

United States Court of Appeals For the First Circuit

No. 20-1365

ARKANSAS TEACHER RETIREMENT SYSTEM, on Behalf of Itself and All Others Similarly
Situated; JAMES PEHOUSHEK-STANGELAND; ANDOVER COMPANIES EMPLOYEE
SAVINGS AND PROFIT SHARING PLAN,

Plaintiffs,

v.

STATE STREET CORPORATION; STATE STREET BANK AND TRUST COMPANY;
STATE STREET GLOBAL MARKETS, LLC,

Defendants.

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP,

Interested Party - Appellant,

LABATON SUCHAROW LLP; THORNTON LAW FIRM LLP; KELLER RORHBACK
L.L.P.; MCTIGUE LAW LLP; ZUCKERMAN SPAEDER LLP,

Interested Parties - Appellees.

Before

Torruella, Lynch and Thompson,
Circuit Judges.

JUDGMENT

Entered: September 3, 2020

Appellant Lieff Cabraser Heimann & Bernstein, LLP, seeks review of the district court's February 27 Memorandum and Order in which the court reduced a previously approved fee award, while contemplating further proceedings. It appearing that the order lacked finality, this court issued an order to show cause why the appeal should not be dismissed for lack of jurisdiction. Lieff has responded, explaining that, at the time the order issued, it believed that the order was final, despite the fact that the order expressly contemplated further proceedings. Nonetheless, Lieff

appears to agree that the jurisdictional question is ambiguous. And, we note that the district court appears to have simultaneously treated its order as both final and non-final; that is, the court sought to retain counsel to file a brief in this court in support of its order and at the same time has issued several post-fee orders, the cumulative effect of which may well be to alter the fee ruling. In light of the latter point and having reviewed the record and Lieff's submission, we dismiss the appeal without prejudice for lack of an appealable order. See Garcia-Rubiera v. Fortuno, 727 F.3d 102, 116 (1st Cir. 2013) ("[a] ruling on attorneys' fees is definitive 'where a dollar-specific order for attorneys' fees has been entered and further action on the main case will not require revisiting that order.'" (Citing In re Nineteen Appeals Arising Out of San Juan Dupont Plaza Hotel Fire Litig., 982 F.2d 603, 609 n.10 (1st Cir. 1992))).

By the Court:

Maria R. Hamilton, Clerk

cc:

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Beth E. Bookwalter
Joan A. Lukey
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Robert L. Lieff
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J. Brian McTigue
James A. Moore
Elizabeth J. McEvoy
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