

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION**

GENBIOPRO, INC.,

Plaintiff,

v.

Civil Action No. 3:23-cv-00058

**MARK A. SORSAIA, in his official
capacity, AND PATRICK MORRISEY, in
his official capacity,**

Hon. Robert C. Chambers

Defendants.

MOTION TO DISMISS

Defendant, Patrick Morrissey, in his official capacity as Attorney General of the State of West Virginia, respectfully moves this Court under Fed. R. Civ. P. 12(b) for an order dismissing Plaintiff's complaint. As further explained in the Memorandum in Support of this Motion filed contemporaneously herewith, dismissal is proper here because Plaintiff lacks standing, as it has not shown an injury in fact or redressability, *see* Fed. R. Civ. P. 12(b)(1), and Plaintiff fails to state claims upon which relief may be granted, *see* Fed. R. Civ. P. 12(b)(6).

For these reasons, as laid out in full in the accompanying memorandum in support, the Court should dismiss the Complaint.

Respectfully submitted,

By counsel,

PATRICK MORRISEY
West Virginia Attorney General

/s/ Curtis R. A. Capehart
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Chief Deputy Attorney General
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Counsel for Defendant, Patrick Morrissey, in his official capacity as Attorney General of the State of West Virginia

DATE: February 21, 2023

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CERTIFICATE OF SERVICE

I hereby certify that, on this 21st day of February, I electronically filed the foregoing
“Motion to Dismiss” with the Clerk of Court and all parties using the CM/ECF System.

/s/ Curtis R. A. Capehart

Curtis R. A. Capehart

Deputy Attorney General

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[PROPOSED] ORDER GRANTING DEFENDANTS' MOTION TO DISMISS

Defendant, Patrick Morrissey, in his official capacity as Attorney General of the State of West Virginia, through counsel, filed a motion to dismiss [ECF No. XX] on February 21, 2023. Having considered Defendant's Memorandum in Support [ECF No. XX], Plaintiff's Response in Opposition [ECF No. XX], and Defendants' Reply [ECF No. XX], the Court concludes both that Plaintiff lacks standing to bring its claims, and, even if it had standing, its counts fail to state a claim upon which relief can be granted. *See* Fed. R. Civ. P. 12(b)(1), (6). Accordingly, the Court **GRANTS** Defendant's motion and **ORDERS** that the complaint [ECF No. 1] be dismissed.

ORDERED: _____, 2023
/s/ _____
United States District Judge