

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
WEST PALM BEACH DIVISION**

Case No.: 9:18-cv-80771-RLR

ROBERT W. OTTO, PH.D., LMFT,  
individually, and on behalf of his patients,  
JULIE H. HAMILTON, PH.D., LMFT,  
individually and on behalf of her patients,

Plaintiffs,

v.

CITY OF BOCA RATON, FLORIDA, and  
COUNTY OF PALM BEACH, FLORIDA,

Defendants.

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**DEFENDANT, PALM BEACH COUNTY’S RESPONSE IN OPPOSITION TO  
PLAINTIFFS’ MOTION FOR LEAVE TO TAKE JURISDICTIONAL DISCOVERY**

Defendant, Palm Beach County (“County”), by and through undersigned counsel, replies to Plaintiffs’ Motion to Take Jurisdictional Discovery [DE 197] (“Motion”), and in support thereof states the following:

**I. The County incorporates by reference the arguments in opposition to the Plaintiffs’ Motion made by Defendant, the City of Boca Raton, in its Response in Opposition to Plaintiffs’ Motion to Take Jurisdictional Discovery [DE 201].**

On February 22, 2023, Co-Defendant, the City of Boca Raton (“City”) filed its Response in Opposition to the Plaintiff’s Motion (“City’s Response”) [DE 201]. Plaintiff’s Motion did little to distinguish between the two Defendants in arguing their need for jurisdictional discovery, and the City has laid out legal arguments applicable to both Defendants in its Response. Accordingly, in the interest of judicial economy, the County adopts the City’s Response, and in particular the legal arguments made in sections II and III. [DE 201, p. 3-10].

## **II. County's additional grounds for opposition to Plaintiffs' Motion.**

In addition to the foregoing, and as it pertains to the inapplicability of the doctrine of voluntary cessation to this case, and why, even if said doctrine applied, discovery would be unnecessary<sup>1</sup>, the County adds that it too has “maintained its commitment to the new . . . legislative scheme.” It has not re-enacted the repealed Ordinance or placed the re-enactment on the County Commissioners' meeting agenda. Moreover, as stated in the County's Reply to Plaintiffs' Consolidated Response in Opposition to the Defendants' Motions to Dismiss, the undersigned has been authorized to represent that Palm Beach County has no intention to re-enact the Challenged Ordinance. [DE 192, p. 7].<sup>2</sup> Accordingly, there is no need for jurisdictional discovery to establish this point.

Finally, it should be noted that in making their case for the need for discovery, Plaintiffs cite to their “Opposition Memo” asserting that there, they “proffered evidence that strongly suggests that the repeal of the Ordinances do not reflect a genuine change of heart or a permanent abandonment of their unlawful conduct...” [DE 197, p. 5]. However, as the County has pointed out in its Reply to the Plaintiffs' “Opposition Memo,” the Plaintiffs refer to the plural “Defendants” notwithstanding the fact that their arguments are based exclusively on facts related only to the City of Boca Raton. [DE 192, p. 6].

Plaintiffs continue this approach in their present Motion, again referring to the “Defendants” yet failing to state any specific facts attributable to Palm Beach County to substantiate any legitimate need to conduct jurisdictional discovery as it relates to the County.

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<sup>1</sup> City's Argument IV, [DE 201, p. 6-9].

<sup>2</sup> In the event that this Court grants the Plaintiff's Motion, the County reserves the right to object to specific discovery requests, including via motion for protective order.

Under these circumstances (and in light of the fact that the Plaintiffs have now accepted the City's Offers of Judgment), there simply is no basis, factual or legal, to support the Plaintiffs' request for additional discovery as it relates to the County.

WHEREFORE, the County respectfully requests that the Plaintiffs' Motion be denied and that this Honorable Court grant any such other relief that it deems just and proper.

Respectfully submitted this 27th day of February, 2023.

/s/ Marianna Sarkisyan

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on February 27, 2023, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send an electronic notice to the authorized CM/ECF filers.

/s/ Marianna Sarkisyan

Marianna Sarkisyan, Esquire  
Florida Bar No. 57059