

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

RENEE A. REESE

PLAINTIFF

v.

Case No. 2:16-cv-00046 KGB

CORRECT CARE SOLUTIONS, LLC

DEFENDANT

ORDER

Before the Court is plaintiff Renee A. Reese’s motion to voluntarily dismiss complaint (Dkt. No. 26). Ms. Reese requests that the Court dismiss her complaint without prejudice. Defendant Correct Care Solutions, LLC (“Correct Care”), has responded and requests that the Court deny the motion or grant the motion on the condition that this action be dismissed with prejudice (Dkt. No. 30).

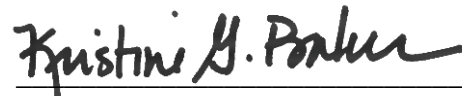
Because Correct Care has served an answer and a motion for summary judgment (Dkt. Nos. 10, 27), this action may be dismissed at Ms. Reese’s request “only by court order, on terms that the court considers proper.” Fed. R. Civ. P. 41(a)(2). Generally, “in the federal courts, after answer, dismissals without prejudice should be granted only ‘if no other party will be prejudiced.’” *Kern v. TXO Production Corp.*, 738 F.2d 968, 970 (8th Cir. 1984) (quoting 9 Wright & Miller, *Fed. Prac. & Proc. Civ.* § 2362 (1971)). “By ‘prejudice’ in this context is meant something other than the necessity that defendant might face of defending another action. That kind of disadvantage can be taken care of by a condition that plaintiff pay to defendant its costs and expenses incurred in the first action.” *Kern*, 728 F.2d at 970.

The Court grants Ms. Reese’s motion for voluntary dismissal. The Court conditions dismissal and the refile of this action on the following: (1) that the suit, if refiled, will be refiled in this Court; (2) that, if refiled, no further discovery will occur in the case without prior leave of the Court; and (3) that, if and when this case is refiled, the Court will assign to Ms. Reese all or

part of the costs and fees incurred by Correct Care related to the refiling of this case. The Court reserves ruling on any request for costs and fees until and if the case is refiled. Ms. Reese is advised that Federal Rule of Civil Procedure 41 permits the Court to stay the refiled proceedings until the plaintiff has complied with the Court's orders. *See* Fed. R. Civ. P. 41(d)(2).

For good cause shown, the Court grants Ms. Reese's motion (Dkt. No. 26). The Court dismisses without prejudice this action. The Court denies as moot all other pending motions (Dkt. Nos. 21, 24, 27).

So ordered this the 19th day of January, 2018.

A handwritten signature in black ink that reads "Kristine G. Baker". The signature is written in a cursive style with a horizontal line underneath it.

Kristine G. Baker
United States District Judge