

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

EMPLOYEES RETIREMENT SYSTEM OF THE CITY
OF ST. LOUIS, *et al.*,

Plaintiffs,

v.

CHARLES E. JONES, *et al.*,

Defendants,

and

FIRSTENERGY CORP.,

Nominal Defendant.

Case No. 2:20-cv-04813

Chief Judge Algenon L. Marbley

Magistrate Judge Kimberly A.
Jolson

JURY TRIAL DEMANDED

**NOTICE OF FURTHER DEVELOPMENTS
IN THE RELATED NORTHERN DISTRICT ACTION**

Court-appointed Co-Lead Plaintiffs Employees Retirement System of the City of St. Louis (“St. Louis”) and Electrical Workers Pension Fund, Local 103, I.B.E.W (“Local 103”), together with additional Plaintiff Massachusetts Laborers Pension Fund (“MLPF,” and collectively with “Co-Lead Plaintiffs,” “Plaintiffs”), respectfully submit this notice to apprise the Court of certain developments in the related derivative action pending before the Hon. John R. Adams in the United States District Court for the Northern District of Ohio (the “Northern District Action”).

As the Court is aware, this Action, the Northern District Action and a derivative action pending in the Ohio Court of Common Pleas (the “State Court Action”) involve substantially the same shareholder derivatives claims brought on behalf of FirstEnergy. Following discovery and arms’ length negotiations (including a mediation), the parties in all courts reached a Proposed

Settlement of the claims. Co-Lead Plaintiffs moved for preliminary approval of the Proposed Settlement in this Court (ECF No. 170). The parties jointly moved to stay the related derivative actions in the Northern District and in the Ohio Court of Common Pleas. The Ohio Court of Common Pleas granted the parties' motion for a stay pending proceedings in this Court. The Northern District denied the parties' motion for a stay.

On March 9, 2022, the Northern District held a hearing to discuss the Proposed Settlement at which the Court requested that Plaintiffs' counsel publicly disclose information that Plaintiffs' counsel believed in good faith to be subject to applicable confidentiality obligations, including applicable protective orders and the mediation privilege. (*See generally* March 9, 2022 Hearing Transcript, attached as Exhibit 1 hereto). The Northern District demanded to know, among other things, "who paid the bribes" giving rise to this Action. Although the Proposed Settlement is not pending in the Northern District, Plaintiffs offered to answer the Northern District's questions in a sealed filing or *in camera*. (*See* Exhibit 2 attached hereto). Today, however, the Court in the Northern District Action issued an Order specifically requiring Plaintiffs' counsel to, by noon tomorrow, *publicly* "answer under oath, via affidavit, the Court's question by naming the individuals who paid the bribes in this matter." (Order, attached as Exhibit 3 hereto).

Plaintiffs write to provide the Court with notice of the Northern District's Order because the public disclosure of information responsive to the Northern District's question—information that was produced in discovery following two hearings before Magistrate Judge Jolson pursuant to the confidentiality orders entered by this Court (ECF No. 128) and the Northern District—implicates the confidentiality order entered in this Action. Plaintiffs' counsel take their responsibilities to all courts extremely seriously and are apprising the Court of this development. Absent specific guidance or further action by this Court, Plaintiffs intend to comply with the

Northern District's specific Order and provide a public response to the Northern District's question.

Plaintiffs, through undersigned counsel, are available at the Court's convenience to answer any questions the Court may have.

Dated: March 22, 2022

Respectfully submitted,

/s/ John C. Camillus

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CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all attorneys on record.

/s/ John C. Camillus

John C. Camillus