

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

FAIRFAX COUNTY SCHOOL BOARD,

Plaintiff,

v.

DEBRA TISLER and CALLIE  
OETTINGER,

Defendants.

Case No. 2021-13491

**DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION FOR NONSUIT**

This meritless lawsuit should never have been filed, so Defendants have no objection to the Plaintiff's motion for nonsuit, on the understanding that—as is typical of nonsuits—the granting of the nonsuit will vacate the preliminary injunction entered by this Court on November 16, 2021. *See Winchester Homes, Inc. v. Osmose Wood Preserving, Inc.*, 37 F.3d 1053, 1058 (4th Cir. 1994) (“a nonsuit ‘leaves the situation as if the suit had never been filed and carries down with it previous rulings and orders in the case.’” (citation omitted)); *accord, City of Oakland v. Super. Ct.*, 186 Cal. Rptr. 326, 328 (App. 1982) (voluntary dismissal without prejudice means “the preliminary injunction dissolves without the necessity of a formal motion to dissolve.”); *Beatty v. Casselman*, 115 Neb. 104, 211 N.W. 617, 618 (1926) (nonsuit “adjudicated nothing more than that the injunction was not rightfully issued” in the first place.). *See further Effect of Nonsuit, Dismissal, or Discontinuance of Action on Previous Orders*, 11 A.L.R.2d 1407 § 5.

December 1, 2021

Respectfully submitted,

DEBRA TISLER and CALLIE OETTINGER

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**CERTIFICATE OF SERVICE**

I certify that on December 1, 2021, a true and accurate copy of this document was sent by

email and regular mail to:

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