

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

LEAGUE OF UNITED LATIN AMERICAN
CITIZENS, et al.,

Plaintiffs,

v.

GREG ABBOTT, et al.,

Defendants.

Civil Action

Lead Case No.:

3:21-CV-00259-DCG-JES-JVB

ROSALINDA RAMOS ABUABARA, et al.,

Plaintiffs,

v.

JANE NELSON, et al.,

Defendants.¹

Consolidated Case No.:

1:21-CV-00965-RP-JES-JVB

**UNOPPOSED MOTION FOR VOLUNTARY DISMISSAL OF PLAINTIFF MARIA
MONTES**

Plaintiff Maria Montes, by and through her undersigned counsel, respectfully moves this Court to dismiss her claims from the above-captioned action without prejudice pursuant to Federal Rules of Civil Procedure 21 and 41(a)(2). Defendants have indicated that they do not oppose this motion.

“On motion or on its own, the court may, at any time, on just terms, add or drop a party.” Fed. R. Civ. P. 21. Plaintiffs “may voluntarily dismiss parties under Rule 21.” *Collier v. Batiste*,

¹ Jane Nelson replaced John Scott as Texas Secretary of State on January 5, 2023. *See* Fed. R. Civ. P. 25(d).

2005 WL 3543824, *3 (E.D. La. Oct. 21, 2005). Alternatively, “an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper.” Fed. R. Civ. P. 41(a)(2). “[M]otions for voluntary dismissal should be freely granted unless the non-moving party will suffer some plain legal prejudice other than the mere prospect of a second lawsuit.” *Elbaor v. Tripath Imaging, Inc.*, 279 F.3d 314, 317 (5th Cir. 2002); *see also* 9 Wright & Miller Fed. Prac. & Proc. Civ. § 2362 (4th ed.) (“The power to drop some plaintiffs or defendants from the suit plainly exists, either explicitly in the Federal Rules or in the district court’s inherent power.”); *Florida Rising Together v. Lee*, No. 4:21-cv-201-MW/MJF, ECF No. 229 (N.D. Fla. Oct. 29, 2021) (construing a motion to withdraw as plaintiff as a motion for voluntary dismissal as to that plaintiff only pursuant to Rule 41(a)(2) or, in the alternative, as a motion to amend the complaint to drop the withdrawing plaintiff as a party pursuant to Rule 15(a)(2)); *Johnston v. Cartwright*, 355 F.2d 32, 39 (8th Cir. 1966) (“[I]t may not be material whether the court acts under Rule 15(a) which relates to amendments, or Rule 21 which concerns misjoinder, or Rule 41(a)(2).”).

During the pendency of this action, Plaintiff Montes has moved out of state. Her claims for declaratory and injunctive relief regarding redistricting in Texas therefore have become moot as to her. Defendants will suffer no prejudice from the dismissal of Plaintiff Montes. The remaining Abuabara Plaintiffs will continue to pursue the claims in the Abuabara Plaintiffs’ Third Amended Complaint (ECF No. 63), as supplemented by a forthcoming proposed supplemental complaint. Accordingly, Plaintiff Montes hereby respectfully requests that the court dismiss her from this action without prejudice.

Dated: April 9, 2024

Renea Hicks
Attorney at Law

Respectfully submitted,

/s/ David R. Fox
David R. Fox*

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CERTIFICATE OF CONFERENCE

Counsel for the Plaintiffs conferred with counsel for the Defendants in a good-faith attempt to resolve the subject matter of this Motion, and counsel for the Defendants indicated that they do not oppose the Motion.

/s/ David R. Fox

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on April 9, 2024, and that all counsel of record were served by CM/ECF.

/s/ David R. Fox