

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,

Plaintiff,

v.

DOROTHY DOUGHERTY, in her official
capacity as Deputy Assistant Secretary of Labor
for the Occupational Safety and Health
Administration; OCCUPATIONAL SAFETY
AND HEALTH ADMINISTRATION; and ERIC
HARBIN, in his official capacity as Regional
Administrator for Region 6 of the Occupational
Safety and Health Administration,

Defendants.

No. 3:16-cv-02568-D

**PLAINTIFF'S NOTICE OF
VOLUNTARY DISMISSAL
(Fed. R. Civ. P. 41(a))**

In this action, Plaintiff National Federation of Independent Business has challenged the so-called Fairfax Memo. Since the Court's ruling on the motion to dismiss filed by Defendants Dorothy Dougherty, *et al.*, Defendants have demonstrated to Plaintiff that they have formally rescinded the Fairfax Memo and that they have ordered the elimination of its directives from Defendant Occupational Safety and Health Administration's Field Operations Manual. Defendants have not yet filed their answer to Plaintiff's complaint, nor have they filed a motion for summary judgment. Therefore, in light of the foregoing steps taken by Defendants, and pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), Plaintiff voluntarily dismisses this action without prejudice.

DATED: April 27, 2017.

Respectfully submitted,

ADAM H. CHARNES
DAMIEN M. SCHIFF
JOSHUA P. THOMPSON

By s/ Damien M. Schiff
DAMIEN M. SCHIFF, Cal. Bar No. 235101*
E-mail: dms@pacificlegal.org
JOSHUA P. THOMPSON, Cal. Bar No. 250955*
E-mail: jpt@pacificlegal.org
Pacific Legal Foundation
930 G Street
Sacramento, California 95814
Telephone: (916) 419-7111
Facsimile: (916) 419-7747
**Pro Hac Vice*

ADAM H. CHARNES, Tex. Bar No. 24090629
E-mail: acharnes@kilpatricktownsend.com
Kilpatrick Townsend & Stockton LLP
2001 Ross Avenue, Suite 4400
Dallas, Texas 75201
Telephone: (214) 922-7106
Facsimile: (214) 481-0517

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I certify that on April 27, 2017, I electronically filed the foregoing document with the Clerk of the Court for the United States District Court for the Northern District of Texas using the Court's electronic filing system. That system sends a Notice of Electronic Filing to Defendants' counsel:

Lisa R. Hasday
Assistant United States Attorney
1100 Commerce Street, Third Floor
Dallas, Texas 75242-1699
Telephone: 214-659-8737
Facsimile: 214-659-8807
lisa.hasday@usdoj.gov

s/ Damien M. Schiff
DAMIEN M. SCHIFF