

FRANKLIN CIRCUIT COURT
DIVISION II
CIVIL ACTION NO. 13-CI-1060

NORTON HEALTHCARE, INC.

PLAINTIFF

v.

UNIVERSITY OF LOUISVILLE

DEFENDANT

NOTICE

Please take notice that at 9:00 a.m., on February 10, 2014, in the above-named Court or as soon thereafter as counsel may be heard, the undersigned will make the following Motion and tender the attached Order.

**MOTION FOR ORDER REQUIRING NORTON
TO JOIN COMMONWEALTH AS A PARTY**

The defendant, University of Louisville (“UofL”), respectfully moves the Court to enter the attached Order pursuant to KRS 418.075, CR 19.01 and CR 21, directing the plaintiff, Norton Healthcare, Inc. (“Norton”) to promptly issue and serve a summons and amended complaint naming the Commonwealth of Kentucky as a party defendant to this civil action.

Kentucky’s declaratory judgment statute provides that “When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration.” KRS 418.075. Likewise, CR 19.01, titled “persons to be joined if feasible,” provides in part that:

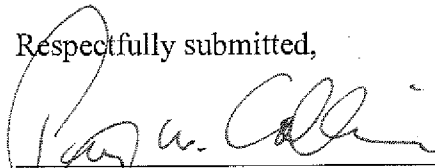
A person who is subject to service of process, either personal or constructive, shall be joined as a party in the action if (a) in his absence complete relief cannot be accorded among those already parties, or (b) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or

otherwise inconsistent obligations by reason of his claimed interest. If he has not been so joined, the court shall order that he be made a party.

CR 21, titled "Misjoinder and nonjoinder of parties," provides in part that "[p]arties may be . . . added by order of the court on motion of any party . . . at any stage of the action and on such terms as are just."

Norton's complaint seeks a series of judicial declarations concerning the interpretation and enforcement of a ground lease between Norton as the *lessee*, and the Commonwealth and UofL as the *lessor* and *beneficial owner* of the leasehold. The Commonwealth holds legal title to the property for the benefit of UofL as required under KRS 164.870. Norton's complaint names only UofL as a party, failing to join all parties to the ground lease. Because the Commonwealth is a party to the lease, it "has or claims an interest which would be affected by the declaration" and must be joined as a party defendant in the proceedings under KRS 418.075, as well as CR 19.01 and CR 21.

Respectfully submitted,



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CERTIFICATE OF SERVICE

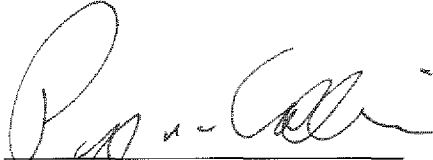
I hereby certify that a copy of the foregoing *Notice & Motion for Joinder* was served by electronic mail and U.S. Mail, First Class, on the 3rd of February, 2014 upon:

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