

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

TAMERA GOERS  
and ASHLEY CHRISTINE MULLIGAN,  
Individually, and on Behalf of All Others  
Similarly Situated,

Plaintiffs,

v.

Case No: 2:15-cv-00412-FTM-99CM

L.A. ENTERTAINMENT GROUP,  
INC., a Florida Corporation, and  
AMER SALAMEH, individually,

Defendants.

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

This matter comes before the Court on *sua sponte* review of the docket. Plaintiffs filed their Motion to Dismiss State Law Claims without Prejudice ([Doc. #73](#)) on September 13, 2016. They then filed a Notice of Withdrawal of their Motion to Dismiss State Law Claims ([Doc. #78](#)) on September 30, 2016.

“A plaintiff wishing to eliminate particular claims or issues from the action should amend the complaint under Rule 15(a) rather than dismiss under Rule 41(a).” [Binns v. Caesars Entm't Corp.](#), No. 2:14-CV-506-FTM-38, 2014 WL 5378227, at \*1 (M.D. Fla. Oct. 21, 2014) (quoting [Klay v. United Healthgroup, Inc.](#), 376 F.3d 1092, 1106 (11th Cir.

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<sup>1</sup> Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or websites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other websites, this Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their websites. Likewise, the Court has no agreements with any of these third parties or their websites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.

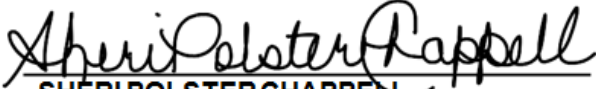
[2004](#)). Because Plaintiffs cannot remove a single count from their Complaint without following the proper procedure, their Motion to Dismiss ([Doc. #73](#)) must be denied.

Accordingly, it is now

**ORDERED:**

Defendants' Motion to Dismiss State Law Claims without Prejudice ([Doc. #73](#)) is DENIED.

**DONE and ORDERED** in Fort Myers, Florida this 25th day of January, 2017.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record