

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

CRAIG SHIPP

PLAINTIFF

v.

Case No. 4:18-cv-4017

MELISSA STONER, DIANE
CUNNINGHAM, KIMBERLY
HOFFMAN, LORENE LOMAX, *et al.*

DEFENDANTS

ORDER

Before the Court is Plaintiff Craig Shipp's Stipulation of Dismissal Without Prejudice of Defendants Cunningham, Hoffmann, Lomax, and Stoner Only. (ECF No. 64). The Court is informed that the stipulation is unopposed. Thus, the Court finds that no response is necessary and that the matter is ripe for consideration.

Plaintiff seeks to dismiss without prejudice his claims against Defendants Melissa Stoner, Diane Cunningham, Kimberly Hoffman, and Lorene Lomax. To that end, he has filed a stipulation of dismissal as to those Defendants.

Federal Rule of Civil Procedure 41 governs the dismissal of actions. An action may be dismissed by "a stipulation of dismissal signed by all parties who have appeared." Fed. R. Civ. P. 41(a)(1)(A)(ii). Plaintiff's stipulation is not signed by all parties who have appeared in this case. Thus, the instant stipulation cannot be considered a valid Rule 41 stipulation. This does not preclude the Court from granting the relief sought, however.

Pursuant to Federal Rule of Civil Procedure 41(a)(2), an action may be dismissed by court order at the plaintiff's request, on terms the court considers proper. "Voluntary dismissal under Rule 41(a)(2) should not be granted if a party will be prejudiced by the dismissal." *Adams v. USAA Cas. Ins. Co.*, 863 F.3d 1069, 1079 (8th Cir. 2017).

The Court construes the instant stipulation as a motion requesting Rule 41 dismissal as to Defendants Cunningham, Hoffmann, Lomax, and Stoner. Upon consideration, the Court finds that good cause for the motion has been shown. No party will be prejudiced by dismissing Plaintiffs' claims against Defendants Cunningham, Hoffmann, Lomax, and Stoner. Indeed, Defendants Cunningham, Hoffmann, Lomax, and Stoner do not oppose the instant motion.

Accordingly, Plaintiff's motion (ECF No. 64) is hereby **GRANTED**. Plaintiff's claims against Defendants Melissa Stoner, Diane Cunningham, Kimberly Hoffman, and Lorene Lomax are hereby **DISMISSED WITHOUT PREJUDICE**. Plaintiff's claims against the other Defendants to this case shall remain.

IT IS SO ORDERED, this 10th day of June, 2019.

/s/ Susan O. Hickey
Susan O. Hickey
Chief United States District Judge