

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

CENTRAL ALABAMA FAIR HOUSING
CENTER;

FAIR HOUSING CENTER OF NORTHERN
ALABAMA;

CENTER FOR FAIR HOUSING, INC.; and

JOHN DOE #1 and JOHN DOE #2, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

JULIE MAGEE, in her official capacity as
Alabama Revenue Commissioner, and

JIMMY STUBBS, in his official capacity as
Elmore County Probate Judge,

Defendants.

Civil No. 2:11-cv-982-MHT-CSC

NOTICE OF VOLUNTARY DISMISSAL OF INDIVIDUAL PLAINTIFF JOHN DOE #1

Pursuant to Federal Rule of Civil Procedure 41(a), Plaintiff John Doe #1 hereby notifies this Court and the parties that he voluntarily dismisses without prejudice all his claims against all Defendants. This notice concerns the claims of Plaintiff John Doe #1 only and does not concern any other Plaintiffs or claims. Rule 41(a) provides that a notice of dismissal is appropriate for voluntary withdrawal “before the opposing party serves either an answer or a motion for summary judgment.”

In this case, Defendants have filed neither an answer nor a motion for summary judgment. Plaintiffs filed this action on November 18, 2011 (Doc. 1), filed a first amended complaint on November 21st (Doc. 31), and moved this Court for permission to file a second amended complaint on December 30, 2011 (Doc. 102). With the initial complaint, Plaintiffs filed a Motion for Temporary Restraining Order and Preliminary Injunction (Doc. 13). The Court issued a temporary restraining order on November 23, 2011 (Doc. 50) and a preliminary injunction on December 12, 2011 (Doc. 88). While Defendants have filed responsive pleadings, including to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, they have yet to file the documents necessary to forestall a voluntary dismissal by notice.

The right to voluntarily dismiss with notice is "unconditional" prior to service of an answer or motion for summary judgment. *Matthews v. Gaither*, 902 F.2d 877, 880 (11th Cir. 1990). *See also Williams v. Ezell*, 531 F.2d 1261, 1264 (5th Cir. 1976); *Pilot Freight Carriers v. Int'l Brotherhood of Teamsters*, 506 F. 2d 914, 916 (5th Cir.), *cert. denied*, 422 U.S. 1048 (1975).

Dated: February 9, 2012

Respectfully submitted,

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**CERTIFICATE OF SERVICE
MIDDLE DISTRICT OF ALABAMA**

I hereby certify that on this 9th day of February 2012, the foregoing Notice of Voluntary Dismissal of Individual Plaintiff John Doe #1 was filed through the Court's CM/ECF filing system, and that by virtue of this filing notice will be sent electronically to all counsel of record, including the following opposing counsel:

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