

No. 21-11148

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**UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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PLANNED PARENTHOOD OF GREATER TEXAS SURGICAL HEALTH SERVICES, on behalf  
of itself, its staff, physicians, and patients; G. SEALY MASSINGILL, M.D., behalf of  
himself and his patients,

*Plaintiffs-Appellants,*

v.

CITY OF LUBBOCK, TEXAS,

*Defendant-Appellee.*

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On Appeal from the United States District Court for the  
Northern District of Texas, Case No. 5:21-cv-114

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**PLAINTIFFS-APPELLANTS' UNOPPOSED MOTION  
FOR DISMISSAL OF APPEAL**

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**CERTIFICATE OF INTERESTED PERSONS**

***Planned Parenthood v. City of Lubbock, Texas, No. 21-11148***

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Circuit Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that judges of this court may evaluate possible disqualification or recusal.

<b>Plaintiffs-Appellants</b>	<b>Counsel</b>
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/s/ Lori A. Martin

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*Counsel of record for Plaintiffs-Appellants*

Plaintiffs move to dismiss this appeal pursuant to Federal Rule of Appellate Procedure 42(b) and Circuit Rule 42.1.

Counsel for defendant informed plaintiffs' counsel that defendant does not oppose this motion.

### **BACKGROUND**

Plaintiffs' suit challenges defendant's ordinance making it "unlawful to procure or perform an abortion or to aid or abet an abortion" within the City of Lubbock, Texas, and delegating enforcement thereof to private parties. *Planned Parenthood of Greater Tex. Surgical Health Servs. v. City of Lubbock*, No. 5:21-CV-114-H ("Dist. Ct."), --- F. Supp. 3d ----, 2021 WL 2385110, at \*4 (N.D. Tex. June 1, 2021). The district court dismissed the case for lack of jurisdiction. *Id.* at \*1, \*24. Plaintiffs timely appealed. Dist. Ct. ECF No. 59. No briefs have yet been filed in this appeal; plaintiffs' opening brief is due February 2, 2022. Order, ECF No. 60.

### **DISCUSSION**

Plaintiffs move to dismiss this appeal pursuant to Federal Rule of Appellate Procedure 42(b) and Circuit Rule 42.1. Accordingly, plaintiffs are filing as Exhibit A, attached hereto, "a signed dismissal agreement specifying how costs are to be paid." Fed. R. App. P. 42(b). No additional fees are due. *See id.*

## CONCLUSION

Therefore, the Court should dismiss this appeal.

January 20, 2022

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### **CERTIFICATE OF COMPLIANCE**

This motion complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A) in that, according to the word-count feature of this word-processing system used to prepare the motion (Microsoft Word), the motion contains 200 words, excluding the portions exempted by Rule 32(f).

/s/ Lori A. Martin

LORI A. MARTIN

### **CERTIFICATE OF SERVICE**

I electronically filed the foregoing on January 20, 2022, using the Court's appellate CM/ECF system, which effected service on all counsel of record.

/s/ Lori A. Martin

LORI A. MARTIN

# **EXHIBIT A**

No. 21-11148

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**PLAINTIFFS-APPELLANTS' AGREEMENT  
FOR DISMISSAL OF APPEAL**

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**AGREEMENT**

Pursuant to Federal Rule of Appellate Procedure 42(b), plaintiffs-appellants and defendant-appellee agree that:

1. Plaintiffs-appellants knowingly and voluntarily withdraw this appeal.
2. The parties will bear their own costs for this appeal and for the proceedings in the district court, No. 5:21-cv-114 (N.D. Tex.).
3. No additional fees are due.

January 20, 2022

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