

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

Fort Des Moines Church of Christ, a
nonprofit religious corporation,

Plaintiff,

v.

Case No. 4:16-cv-00403-SMR-CFB

Angela Jackson, Patricia Lipski, Mathew
Hosford, Tom Conley, Douglas
Oelschlaeger, Lily Lijun Hou, and Lawrence
Cunningham, each in his or her official
capacity as Commissioners of the Iowa Civil
Rights Commission; Kristin H. Johnson, in
her official capacity as the Executive
Director of the Iowa Civil Rights
Commission; Tom Miller, in his capacity as
the Attorney General of the state of Iowa;
and the City of Des Moines, Iowa,

Defendants.

**NOTICE OF VOLUNTARY DISMISSAL
PURSUANT TO FED. R. CIV. P. 41(a)(1)
AND LOCAL RULE 41(a)(1)**

Pursuant to FED. R. CIV. P. 41(a)(1) and Local Rule 41(a)(1), Plaintiff Fort Des Moines Church of Christ hereby gives notice that this action is voluntarily dismissed, without prejudice.

1. On July 4, 2016, the Plaintiff filed a Verified Complaint for Declaratory and Injunctive Relief, Dkt. No. 1.
2. Defendants have not answered the complaint nor filed a motion for summary judgment.

3. FED. R. CIV. P. 41(a)(1)(A)(i) and Local Rule 41(a)(1) both provide that if the opposing party has not yet served either an answer to the complaint or a motion for summary judgment, the plaintiff may voluntarily dismiss its case without a court order by filing a notice of dismissal.

4. The Court's October 14, 2016 Order, Dkt. No. 37, established that Plaintiff Fort Des Moines Church of Christ's services, activities, and events to which it invites the public, as described in its Verified Complaint for Declaratory and Injunctive Relief, are exempt from Iowa's public accommodations law. *See* Iowa Code § 216.7. The District Court stated in pertinent part: "Plaintiff is dissimilar to other entities that have been found to be subject to the statute, ... state and federal courts have held that churches and programs they host are *not* places of public accommodation", and "[o]n the current facts, Plaintiff has not shown that the challenged laws would ever apply to its conduct." *See* Dkt. No. 37, p. 37 and p. 39.

5. Furthermore, the Court ruled that pursuant to Iowa Code § 216.2(13) "receiv[ing] [a] government support or subsidy ... is a prerequisite to being a public accommodation based on an offer of gratuitous services to the public." *See* Order, Dkt. No. 37, p.15 n.4. Because Plaintiff offers its services to the public gratuitously and does not receive government support or subsidy, it is not subject to the public accommodations law.

6. Plaintiff hereby gives notice of voluntary dismissal.

7. Therefore, this action should be dismissed without prejudice.

DATED: This 26th day of October, 2016.

Respectfully submitted,

/s/ Steven O'Ban

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CERTIFICATE OF SERVICE

I hereby certify that on, I electronically filed the foregoing paper with the Clerk of Court by using the CM/ECF system.

All participants in the case are registered CM/ECF users and will be served by the CM/ECF system.

Date: October 26, 2016

/s/ Steven O'Ban
Steven O'Ban