

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

STATE OF ALABAMA, <i>et al.</i> ,)	
)	
Plaintiffs,)	No. 7:19-cv-2032-LSC
)	
vs.)	
)	
DAVID S. FERRIERO, in his official capacity as)	
Archivist of the United States, <i>et al.</i> ,)	
)	
Defendant.)	

**JOINT STIPULATION AND
 PLAINTIFFS’ NOTICE OF VOLUNTARY DISMISSAL**

Plaintiffs, the States of Alabama, Louisiana and South Dakota, and Defendant, David S. Ferriero in his official capacity as Archivist of the United States, hereby stipulate to the following:

1. On January 6, 2020, the Department of Justice’s Office of Legal Counsel (OLC) released an opinion concerning the legal status of the Equal Rights Amendment (ERA) Resolution adopted by Congress in 1972 and the role of the Archivist of the United States under 1 U.S.C. § 106b. The opinion finds that “Congress had the constitutional authority to impose a deadline on the ratification of the ERA and, because that deadline has expired, the ERA Resolution is no longer pending before the States.” OLC Opinion, at 2. The opinion also finds that “Congress may not revive a proposed amendment after the deadline has expired,” for example by passing a law that purports to lift the deadline. OLC Opinion, at 3. Accordingly, the OLC opinion goes on to state, “the ERA’s adoption could not be certified under 1 U.S.C. § 106b.” OLC Opinion, at 37.

2. Following OLC’s guidance, the Archivist has stated that he will not certify the adoption of the Equal Rights Amendment under 1 U.S.C. § 106b. *See* NARA Press Release on

Equal Rights Amendment, Jan. 8, 2020, <https://www.archives.gov/press/press-releases-4>. The Archivist has further stated that he “defers to DOJ on this issue and will abide by the OLC opinion, unless otherwise directed by a final court order.” *Id.*

3. In the event that the Department of Justice ever concludes that the 1972 ERA Resolution is still pending and that the Archivist therefore has authority to certify the ERA’s adoption under 1 U.S.C. § 106b, the Archivist will make no certification concerning ratification of the ERA until at least 45 days following the announcement of the Department of Justice’s conclusion, absent a court order compelling him to do so sooner.

4. Plaintiffs thus voluntarily dismiss this action in accordance with Federal Rule of Civil Procedure 41(a)(1)(A)(i).

Dated: February 27, 2020

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