Therefore, the application of the law is presently likely to only impact unions operations. However, the law is not exclusive to union operations. If any future organizations arise and attempt to create a union security contract or quasi-union security contract that functions similarly to those historically enacted by unions, the law will apply to those organizations. The created classification applies to all entities that operate in the same manner as a union, however no such organization exists currently in the Commonwealth. Therefore, the broad application of the Act to all employees and employers in the Commonwealth, and similar broad imposition of a penalty to all who violate the act, clearly indicate that the KRTW Act is not special legislation.

5. The KRTW Act does not lack an emergency purpose.

The Court finds that the General Assembly stated a purpose for the KRTW Act in Section 14 of House Bill 1, "Whereas it is critical to the economy and citizens of Kentucky to attract new business and investment into the Commonwealth as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law." The Court is not the proper body to determine whether the stated emergency existed. The Court must find that the legislature stated an emergency purpose to enact emergency legislation, which it did. The Court holds that an emergency purpose existed for the KRTW Act.

Wherefore, Plaintiffs' *Motion for Partial Summary Judgment* is hereby **DENIED**.

II. THE COURT WILL NEXT EVALUATE DEFENDANTS' MOTION TO DISMISS.

STANDARD OF REVIEW

Under Kentucky law, when a court considers a motion to dismiss under Civil Rule 12.02, "the pleadings should be liberally construed in a light most favorable to the plaintiff and all allegations taken in the complaint to be true." *Gall v. Scroggy*, 725 S.W.2d 867, 869 (Ky. Ct. App. 1987) citing *Ewell v. Central City*, 340 S.W.2d 479 (Ky. 1960). "The court should not grant the motion unless it appears the pleading party would not be entitled to relief under any set of facts which could be proved in support of his claim." *Mims v. W.-S. Agency, Inc.*, 226 S.W.3d 833, 835 (Ky. Ct. App. 2007) quoting *James v. Wilson*, 95 S.W.3d 875, 883-84 (Ky. Ct. App. 2002). In *D.F.Bailey, Inc. v. GRW Engineers Inc.*, 350 S.W.3d 818 (Ky. Ct. App. 2011), the Kentucky Court of Appeals discussed a trial court's standard of review when ruling on a motion to dismiss. "[T]he question is purely a matter of law. [...] Further, it is true that in reviewing a motion to dismiss, the trial court is not required to make any factual findings, and it may properly consider matters outside of the pleadings in making its decision. *Id.* at 820 (internal citations omitted).

ANALYSIS

For the reasons stated above, the Court finds that Plaintiffs have not presented a claim that would be entitled to judicial relief. The issues presented in this case are purely matters of law, and under no set of facts would they warrant judicial relief. The Court **DISMISSES** this matter.

The KRTW Act does not implicate a property interest in future union security contracts. Plaintiffs' unilateral expectation in the continued enforcement of union security clauses in employee contracts does not amount to a vested property interest. The Taft-Hartley Act, the law that empowers the use of union-security clauses simultaneously allows states to prohibit the application of the contracts. 29 U.S.C. § 164(b) (2017). When the General Assembly enacted the KRTW Act, it chose to preclude the continued efficacy of union security clauses in Kentucky employment agreements. The Court maintains that existing unions security agreements, enacted prior to the KRTW Act, remain vested property interests; however future union security contracts do not constitute a vested property interest. Unions also do not hold property interest in dues or fees generated by collective bargaining or representation. *See Davenport v. Washington Education Association*, 551 U.S. 177, 185 (2007) (citing *Lincoln Federal Labor Union v. Northwestern Iron & Metal Co.*, 335 U.S. 525, 529-31 (1949)).

The KRTW Act does not constitute a taking of property. Plaintiffs hold no vested property rights in either future union security contracts nor future union fees or dues. Further, it is federal law that mandates unions to have exclusive representation of member and non-member employees. Therefore, a state's law that discontinues the operation of union security contract "does not 'take' property from the Union—it merely precludes the Union from collecting fees designed to cover the costs of performing the duty." *Sweeney v. Pence*, 767 F.3d at 666. The KRTW Act does not meet the *Stearns Coal* test to constitute a regulatory taking, as analyzed above.

Right-to-work legislation falls within the purview of the Kentucky legislature to enact laws as a valid exercise of the police power so long as an expense or loss of

property does not constitute a taking without the provision of just compensation in return. *Commonwealth v. R.J. Corman Railroad Co./Memphis Line*, 116 S.W.3d 488, 494 (Ky. 2003) (quoting *City of Shively v. Illinois Central Railroad Co.*, 349 S.W.2d 682, 685 (Ky. 1961)). Economic policy legislation that meets the constitutional muster of rational basis review, which the Court holds that the KRTW Act does, as fully explained above, constitutes a valid exercise of the state's police power. The loss of non-member fees collected does not constitute a regulatory taking because Plaintiffs had no vested property interest in future union security contracts. Therefore, the legislature acted within its police power authority to alter the Commonwealth's economic policy. Any lost payment of compulsory union dues is not a taking because future union dues and fees do not constitute a vested property interest with which the government is interfering.

The KRTW Act does not violate Plaintiffs' constitutional right to equal protection nor is it arbitrary and capricious. The KRTW Act is an act relating to economic policy, and therefore the Court will only apply rational basis in reviewing its alleged arbitrariness or capriciousness. *D.F. v. Codell*, 127 S.W.3d at 575. Rational basis merely requires a rational relationship between the law and a legitimate state purpose. *Id.* The General Assembly's aim of promoting industrial investment in the Commonwealth both meets the stated goal of the KRTW Act and is a legitimate state function. The KRTW has a rational basis for existence., and thus it is not arbitrary or capricious.

Further, the KRTW Act does not treat similarly situated plaintiffs differently. Without similarity existing between unions and other professional organizations, such as chambers of commerce or professional standards organizations, the KRTW Act does not

treat one group differently than another. Thus, the law does not violate the Kentucky Constitution's equal protection guarantees.

The right-to-work legislation also does not contain suspect classifications to indicate differential treatment of citizens in the Commonwealth. The Act applies to employees who are "any person employed by or suffered or permitted to work for a public or private employer." KRTW Act § 1. The statute applies to any person in the workforce in the state of Kentucky with no distinction for employees in a given industry or an organization. Moreover, the Act applies penalties to all persons in the Commonwealth who violates the Act. KRTW Act § 3. Plaintiffs argue that this law classifies only labor unions as the group barred from requiring compulsory fees from non-members. Unions are distinctly situated, and no other organization is like-situated. The law is not special legislation because its application will limit the operation of any employment contract with the same characteristics as a union security contract.

Finally, the Court holds that the KRTW Act meets the requisites to be emergency legislation. The General Assembly enacted the law with a stated purpose sufficient for the classification of emergency legislation. Therefore, the Court finds an emergency purpose existed for Kentucky's right-to-work legislation.

Wherefore, Defendant's *Motion to Dismiss* is hereby **GRANTED**.

CONCLUSION

The Court hereby **DENIES** Plaintiffs' *Motion*. The Court holds that Plaintiffs do not hold a vested property interest in union services or future union security contracts, and, further, the KRTW Act does not constitute a taking. The Court similarly finds that the KRTW Act does not violate the equal protections afforded by the Kentucky

Constitution, nor is it special legislation that was enacted without an emergency purpose.

No genuine issue of material fact exists for any of these issues. Further, Plaintiff did not present a claim for which legal remedy exists. Therefore, the Court **GRANTS**

Defendants' *Motion*. This matter is **DISMISSED**.

This order is final and appealable and there is no just cause for delay.

SO ORDERED, this 23 day of January, 2018.



THOMAS D. WINGATE
Judge, Franklin Circuit Court

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Order was mailed, this 23rd day of January, 2018, to the following:

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