

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

DR. JENNIFER LYNN GLASS, *et al.*,
Plaintiffs,

v.

KEN PAXTON, IN HIS OFFICIAL CAPACITY AS
ATTORNEY GENERAL OF TEXAS, *et al.*,
Defendants.

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NO. 1:16-CV-845

DEFENDANTS' NOTICE TO WITHDRAW MOTIONS TO DISMISS

Defendants Gregory L. Fenves, President of The University of Texas at Austin ("UT Austin"), and the Board of Regents for The University of Texas System, in their official capacities, including Paul L. Foster, R. Steven Hicks, Jeffery D. Hildebrand, Ernest Aliseda, David J. Beck, Alex M. Cranberg, Wallace L. Hall, Jr., Brenda Pejovich, and Sara Martinez Tucker (collectively "UT Defendants"), and Attorney General Ken Paxton ("Defendant Paxton") file this notice showing the Court as follows:

1. UT Defendants and Defendant Paxton filed their separate motions to dismiss Plaintiffs' Complaint on August 8, 2016. *See* Clerk's Doc. Nos. 40 and 48.
2. Plaintiffs sought and were granted an extra seven days to respond to the Defendants' motions to dismiss making their responses due August 29, 2016. *See* Clerk's Doc. No. 51.
3. On August 29, 2016, Plaintiffs first filed an Amended Complaint (Clerk's Doc. No. 56). Later that same day, Plaintiffs filed a Response to the Defendants' motions to dismiss (Clerk's Doc. No. 57).
4. Under Federal Rule of Civil Procedure 15, Plaintiffs are permitted this amendment in response to Defendants' motions under Rule 12(b). FED. R. CIV. P. 15(a)(1)(B). Plaintiffs' amended

complaint triggers a new response deadline for Defendants: those responses are now due fourteen days after service of the amended complaint or by September 12, 2016. *See* FED. R. CIV. P. 15(a)(3).

5. In light of Plaintiffs' Amended Complaint and Defendants' new response deadline, Defendants now withdraw their currently pending motions to dismiss, Document Nos. 40 and 48, in order to ensure the motions ultimately considered by the Court are tailored to address the current live complaint. *See Thomas v. Miramar Lakes Homeowners Ass'n*, 2014 WL 3897809, at * 4 (S.D. Tex. Aug. 6, 2014) (citing 6 Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Prac. & Proc.* § 1476 in discussing that when a plaintiff amends the complaint while a motion to dismiss is pending, the court has discretion to deny the motion as moot or consider the merits of the motion in light of the amended complaint). In compliance with Rule 15, Defendants will file motions to dismiss the amended complaint by September 12, 2016.

Respectfully submitted,

KEN PAXTON
Attorney General of Texas

JEFFREY C. MATEER
First Assistant Attorney General

BRANTLEY STARR
Deputy First Assistant Attorney General

JAMES E. DAVIS
Deputy Attorney General for Civil
Litigation

ANGELA V. COLMENERO
Chief, General Litigation Division

/s/ Amanda J. Cochran-McCall
AMANDA J. COCHRAN-MCCALL
Deputy Chief, General Litigation Division
Texas Bar No. 24069526
amanda.cochran-mccall@texasattorneygeneral.gov
ANNE MACKIN
Assistant Attorney General
Texas Bar No. 24078898
anna.mackin@texasattorneygeneral.gov

OFFICE OF THE ATTORNEY GENERAL
General Litigation Division
P.O. Box 12548, Capitol Station
Austin, TX 78711-2548
(512) 463-2120
(512) 320-0667 *Facsimile*

ATTORNEYS FOR UT DEFENDANTS

KEN PAXTON
Attorney General of Texas

JEFFREY C. MATEER
First Assistant Attorney General

BRANTLEY STARR
Deputy First Assistant Attorney General

/s/ Prerak Shah
PRERAK SHAH
Senior Counsel to the Attorney General
Texas Bar No. 24075053

OFFICE OF THE ATTORNEY GENERAL
P.O. Box 12548 (MC 001)
Austin, Texas 78711-2548
Tel.: (512) 936-1823
Fax: (512) 474-2697
prerak.shah@texasattorneygeneral.gov

COUNSEL FOR DEFENDANT KEN PAXTON

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed electronically with the Court and delivered via the CM/ECF system on August 31, 2016, to:

James George, Jr.
George, Brothers, Kincaid & Horton LLP
rjgeorge@gbkh.com

Malcolm Greenstein
Greenstein & Kolker
malcolm@greensteinandkolker.com

Renea Hicks
Law Office of Max Renea Hicks
rhicks@renea-hicks.com

Prerak Shah
Office of the Attorney General
prerak.shah@texasattorneygeneral.gov

/s/ Amanda J. Cochran-McCall
AMANDA J. COCHRAN-MCCALL
Deputy Chief, General Litigation Division