

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

KATHY FLETCHER,

Plaintiff,

v.

Case No: 2:13-cv-650-FtM-38CM

KGH, LLC,

Defendant.

ORDER¹

This matter comes before the Court on Plaintiff's Notice of Voluntary Dismissal ([Doc. #18](#)) filed on February 19, 2014. On September 10, 2013, Plaintiff Kathy Fletcher filed a Complaint against Defendant KGH, LLC seeking unpaid back wages pursuant to the Fair Labor Standards Act (hereinafter "FLSA"). ([Doc. #1](#)). After Defendant did not appear in this matter and pursuant to [Rule 55\(a\) of the Federal Rules of Civil Procedure](#), a Clerk's Default was entered on January 14, 2014. ([Doc. #12](#)). Thereafter, on January 30, 2014, Plaintiff unilaterally filed a Notice of Settlement. ([Doc. #14](#)). Even though Defendant has not appeared in this matter to date, Plaintiff indicates that the Parties have reached a settlement that "fully compensates Plaintiff for her claims for wages." ([Doc. #14](#)). The Court consequently issued an Order explaining why Plaintiff's notice was insufficient to move forward with closing this case. ([See Doc. #16](#)). Now, Plaintiff has filed

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a voluntary dismissal that simply states, “Now comes Plaintiff, KATHY FLETCHER, by and through her undersigned counsel, and files this Notice of Voluntary Dismissal with Prejudice.” ([Doc. #18](#)).

Pursuant to the notice of voluntary dismissal and Federal Rule of Civil Procedure 41(a), this FLSA matter will be dismissed but without prejudice. See [Appleby v. Hickman Const., Inc., No. 1:12cv237-SPM/GRJ, 2013 WL 1197758, at *1-2 \(N.D. Fla. Mar. 25, 2013\)](#) (discussing that voluntary dismissals in FLSA matters are dismissed without prejudice if the court is unable to scrutinize the settlement for fairness). That is, since the Court is uncertain whether a compromise was made in this settlement, the Court will not dismiss this matter with prejudice. [Lynn's Food Stores, Inc. v. U.S. By and Through U.S. Dept. of Labor, Employment Standards Admin., Wage and Hour Division, 679 F.2d. 1350 \(11th Cir. 1982\)](#); see also [Dees v. Hydradry, Inc., 706 F.Supp.2d 1227, 1240 \(M.D. Fla. 2010\)](#) (“but if the parties’ proposed ‘full compensation’ agreement includes an additional term...the notion of ‘full compensation’ becomes illusory and inapplicable.”).

Accordingly, it is

ORDERED:

1. This matter is **DISMISSED without prejudice**.
2. The Clerk is directed to CLOSE the case, terminate any pending motions and enter judgment accordingly.

DONE and ORDERED in Fort Myers, Florida this 18th day of March, 2014.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record