

No. 118585

118585

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IN THE

03/02/2015

Supreme Court Clerk

SUPREME COURT OF ILLINOIS

IN RE:)
)
 PENSION REFORM LITIGATION) Direct Appeal
 (Doris Heaton, et al.,)
)
 Plaintiff-Appellees,) Appeal from the Circuit Court for the
) Seventh Judicial Circuit, Sangamon County,
) Illinois, No. 2014 MR 1
 vs.) Honorable John W. Belz,
) Judge Presiding
 PAT QUINN, Governor)
 of Illinois, et al.,)
)
 Defendant-Appellants))

MOTION OF STATE UNIVERSITIES ANNUITANTS ASSOCIATION REGARDING ORAL ARGUMENT

Introduction

Plaintiff-Appellees, SUAA, et al., reluctantly bring this motion to the Court pursuant to Ill. Sup. Ct. R. 352(d) and (e) to resolve a stalemate that has developed between the Plaintiffs regarding oral argument. Two Plaintiff briefs have been filed, one by SUAA and a second, joined in by all remaining Plaintiffs speaking with a single voice, the "ISEA" brief.¹ These two groups have conferred several times to seek agreement on how the Plaintiffs' oral argument should be divided. SUAA has proposed that one

¹ Defendants have adopted the "ISEA" designation in their Reply when referring to this group's joint brief and SUAA continues it here for the sake of consistency.

attorney from each group argue for 10 minutes²; ISEA has insisted that a single attorney chosen, by ISEA, should argue Plaintiffs' case for the full 20 minutes and that SUAA be excluded from the oral argument.

Status

This case comes before the Court, fully briefed by all parties and ready for oral argument. Both Plaintiff parties have the same objective, that this Court uphold the judgment of the Circuit Court, and in their respective briefs often make the same or similar arguments. However, at many places they also present different, even conflicting legal arguments. This is highlighted by the Defendants' Reply which sometimes attributes an argument to just the "Plaintiffs" and elsewhere attributes an argument specifically to SUAA or ISEA.

Purpose of Oral Argument

The purpose of oral argument is not for the parties to present new theories. (See Sup. Ct. R. 341(f)(7)). Nor is its purpose to simply regurgitate the content of the briefs. (See Sup. Ct. R. 352(c)) The primary purpose of oral argument is to give the Court an opportunity to ask questions. An attorney at oral argument might utter five words, "May it please the Court?", and immediately be pummeled with questions from the bench which consume all of his allotted time. This becomes an opportunity for him to respond and focus on issues which are of interest to the Court.

Both Plaintiff Groups Must Argue

In this case there are two different Plaintiff briefs before the Court. First of all, if an issue or argument is raised in only one of the briefs it would do a disservice to the

² SUAA has already notified the Clerk on the form provided that attorney Aaron B. Maduff will argue on its behalf.

Plaintiffs and to the Court if an attorney on the other brief is called upon to explain or defend the reasoning of his brother. Secondly, even where both Plaintiffs' briefs address an issue in the same or similar manner, the same question about that issue addressed to each Plaintiffs' counsel could well draw different responses. Lastly of course, the Justices may want answers to questions not even raised in the briefs. Again, in those cases, neither counsel for the two Plaintiff groups is qualified to answer on behalf of his brother.

Conclusion

To resolve the impasse between the SUAA and ISEA Plaintiffs, and most importantly, to assure an ordered and productive oral argument, the State Universities Annuity Association prays this Court to exercise its authority under Sup. Ct. R. 352(d) and (e) and direct that the SUAA and ISEA Plaintiffs each select a single attorney to argue on its behalf for ten minutes.

Respectfully submitted,

s/ John D. Carr

One of the attorneys for the State
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NOTICE OF FILING and PROOF OF SERVICE

IN THE SUPREME COURT OF ILLINOIS

IN RE:)	
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PENSION REFORM LITIGATION)	
(Doris Heaton, et al.,)	
)	
Plaintiff-Appellees,)	No. 118585
)	
vs.)	
)	
PAT QUINN, Governor)	
of Illinois, et al.,)	
)	
Defendant-Appellants))	

The undersigned states that he filed electronically filed the Motion of State Universities Annuitants Association Regarding Oral Argument with the above court and that he also served copies of the above by depositing the same in the United States Mail at Chicago, Illinois on the 2nd day of March, 2015 properly stamped and addressed to:

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***** Electronically Filed *****

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Supreme Court Clerk

Respectfully submitted,

s/ John D. Carr

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DECLARATION OF MICHAEL L. MADUFF REGARDING
MOTION OF STATE UNIVERSITIES ANNUITANTS
ASSOCIATION REGARDING ORAL ARGUMENT

1. My name is Michael L. Maduff, I am an attorney licensed to practice law in the State of Illinois. I am one of the attorneys representing the State Universities Annuitants Association in this case.
2. On February 25, 2015, and again on February 27, 2015, I participated in conference calls involving attorneys representing all of the Plaintiffs in this case.
3. The subject matter of the conference calls was how to allocate time for oral argument in this case among counsel for the Plaintiffs.
4. The parties agreed that SUAA had filed one brief in this case and the remaining Plaintiffs (the "ISEA Plaintiffs") had filed a single joint brief in which they spoke

with a single voice. The two briefs had similarities, but also had differences. In fact, on some issues the two briefs took incompatible positions

5. The Rules provide that, absent order of Court, the Plaintiffs may argue for an aggregate of 20 minutes (Sup. Ct. R. 352(b)) and that, without leave of Court, no more than two attorneys shall argue for the Plaintiffs (Sup. Ct. R. 352(d)).
6. The attorneys representing the ISEA Plaintiffs were insistent that one of their number—without specifying which attorney—should argue for the entire 20 minutes and that that SUAA not be represented in the oral argument.
7. I suggested that an appropriate compromise would be for one attorney representing the ISEA Plaintiffs to argue for 10 minutes and one attorney representing SUAA to argue for 10 minutes.
8. The attorneys representing the ISEA Plaintiffs were unwilling to accept this proposal and the attorneys representing SUAA were unwilling to agree to being excluded from the oral argument.
9. After approximately an hour of discussion on February 25, 2015, the parties were unable to reach agreement, so they ended the conference call and agreed to resume on February 27, 2015.
10. The parties did resume their conference call on February 27, 2015, but were still unable to make any progress toward an agreement—the attorneys for the ISEA Plaintiffs still insisted that one of their number should argue for the full 20 minutes and SUAA still insisted that one attorney representing each of the two groups should argue for 10 minutes.
11. After about an hour the second conference call ended with no agreement.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

s/ Michael L. Maduff

One of the attorneys for the State
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Respectfully submitted,

s/ Walker R. Lawrence

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[PROPOSED] ORDER

This matter coming to be heard on the motion of Plaintiff State Universities Annuity Association's Regarding Oral Argument, the Court being duly advised; IT IS HEREBY ORDERED AS FOLLOWS:

1. The motion by Plaintiff State Universities Annuity Association's Regarding Oral Argument is ALLOWED/DENIED.
2. A single attorney selected by Plaintiff State Universities Annuity Association shall argue for not to exceed _____ minutes.
3. A single attorney selected by the ISEA Plaintiffs, i.e., those joining on the brief of ISEA, RSEA, HEATON and HARRISON, et al., shall argue for not to exceed _____ minutes.

4. At the oral argument the attorney selected by SUAA/ISEA shall argue first unless the parties jointly advise the Clerk otherwise in writing not later than _____, 2015.

ENTERED:
