

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No: 2:13-cv-636-FtM-38DNF

VIN: WP1AD2A26DLA72280, VIN:  
WP1AA2A20DLA05294, VIN:  
5UXZV4C5XD0B20600, VIN:  
WP1AA2A25DLA03721, VIN:  
WP0AA2A78DL011101, VIN:  
WP0AF2A79DL076170, VIN:  
WP1AA2A29DLA02832 and VIN:  
WP1AA2A25DLA02679,

Defendants.

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

This matter comes before the Court on The Plaintiff, United States of America's Unopposed Motion to Dismiss Certain Property ([Doc. #39](#)) filed on July 2, 2014. Specifically, the United States seeks to dismiss the civil forfeiture action against the four defendant vehicles, WP1AD2A26DLA72280 ("VIN 2280"), WP1AA2A20DLA05294 ("VIN 5294"), WP1AA2A25DLA03721 ("VIN 3721"), and WP0AF2A79DL076170 ("VIN 6170").

IFYI, Inc. filed a verified claim with respect to these four defendant vehicles and IFYI, Inc.'s interests have been settled through negotiations with the United States and

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the Parties have entered into a written settlement agreement. The United States no longer intends to pursue the forfeiture of these four Defendant Vehicles and requests that they be dismissed from this civil forfeiture case pursuant to [Fed. R. Civ. P. 41\(a\)\(2\)](#), which provides for a voluntary dismissal by court order. The Motion to Dismiss the four Defendant Vehicles VIN 2280, VIN 5294, VIN 3721, and VIN 6170 is unopposed.

Except as provided in [Rule 41\(a\)\(1\)](#) (dismissal by stipulation or before an answer or motion for summary judgment has been filed), dismissal of an action must be by court order. [Kokkonen v. Guardian Life Ins. Co. of America](#), 511 U.S. 375, 378-381, 114 S. Ct. 1673, 1675-1677, 128 L. Ed. 2d 291 (1994); [Anago Franchising, Inc. v. Shaz, LLC.](#), 677 F.3d 1272, 1280 (11th Cir. 2012). [Fed. R. Civ. P. 41\(a\)\(2\)](#) provides that “an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper.” “The district court enjoys broad discretion in determining whether to allow a voluntary dismissal under [Rule 41\(a\)\(2\)](#).” [Pontenberg v. Boston Sci. Corp.](#), 252 F.3d 1253, 1255 (11th Cir. 2001). A “voluntary dismissal should be granted unless the defendant will suffer clear legal prejudice, other than the mere prospect of a subsequent lawsuit, as a result.” [Id.](#) (internal quotation marks omitted).

While [Rule 41\(a\)\(2\)](#) allows for the dismissal of an action, the Courts in this District generally hold that [Rule 41\(a\)\(2\)](#) applies only to the entire action and not some of the Parties in the case. Nevertheless, pursuant to [Fed. R. Civ. P. 54\(b\)](#), “when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay.” The United States agrees that its interests in these four defendant vehicles have been resolved pursuant to a negotiated settlement. Therefore, there is no

just reason for delay and the Motion to Dismiss the four Defendant Vehicles VIN 2280, VIN 5294, VIN 3721, and VIN 6170 is due to be granted.

Accordingly, it is now

**ORDERED:**

The Plaintiff, United States of America's Unopposed Motion to Dismiss Certain Property ([Doc. #39](#)) is **GRANTED**. All claims against the Defendant Vehicles

- WP1AD2A26DLA72280 (“VIN 2280”),
- WP1AA2A20DLA05294 (“VIN 5294”),
- WP1AA2A25DLA03721 (“VIN 3721”), and
- WP0AF2A79DL076170 (“VIN 6170”)

are **DISMISSED**. Finding no just cause for delay, the Clerk shall enter judgment accordingly and terminate only these Defendant Vehicles.

**DONE** and **ORDERED** in Fort Myers, Florida this 8th day of July, 2014.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES DISTRICT JUDGE**

Copies: All Parties of Record