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Attorneys for Plaintiff Do No Harm

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

DO NO HARM,

Plaintiff,

v.

GREGORY GIANFORTE, in his
official capacity as Governor of
the State of Montana,

Defendant.

Case No.: 6:24-cv-00024-BMM-
KLD

**STIPULATION FOR
VOLUNTARY DISMISSAL**

Plaintiff Do No Harm and Defendant Gregory Gianforte, in his official capacity as Governor of the State of Montana, stipulate as follows to the voluntary dismissal of this action under Federal Rule of Civil Procedure 41(a)(1)(A)(ii):

1. On March 12, 2024, Plaintiff Do No Harm filed a Complaint (ECF No. 1) alleging that a Montana law, Mont. Code § 2-15-108(1), requires the Governor to consider gender and race when making appointments to state boards and commissions like the Montana Board of Medical Examiners in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

2. On May 3, 2024, Defendant Governor Gianforte filed a motion to dismiss the Complaint. ECF No. 19.

3. On May 24, 2024, Plaintiff filed a First Amended Complaint (ECF No. 25), again alleging that a Montana law, Mont. Code § 2-15-108(1), requires the Governor to consider gender and race when making appointments to state boards and commissions like the Montana Board of Medical Examiners in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

4. On June 7, 2024, Defendant filed a motion to dismiss the First Amended Complaint, ECF No. 26, acknowledging that Defendant “opposes the ideological tenets of diversity, equity, and inclusion (DEI), as well as quotas and affirmative action,” ECF No. 27. Defendant also expressed that “[h]is sole priority in making appointments is that of highly qualified individuals, without respect to immutable traits, such as race or sex.” *Id.* Nevertheless, Defendant argued that Plaintiff’s complaint should be dismissed because the court lacked subject matter jurisdiction over Plaintiff’s claims. *Id.*

5. On January 10, 2025, Magistrate Judge DeSoto issued findings and recommendations that Defendant’s motion to dismiss be granted. ECF No. 32. Plaintiff filed objections to the findings and recommendations. ECF No. 33.

6. On February 5, 2025, Judge Morris adopted Magistrate Judge DeSoto’s findings and recommendations, holding that Plaintiff did not have standing because its members had not applied, or alleged that any members intended to apply, for seats on the Board of Medical Examiners. ECF No. 36.

7. The Court then allowed Plaintiff to file a Second Amended Complaint alleging that several of its members had in fact applied for seats on the Board of Medical Examiners. ECF No. 42. The parties then agreed to stay the case pending legislative action. ECF Nos. 43, 44.

8. The Montana legislature introduced HB 215 on January 15, 2025. The bill repeals the language of Mont. Code § 2-15-108 challenged in this case. The bill advanced out of the House of Representatives on February 6, 2025, and passed the Senate on March 24, 2025. Governor Gianforte signed HB 215 on April 7, 2025.

9. As the challenged language creating gender- and race-based preferences for seats on state boards and commissions has now been repealed, the parties agree that dismissal of this case is appropriate.

IT IS THEREFORE STIPULATED, by and between the parties, through their respective counsel that:

- A) This action should be dismissed in its entirety without prejudice; and
- B) The parties will bear their own attorney fees, expenses, and costs.

DATED: May 16, 2025.

Respectfully submitted,

/s/ Caleb R. Trotter

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Counsel for Defendant

Certificate of Service

I hereby certify that on May 16, 2025, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notice of such filing to counsel of record who are registered with CM/ECF.

DATED: May 16, 2025.

/s/ Caleb R. Trotter

Caleb R. Trotter

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