

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

PNC BANK, N.A., as successor in
interest to RBC Bank (USA), as
successor in interest to Community
Bank of Naples, N.A.,

Plaintiff,

v.

Case No: 2:13-cv-247-FtM-38UAM

DBAK HOLDINGS, LLC, PARKER
COMMONS OFFICE PARK
CONDOMINIUM ASSOCIATION
INC., UNKNOWN OCCUPANTS,
n/k/a U.S. Health Advisors, and
UNKNOWN OCCUPANTS,

Defendants.

ORDER¹

This matter comes before the Court on Stipulated Voluntary Dismissal Without Prejudice of Count III of the Amended Verified Complaint as to Parker Commons Office Park Condominium Association Inc. ([Doc. #59](#)) filed on January 2, 2014. Plaintiff and Defendant Parker Commons, through their respective counsel, stipulate to the dismissal of Count III without prejudice.

[Fed. R. Civ. P. 41\(a\)\(1\)\(A\)](#) provides that an action may be dismissed by the plaintiff without order of the court by filing: (i) a notice of dismissal before the opposing party

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serves either an answer or a motion for summary judgment; or (ii) a stipulation of dismissal signed by all parties who have appeared. Here, Defendant Parker Commons has appeared in this action and filed an Answer. ([Doc. #31](#)). Therefore, a stipulation signed by all parties pursuant to [Fed. R. Civ. P. 41\(a\)\(1\)\(A\)\(ii\)](#) has been filed and Count III will be dismissed.

As a Judgment has previously been entered in this case against Defendants DBAK Holdings, LLC and Unknown Occupants, n/k/a U.S. Health Advisors ([Doc. #50](#), [Doc. #51](#)), the Court will direct that the judgment be amended to include Defendant Unknown Occupants and Parker Commons. See [Doc. #54](#), [Doc. #57](#). The matter may now be closed.


Accordingly, it is now

ORDERED:

- (1) Count III of Plaintiff's Verified Amended Complaint is **DISMISSED without prejudice** pursuant to the Stipulated Voluntary Dismissal Without Prejudice of Count III of the Amended Verified Complaint as to Parker Commons Office Park Condominium Association Inc. ([Doc. #59](#)), with each party to bear its own attorneys' fees and costs.
- (2) Judgment is further entered in favor of Plaintiff against Defendant Parker Commons as to Count II of the Amended Verified Complaint pursuant to this Court's Order at [Doc. #57](#).
- (3) This matter against Defendant Unknown Occupants is hereby **DISMISSED without prejudice**, with each party to bear its own attorneys' fees and costs pursuant to this Court's Order at [Doc. #54](#).

(4) The Clerk of the Court is directed to amend the judgment that was previously entered at [Doc. #51](#) accordingly, terminate any pending motions and deadlines, and **CLOSE** the file.

DONE and **ORDERED** in Fort Myers, Florida this 3rd day of January, 2014.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record