

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

MALIBU MEDIA, LLC,

Plaintiff,

v.

Case No: 2:14-cv-512-FtM-38CM

ELIO HERNANDEZ,

Defendant.

ORDER¹

This matter comes before the Court on Plaintiff's Notice of Voluntary Dismissal without Prejudice to Elio Hernandez ([Doc. #12](#)) filed on January 16, 2015. [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, Plaintiff Malibu Media, LLC indicates this matter is dismissed without prejudice. Defendant Elio Hernandez has not filed an answer or motion for

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summary judgment. Therefore, this matter is due to be dismissed pursuant to [Rule 41\(a\)\(1\)\(A\)\(i\)](#).

Accordingly, it is now

ORDERED:

Pursuant to Plaintiff's Notice of Voluntary Dismissal without Prejudice to Elio Hernandez ([Doc. #12](#)) and [Rule 41\(a\)\(1\)\(A\)\(i\)](#), the Amended Complaint ([Doc. #10](#)) is **DISMISSED without prejudice**. The Clerk is directed to terminate any pending motions, enter judgment, and close the case.

DONE and **ORDERED** in Fort Myers, Florida this 20th day of January, 2015.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record