

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

TIMOTHY B. BOSTIC, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 2:13-cv-00395
)	
ROBERT F. McDONNELL, KENNETH)	
T. CUCCINELLI, II, and GEORGE)	
E. SCHAEFER, III, in their official capacities)	
)	
Defendants.)	

**MOTION TO DISMISS AS MOOT
THE GOVERNOR AND ATTORNEY GENERAL'S MOTION TO DISMISS
AND THE COMMONWEALTH OF VIRGINIA'S MOTION TO INTERVENE**

COME NOW, the Commonwealth of Virginia, Robert F. McDonnell, Governor of Virginia, and Kenneth T. Cuccinelli, II, Attorney General of Virginia, by counsel, and move this Court to dismiss the Governor and Attorney General's Motion to Dismiss on Sovereign Immunity Grounds, (Doc. 7), and the Commonwealth of Virginia's Motion to Intervene, (Doc. 9) as moot in light of Plaintiffs' Amended Complaint, and Plaintiffs' Rule 41 Notice of Voluntary Dismissal as to the Governor and Attorney General. (Doc. 19.) By voluntarily dismissing the suit against the Governor and Attorney General of Virginia pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i), and amending their complaint in accordance with Fed. R. Civ. P. 15(a)(1)(B), to name Janet M. Rainey, a state official who will answer within the scope of her official duties, the Governor and Attorney General have obtained the relief requested and the Commonwealth of Virginia's right to defend its laws from constitutional attack has been preserved. *See* Fed. R. Civ. P. 5.1(c); *see* 28 U.S.C. § 2403(b).

WHEREFORE, the Commonwealth of Virginia, Robert F. McDonnell, Governor of Virginia, and Kenneth T. Cuccinelli, II, Attorney General of Virginia, urge this Court to dismiss the aforesaid motions as moot.

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of September 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and that I also sent a filed copy of the same to the following by U.S. Mail, postage prepaid:

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