

**COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION I
CIVIL ACTION No. 20-CI-758**

AMERICAN OVERSIGHT

PLAINTIFF

v.

ORDER

OFFICE OF THE ATTORNEY GENERAL

DEFENDANT

This matter is before the Court following Defendant's filing of his Response to Plaintiff's Objection regarding the Attorney General's notice of compliance with the Court's July 14, 2022 Opinion and Order. It appears that there continues to be a dispute as to whether the Attorney General has produced all documents and records that are required to be produced under the Open Records Act, as determined in this Court's prior Orders. It appears from the Attorney General's response that at least two of the officials of the Office of Attorney General (OAG) who were involved in the response to this Open Records request have since departed from employment of the OAG. While the Attorney General argues that his office has conducted a comprehensive search, and a follow up search after the Court's last order, the details of the records search remain unclear. Plaintiff asserts that the OAG's search was inadequate in that it did not broaden the scope or seek the identities of other employees who may have had custody of such records, and the supplemental search failed to provide "unproduced and uncorrupted files." The OAG has asserted that the two Excel spreadsheets at issue were both corrupted and cannot be accessed.

The Court believes that the resolution of these questions, which appear to be very much in dispute, requires supplemental fact finding. Accordingly, the Court directs that the Plaintiff

conduct depositions pursuant to CR 30.02 of the designated representative, or representatives, of OAG to address any factual disputes that remain unresolved regarding compliance with the prior Orders of this Court, including but not limited to these topics: 1) the scope of the OAG's original and supplemental searches for the requested documents; and 2) whether the data included in the corrupted files of the spreadsheets can be accessed in other ways; 3) whether any uncorrupted copies of the attachments provided by the OAG exist or can be accessed; and 4) the identity of any other custodian of the requested records, as required by KRS 61.872(4), in the event the requested records are not within the possession of the OAG and the OAG can identify the custodian of such records.

The Plaintiff shall issue a notice of deposition, or depositions, with specific areas of inquiry as required under CR 30.02, within 10 days of the entry of this Order, and the depositions shall be conducted within 30 days of the entry of this Order. Following the completion of the deposition(s), and transcription thereof, the parties are directed to notice this matter for review at a status conference at a regular motion hour of this Court.

SO ORDERED this 18th day of July, 2023.



PHILLIP J. SHEPHERD, JUDGE
Franklin Circuit Court, Division I

Distribution:

Randal A. Strobo

Clay A. Barkley

rstrobo@strobobarkley.com

cbarkley@strobobarkley.com

Aaron G. Silletto

Carmine G. Iaccarino

Heather L. Becker

aaron.silletto@ky.gov

carmine.Iccarino@ky.gov

heather.becker@ky.gov