

STATE OF INDIANA

IN THE MONROE CIRCUIT COURT

COUNTY OF MONROE

CAUSE NO. 53C06-2203-PL-000608

CITY OF BLOOMINGTON,

Plaintiff,

vs.

CATHERINE SMITH,
in her official capacity as
Monroe County Auditor

Defendant.

**VOLUNTARY MOTION TO DISMISS CAUSES WITH PREJUDICE AND TO
RECONSOLIDATE REMAINING CAUSES**

Comes now Plaintiff, City of Bloomington, by counsel, Michael Rouker, and, pursuant to Indiana Rule of Trial Procedure 41(A)(2), moves to voluntarily dismiss two of the causes of action which have been consolidated as part of the above captioned case: 53C06-2203-PL-000608 and 53C06-2203-PL-000609. Plaintiff further moves that the remaining causes of action proceed and be re-consolidated into cause no. 53C06-2203-PL-000610. In support of said motion, Plaintiff states as follows:

1. On March 29, 2022 Plaintiff filed seven lawsuits related to Plaintiff's annexation proposal in the Monroe Circuit Court:

Cause No. 53C06-2203-PL-000608

Cause No. 53C06-2203-PL-000609

Cause No. 53C06-2203-PL-000610

Cause No. 53C06-2203-PL-000611

Cause No. 53C06-2203-PL-000614

Cause No. 53C06-2203-PL-000615

Cause No. 53C06-2203-PL-000616

2. The seven lawsuits contain identical issues of law and fact, though each lawsuit covered a separate annexation area. The seven annexation areas were generally labelled as area 1A, area 1B, area 1C, area 2, area 3, area 4 and area 5.
3. At the same time causes 53C06-2203-PL-000608 through 000616 were proceeding, a separate remonstrance proceeding, cause 53C06-2203-PL-000509, was proceeding in the Monroe Circuit Court.
4. The remonstrance proceeding, 53C06-2203-PL-000509, concerns only two of the annexation areas, 1A and 1B.
5. On September 5, 2023, Special Judge Nikirk issued an order that “the current proceedings [in 53C06-2203-PL-000509] are hereby stayed until the lawsuits involving the same parties in this matter filed by the City of Bloomington against the Monroe County Auditor have been fully and finally decided” and clarified in a docket entry that the referenced lawsuits involving same parties “means the lawsuits pending under cause numbers: 53C06-2203-PL-000608 and 53C06-2203-PL-000609.”
6. In order to proceed expeditiously with the remonstrance case before Judge Nikirk in cause 53C06-2203-PL-000509, Plaintiff hereby moves to voluntarily dismiss causes 53C06-2203-PL-000608 and 53C06-2203-PL-000609 with prejudice, in accordance with Judge Nikirk’s directive.
7. Plaintiff intends to proceed with the five remaining causes, 53C06-2203-PL-000610, -000611, -000614, -000615, and -000616.
8. On September 13, 2023, Counsel for Plaintiff spoke with Counsel for Defendant, Catherine Smith, and Counsel for the Defendant indicated that they had no objection to

the voluntary dismissal of causes 53C06-2203-PL-000608 and 53C06-2203-PL-000609 with prejudice.

9. Plaintiff also notes that on April 11, 2022, the Court ordered the consolidation of all seven above-referenced causes of action. Per Local Rule LR53-AR00-0108(C)(1), the cause number selected for the consolidation was the oldest cause number, which in this case was 53C06-2203-PL-000608.
10. As Plaintiff is now moving to dismiss cause 53C06-2203-PL-000608 with prejudice, Plaintiff also moves the court to re-consolidate the five remaining causes into cause no. 53C06-2203-PL-000610.

WHEREFORE, Plaintiff respectfully requests that this Court dismiss causes 53C06-2203-PL-000608 and 53C06-2203-PL-000609 with prejudice, reconsolidate the remaining causes of action into cause no. 53C06-2203-PL-000610, and grant all other just and proper relief.

Respectfully submitted,

/s/ Michael M. Rouker

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CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2023, that the foregoing document was filed and served upon the following person(s) electronically via the Indiana E-Filing System (IEFS):

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