

**UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF ALABAMA  
 SOUTHERN DIVISION**

<b>D. BLAINE LEEDS DDS, et al.,</b>	}	
	}	
<b>Plaintiffs,</b>	}	
	}	
<b>v.</b>	}	<b>Case No.: 2:18-cv-01679-RDP</b>
	}	
<b>BOARD OF DENTAL EXAMINERS OF ALABAMA, et al.,</b>	}	
	}	
<b>Defendants.</b>	}	

**ORDER**

For the reasons stated in the accompanying Memorandum Opinion, the court’s prior order granting in part and denying part Defendants’ motion to dismiss (Doc. # 58) is **VACATED** and this order is **SUBSTITUTED** in its place.

This matter is before the court on Defendants’ motion to dismiss Plaintiffs’ Amended Complaint (Doc. # 29) pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). (Doc. # 32). For the reasons explained in the court’s Memorandum Opinion (Doc. # 57), Defendants’ motion to dismiss (Doc. # 32) is **GRANTED IN PART** and **DENIED IN PART**.

Defendants’ motion is **GRANTED** with respect to the following claims:

1. All claims against Defendant Board of Dental Examiners of Alabama are **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction. The Clerk of Court is **DIRECTED** to terminate Defendant Board of Dental Examiners of Alabama.
2. All claims against Defendants Adolphus M. Jackson, T. Gerald Walker, Douglas Beckham, Stephen R. Sticklin, Mark R. McIlwain, Kevin M. Sims, and Sherry S.


Campbell (the “Board members”) in their individual capacities are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim.

3. Plaintiffs’ Equal Protection claims (Counts Five and Six) are **DISMISSED WITH PREJUDICE** for failure to state a claim.
4. Plaintiffs’ Substantive Due Process claims (Counts Seven and Eight) are **DISMISSED WITH PREJUDICE** for failure to state a claim.
5. Plaintiffs’ Alabama Due Process claim (Count Nine) is **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction.
6. To the extent Plaintiffs’ claim for a declaratory judgment in Count Ten is based on a violation of Alabama law, it is **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction.

Defendants’ motion is **DENIED** with respect to the following claims:

1. Plaintiffs’ Dormant Commerce Clause claims (Counts One and Two) against the Board members in their official capacities may proceed.
2. Plaintiffs’ section 1 Sherman Act claims (Counts Three and Four) against the Board members in their official capacities may proceed.

**DONE** and **ORDERED** this April 17, 2019.

  
**R. DAVID PROCTOR**  
UNITED STATES DISTRICT JUDGE