

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

MICHAEL DONNELLY,

Plaintiff,

v.

Case No: 2:13-cv-405-FtM-38UAM

DFC GLOBAL CORP,

Defendant.

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**ORDER**<sup>1</sup>

This matter comes before the Court on the Plaintiff, Michael Donnelly's Notice of Voluntary Dismissal (Doc. #[16](#)) filed on October 14, 2013. [Federal Rule of Civil Procedure 41\(a\)\(1\)\(A\)](#), allows a plaintiff to dismiss a case without a court order. The Rule reads in pertinent part:

Subject to Rules 23(e), 23.1, 23.2 and 66 and any applicable federal statute, the plaintiff may dismiss an action without a court order by filing:

- (i) A notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or
- (ii) A stipulation of dismissal signed by all parties who have appeared.

[Fed. R. Civ. P. 41\(a\)\(1\)\(A\)](#).

In this instance, the Plaintiff informs the Court that he voluntarily dismisses the claim, however, an Answer (Doc. # [13](#)) was filed in the case on July 12, 2013. After an

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answer has been filed, a stipulation of dismissal signed by both parties must be filed with the Court rather than a notice of voluntary dismissal. Therefore, the Notice to Voluntarily Dismiss the action is due to be stricken and the Plaintiff will be required to file a stipulation of dismissal signed by both parties or in the alternative file a Motion to Voluntarily Dismiss in compliance with [Fed. R. Civ. P. 41\(a\)\(2\)](#).

Accordingly, it is now

**ORDERED:**

The Plaintiff, Michael Donnelly's Notice of Voluntary Dismissal (Doc. #[16](#)) is **STRICKEN**. The Clerk of the Court is directed to **STRIKE** and remove the Notice (Doc. # [16](#)) from the docket sheet.

**DONE** and **ORDERED** in Fort Myers, Florida this 15th day of October, 2013.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record