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THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THE ERISA INDUSTRY COMMITTEE,

Plaintiff,

v.

CITY OF SEATTLE,

Defendant.

Case No. 2:18-cv-01188

**STIPULATION AND [PROPOSED]
ORDER TO EXTEND DEADLINE
FOR DEFENDANT TO RESPOND TO
COMPLAINT AND TO STAY
DEFENDANT’S ENFORCEMENT OF
PART 3 OF CHAPTER 14.25 OF THE
SEATTLE MUNICIPAL CODE**

Defendant the City of Seattle (the “City” or “Defendant”), and Plaintiff, The ERISA Industry Committee (“ERIC” or “Plaintiff”), and together (the “Parties”), hereby stipulate and agree to the following: (1) Defendant may have an extension of time, until and including October 4, 2018, to respond to Plaintiff’s Complaint; and (2) the City will take no action to enforce Part 3 of Chapter 14.25 of the Seattle Municipal Code (“Part 3” or the “Ordinance”) until the sooner of a dispositive ruling by this Court on the merits or January 1, 2019.

A. Stipulation to Extend Deadline to Respond to Complaint:

In support of the stipulation to extend the time for Defendant to respond to the complaint, the Parties make the following recitals:

1 WHEREAS, Plaintiff filed the Complaint on August 14, 2018;

2 WHEREAS, Defendant was served with the Complaint on August 15, 2018;

3 WHEREAS, Defendant retained counsel, Keller Rohrback L.L.P., to litigate this action
4 on August 28, 2018;

5 WHEREAS, pursuant to Fed. R. Civ. P. 12(a)(1)(A)(i), Defendant must respond to the
6 Complaint by September 5, 2018, which is one week after retaining counsel.
7

8 WHEREAS, this Stipulation will not alter the date of any event or deadline already fixed
9 by the Court; and

10 WHEREAS, no prior extensions of time have been granted in this matter;

11 NOW THEREFORE, the Parties agree as follows:

12 1. Defendant may have an extension of time, until and including October 4, 2018, to
13 respond to Plaintiff's Complaint; and
14

15 2. The Parties will confer regarding a briefing schedule concerning dispositive motions
16 to present to the Court for approval.

17 **B. Stipulation to Stay Enforcement of the Ordinance:**

18 In support of the stipulation to stay enforcement of Part 3 of the Ordinance, the Parties
19 make the following recitals:

20 WHEREAS, the Ordinance was enacted through a voter initiative on November 8, 2016;

21 WHEREAS, the City promulgated final rules interpreting Chapter 14.25 (including Part
22 3) on May 31, 2018, and revised them further on July 12, 2018;

23 WHEREAS, the Ordinance provides for the City to investigate charges alleging
24 violations of Chapter 14.25 and to "have such powers and duties in the performance of these
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1 functions as are necessary and proper in the proper performance of the same and provided by
2 law;” and

3 WHEREAS, absent a stay, Plaintiff would seek interim injunctive relief;

4 NOW THEREFORE, the Parties agree (via this Stipulation) to a temporary
5 nonenforcement agreement (the “Agreement”), as follows:
6

7 1. The City will not enforce Part 3 of the Ordinance or the rules or practices related
8 thereto adopted by the Seattle Office of Labor Standards (“the Rules”); provided, however, that:

9 a. nothing herein shall prevent the City from taking and holding in abeyance any
10 complaints; and

11 b. nothing herein shall be construed so as to defer the effective date of the Rules;

12 2. Plaintiff agrees it will defer seeking interim injunctive relief so long as the Agreement
13 is in place, except that it reserves the right to seek interim injunctive relief or other relief to
14 protect the Court’s jurisdiction in the event a private suit is pursued to enforce the Ordinance or
15 Rules;
16

17 3. The Agreement shall terminate upon the sooner of a ruling on the merits or January 1,
18 2019.

19 4. The Parties will conduct further discussions, including on (a) whether to stay the
20 effective date of the Rules pending a ruling on the merits, and (b) any extension concerning the
21 termination date of this Agreement.
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1 **IT IS SO STIPULATED AND AGREED.**

2 DATED this 5th day of September, 2018.

3
4 **KELLER ROHRBACK L.L.P.**

5 By/s/ Erin Riley

6 Erin Riley, WSBA No. 30401
7 1201 Third Ave., Suite 3200
8 Seattle, WA 98101
9 Telephone: (206) 623-1900
10 Facsimile: (206) 623-3384

11 Jeffrey Lewis, *pro hac vice*
12 300 Lakeside Drive., Suite 1000
13 Oakland, CA 94612
14 Telephone: (510) 463-3900
15 Facsimile: (510) 463-3901

16 *Counsel for Defendant, City of Seattle*

17 **KILPATRICK TOWNSEND & STOCKTON LLP**

18 By s/ Gwendolyn C. Payton

19 Gwendolyn C. Payton, WSBA No. 26752
20 gpayton@kilpatricktownsend.com
21 Telephone: (206) 626-7714
22 Facsimile: (206) 260-8946

23 Anthony F. Shelley, *pro hac vice*
24 Theresa Gee, *pro hac vice*
25 Telephone: (202) 626-5800
26 Facsimile: (202) 626-5801

*Counsel for Plaintiff, The ERISA Industry
Committee*

[PROPOSED] ORDER

Pursuant to the stipulation by the parties, the Court orders as follows:

1. The deadline by which Defendant must file its answer is extended by thirty days to October 4, 2018.

2. The City will not enforce Part 3 of the Ordinance or the rules or practices related thereto adopted by the Seattle Office of Labor Standards (“the Rules”); provided, however, that:

a. nothing herein shall prevent the City from taking and holding in abeyance any complaints; and

b. nothing herein shall be construed so as to defer the effective date of the Rules.

IT IS SO ORDERED this ___ day of _____, 2018

Hon. Thomas S. Zilly
UNITED STATES DISTRICT JUDGE

Presented by:

KELLER ROHRBACK L.L.P.

KILPATRICK TOWNSEND & STOCKTON
LLP

By/s/ Erin Riley

By s/ Gwendolyn C. Payton

Erin Riley, WSBA No. 30401
1201 Third Ave., Suite 3200
Seattle, WA 98101
Telephone: (206) 623-1900
Facsimile: (206) 623-3384

Gwendolyn C. Payton, WSBA No. 26752
gpayton@kilpatricktownsend.com
Telephone: (206) 626-7714
Facsimile: (206) 260-8946

Jeffrey Lewis, *pro hac vice*
300 Lakeside Drive., Suite 1000
Oakland, CA 94612
Telephone: (510) 463-3900
Facsimile: (510) 463-3901

Anthony F. Shelley, *pro hac vice*
Theresa Gee, *pro hac vice*
Telephone: (202) 626-5800
Facsimile: (202) 626-5801

*Counsel for Defendant, City of
Seattle*

*Counsel for Plaintiff, The ERISA Industry
Committee*

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of September, 2018, 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 counsel of record.

/s/ Erin Riley
Erin Riley, WSBA No. 30401

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