

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

GRIP POD SYSTEMS  
INTERNATIONAL, LLC, a Delaware  
limited liability company,

Plaintiff,

v.

Case No: 2:17-cv-270-FtM-99MRM

OSPREY GLOBAL, LLC and KINGS  
ENTERPRISE, LLC,

Defendants.

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

This matter comes before the Court on Plaintiff's Notice of Voluntary Dismissal Without Prejudice of Counts I-XVII Only ([Doc. 38](#)) filed on September 25, 2017. Plaintiff seeks to dismiss Counts I-XVII of the Complaint ([Doc. 1](#)), without objection from Defendants. Plaintiff seeks to proceed with only Counts XIII-XXII.

Under [Federal Rule of Civil Procedure 41\(a\)\(1\)\(A\)](#), a plaintiff may dismiss an action without a court order "before the opposing party serves either an answer or a motion for summary judgment" or by "a stipulation of dismissal signed by all parties who have appeared." In the Eleventh Circuit, "precedent dictates that Rule 41 allows a plaintiff to dismiss all of his claims against a particular defendant; its text does not permit plaintiffs

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to pick and choose, dismissing only particular claims within an action.” [Campbell v. Altec Indus., Inc.](#), 605 F.3d 839, 841 n.1 (11th Cir. 2010). As Plaintiff is only seeking to dismiss Counts I-XVII, the voluntary dismissal will be denied. The Notice will be construed as containing an unopposed motion to amend and Plaintiff is granted leave to file an Amended Complaint without Counts I-XVII.

Accordingly, it is now

**ORDERED:**

Plaintiff’s Notice of Voluntary Dismissal Without Prejudice of Counts I-XVII Only ([Doc. 38](#)) is **DENIED WITHOUT PREJUDICE** and Plaintiff will be granted leave to file an Amended Complaint without Counts I-XVII on or before **October 10, 2017**.

**DONE** and **ORDERED** in Fort Myers, Florida this 26th day of September, 2017.

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

Copies: All Parties of Record