

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JOHN R. KABLER, JR.,

Plaintiff,

v.

**UNITED FOOD AND COMMERCIAL
WORKERS UNION, LOCAL 1776
KEYSTONE STATE, et al.,**

Defendants.

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: **No. 1:19-CV-0395**
:
: **Judge Rambo**
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: **Electronically Filed Document**
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: *Complaint Filed 03/06/19*
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**COMMONWEALTH DEFENDANTS' AMENDED
MOTION TO DISMISS PLAINTIFF'S COMPLAINT
PURSUANT TO FED. R. CIV. P. 12(b)**

Defendants Commonwealth of Pennsylvania, Pennsylvania Liquor Control Board; Thomas W. Wolf; Timothy Holden; Michael Newsome; and, Anna Marie Kiehl ("Commonwealth Defendants") move pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) to dismiss with prejudice all claims against the Commonwealth Defendants for lack of jurisdiction and failure to state a claim upon which relief may be granted. In support of this Motion, Commonwealth Defendants rely upon the Declaration of Andrew Gold submitted by Union Defendants as Exhibit "1" to their Motion to Dismiss filed on May 6, 2019. Because Mr. Kabler is no longer a member of the Union, has no continuing dues deductions and has been refunded all amounts due, there is no active controversy and the matter is moot. Further,

any retroactive relief sought against the Commonwealth Defendants, sued only in their official capacities, is barred by the Eleventh Amendment to the United States Constitution. Finally, the complaint states no claim upon which relief may be granted. For these reasons and as more fully explained in the memorandum of law to be filed pursuant to Local Rule 7.5, Commonwealth Defendants respectfully request this Court dismiss all claims against the Commonwealth Defendants with prejudice.

Dated: May 7, 2019

Respectfully Submitted,

JOSH SHAPIRO
Attorney General

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By:

/s/ Nancy A. Walker
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