

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

<p>Fort Des Moines Church of Christ, a nonprofit religious corporation,</p> <p>Plaintiff,</p> <p>vs.</p> <p>Angela Jackson, Patricia Lipski, Mathew Hosford, Tom Conley, Douglas Oelschlaeger, Lily Lijun Hou, and Lawrence Cunningham, each in his or her official capacity as Commissioners of the Iowa Civil Rights Commission; Kristen H. Johnson,¹ in her official capacity as the Executive Director of the Iowa Civil Rights Commission; Tom Miller, in his official capacity as the Attorney General of the state of Iowa; and the City of Des Moines, Iowa,</p> <p>Defendants.</p>	<p>Case No. 4:16-cv-00403-SMR-CFB</p> <p>STATE DEFENDANTS’ MOTION TO DISMISS</p> <p>ORAL ARGUMENT REQUESTED</p>
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COME NOW Defendants Angela Jackson, Patricia Lipski, Mathew Hosford, Tom Conley, Douglas Oelschlaeger, Lily Lijun Hou, and Lawrence Cunningham, all in their official capacities as Commissioners of the Iowa Civil Rights Commission; Kristin H. Johnson, in her official capacity as the Executive Director of the Iowa Civil Rights Commission; and Tom Miller, in his official capacity as the Attorney General of the State of Iowa (collectively the “State Defendants”), and move the Court to Dismiss Plaintiff’s Verified Complaint for Declaratory and Injunctive Relief as against the State Defendants pursuant to Federal Rule of Civil Procedure 12(b)(1), and in the alternative, Rule 12(b)(6) and *Younger* abstention. The

¹The correct spelling of Ms. Johnson’s name is Kristin H. Johnson.

State Defendants are also filing a Brief in support of this motion. The motion is based upon the following grounds:

1. The Court lacks federal subject matter jurisdiction as against the State Defendants because no Article III case or controversy exists. *See* Fed. R. Civ. P. 12(b)(1).
2. The State Defendants have Eleventh Amendment sovereign immunity.
3. Plaintiff failed to exhaust its administrative remedies.
4. Plaintiff fails to state a claim upon which relief can be granted against the State Defendants. *See* Fed. R. Civ. P. 12(b)(6).
5. If the circumstances are considered a state proceeding, the Court should abstain under the *Younger* abstention doctrine.

WHEREFORE, the State Defendants respectfully request that the Court grant their Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(1), and in the alternative, pursuant to Rule 12(b)(6) or *Younger* abstention. The State Defendants also request that oral argument on this motion be held during any hearing scheduled on Plaintiff's Motion for Preliminary Injunction. It would serve the interests of the Court and the parties to argue both motions at the same time.

Respectfully submitted,

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Proof of Service	
The undersigned certifies that the foregoing instrument was served upon each of the persons identified as receiving a copy by delivery in the following manner on <u>July 28, 2016</u> .	
<input type="checkbox"/> U.S. Mail	<input type="checkbox"/> FAX
<input type="checkbox"/> Hand Delivery	<input type="checkbox"/> Overnight Courier
<input type="checkbox"/> Federal Express	<input type="checkbox"/> Other
<input checked="" type="checkbox"/> Electronically	
Signature: <u>/s/ Molly M. Weber</u>	