

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

NEIL DYER,

Plaintiff,

v.

Case No: 5:14-cv-509-Oc-30PRL

THE BANK OF NEW YORK MELON,
et al.,

Defendants.

ORDER

THIS CAUSE comes before the Court upon Plaintiff's Notice of Voluntary Dismissal (Doc. 20). Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), a plaintiff may voluntarily dismiss an action without a court order "by filing . . . a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." Otherwise, the plaintiff must file either a motion seeking leave of court to dismiss the action or a joint stipulation of dismissal. Fed. R. Civ. P. 41(a)(1)(A)(ii), (2). Here, Defendants have not filed an answer or motion for summary judgment; however, Defendant JPMorgan Chase Bank, N.A. filed a motion to dismiss Plaintiff's complaint (Doc. 4). Under the plain language of Rule 41(a)(1)(A)(i), the filing of a motion to dismiss does not affect Plaintiff's right to file a notice of voluntary dismissal.

Accordingly, it is therefore **ORDERED AND ADJUDGED** that:


1. Plaintiff's Notice of Voluntary Dismissal (Doc. 20) is APPROVED.

2. The case is dismissed without prejudice.

3. Defendant JPMorgan Chase Bank, N.A.'s Motion to Dismiss (Doc. 4) is DENIED as moot.

4. The Clerk is directed to close this case.

DONE AND ORDERED in Tampa, Florida on this 4th day of December, 2014.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel/Parties of Record

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