

# **Bond Case Briefs**

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## **PUBLIC PENSIONS - KENTUCKY**

### **Kentucky Employees Retirement System v. Seven Counties Services, Inc.**

**Supreme Court of Kentucky - August 29, 2019 - S.W.3d - 2019 WL 4073379**

Kentucky Employees Retirement System (KERS) filed complaint seeking determination that debtor, as nonprofit employer that provided mental health services, was “governmental unit” that was statutorily barred from seeking Chapter 11 relief, to enjoin debtor from seeking to withdraw from KERS, and to require debtor to continue to contribute to KERS.

The United States Bankruptcy Court for the Western District of Kentucky dismissed complaint and granted debtor’s motion to reject its alleged contract with KERS. KERS appealed. The United States District Court for the Western District of Kentucky affirmed in part and reversed in part. Appeal was taken. The Court of Appeals affirmed in part and certified question to Kentucky Supreme Court.

The Supreme Court held that debtor’s participation as department in and its contributions to the KERS were based on statutory, rather than contractual, obligation.

Nonprofit mental health services provider’s participation as department in and its contributions to the Kentucky Employees Retirement System (KERS) were based on statutory, rather than contractual, obligation, as used to determine whether provider could reject its relationship with KERS in Chapter 11 bankruptcy proceeding; statute by which provider joined KERS contained no contract language, parties’ contemporaneous documentation did not show intent to contract, and payments by employer to KERS were essentially assessments.