

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

**CATHERINE REGINA HARPER, on)
behalf of herself and those similarly)
situated, and JENNIFER ESSIG,)**

Plaintiffs,)

v.)

**PROFESSIONAL PROBATION)
SERVICES, INC., THE CITY OF)
GARDENDALE, ALABAMA, a)
municipal corporation, and KENNETH)
GOMANY, in his official capacity as)
Judge of the Gardendale Municipal)
Court,)**

Defendants.)

**CIVIL ACTION NO.
2:17-CV-1791-UJB-AKK**

**JOINT MOTION TO DISMISS CLAIMS AGAINST DEFENDANTS
KENNETH GOMANY AND THE CITY OF GARDENDALE**

Plaintiff Catherine Regina Harper and Defendants the City of Gardendale and Kenneth Gomany (“Gomany”), in his official capacity as Judge of the Gardendale Municipal Court, having reached a settlement agreement to resolve the equitable claims for relief pled under the First, Second, and Third Claims for Relief against Defendants Gardendale and Judge Gomany in this matter, hereby move the Court to dismiss the City of Gardendale and Judge Gomany as parties to this action, without prejudice pursuant to Fed. R. Civ. P. Rule 41(a)(1)(A)(ii). As a

basis for this motion, Plaintiff Harper and Defendants the City of Gardendale and Judge Gomany state as follows:

1. In their Complaint, Plaintiff Harper challenges the legality of the contract for private probation services entered into between Gardendale and Professional Probation Services, Inc. (“PPS”), and requests declaratory and injunctive relief against Gardendale and Judge Gomany enjoining enforcement of the City’s contract with PPS. These are the only claims for relief alleged against Judge Gomany and the City of Gardendale.

2. Judge Gomany and the City of Gardendale deny Plaintiff Harper’s allegations.

3. Plaintiff Harper and Defendants Judge Gomany and Gardendale have reached a settlement agreement that fully resolves Plaintiff Harper’s claims against the City of Gardendale and Judge Gomany.

4. Accordingly, Plaintiff Harper and Defendants the City of Gardendale and Judge Gomany jointly and respectfully request that the Court dismiss all claims against the City of Gardendale and Judge Gomany without prejudice pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, with

Plaintiff Harper and the City of Gardendale to bear their own costs related to these claims.¹

/s/ Will Hill Tankersley

Will Hill Tankersley
Gregory C. Cook
L. Conrad Anderson IV
Ginny B. Willcox
Chase T. Espy
Steven C. Corhern
BALCH & BINGHAM LLP
1901 Sixth Avenue North, Suite 1500
Birmingham, AL 35203
Email: wht@balch.com
gcook@balch.com
canderson@balch.com
gwillcox@balch.com
cespy@balch.com
scorhern@balch.com

Attorneys for The City of Gardendale

/s/ Sara Zampierin

Sara Zampierin
Emily C.R. Early
SOUTHERN POVERTY LAW CENTER
400 Washington Avenue
Montgomery, Alabama 36104
Email: sara.zampierin@splcenter.org
emily.early@splcenter.org
Attorneys for Plaintiffs

/s/ Richard Warren Kinney, III

James W. Porter, II
Richard Warren Kinney, III
PORTER PORTER & HASSINGER PC
880 Montclair Road
Suite 175
Birmingham, AL 35213
Email: jwporterii@pphlaw.net
wkinney@pphlaw.net

Attorneys for Kenneth Gomany

¹ Plaintiff Harper intends to seek leave to amend the Amended Complaint to remove and thus dismiss its equitable claims for relief against PPS under the First, Second, and Third Claims for Relief. Neither she nor Plaintiff Jennifer Essig, however, intends to dismiss their monetary claims against Defendant PPS pled under the First and Fourth Claims for Relief.

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and service will be perfected upon the following this the 6th day of March, 2018:

Bryan A Grayson
LLOYD, GRAY, WHITEHEAD & MONROE, PC
880 Montclair Road
Suite 100
Birmingham, AL 35213
Tel: 205-967-8822
Fax: 205-967-2380
Email: bgrayson@lgwmlaw.com

/s/ Will Hill Tankersley

One of the Attorneys for Defendants