

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

JUDY BEERMAN and THOMAS  
BEERMAN, Wife

Plaintiffs,

v.

Case No: 2:17-cv-326-FtM-99CM

SUPPORT DOGS, INC.,

Defendant/Third Party  
Plaintiff

SUSAN BLUEHS,

Third Party Defendant.

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

This matter comes before the Court on review of Plaintiff Thomas Beerman's Notice of Withdrawal of Loss of Consortium Claim ([Doc. 19](#)) filed on July 18, 2017. Plaintiff Thomas Beerman seeks to dismiss Count II of the First Amended Complaint ([Doc. 2](#)). There is no indication whether Defendant objects.

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

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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 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 Count II, the voluntary dismissal will be denied. The Notice will not be construed as a motion to amend. If Plaintiffs wish to amend and exclude Count II they should file a motion to amend in compliance with the Local Rules.

Accordingly, it is now

**ORDERED:**

Plaintiff Thomas Beerman’s Notice of Withdrawal of Loss of Consortium Claim (Doc. 19) is **DENIED without prejudice** to filing a motion for leave to amend.

**DONE** and **ORDERED** in Fort Myers, Florida this 18th day of July, 2017.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record