

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

**PNC BANK NATIONAL
ASSOCIATION, a national banking
association, successor-by-merger with
RBC Bank (USA), a North Carolina state-
chartered bank, successor-by merger with
Florida Choice Bank, a Florida state-
chartered bank**

Plaintiff,

v.

Case No: 5:16-cv-66-Oc-PRL

**WILNIC PROPERTIES, LLC,
NICHOLAS PRZYSTAWSKI,
SUZANNE L. PRZYSTAWSKI and
CENTRAL FLORIDA FOOT CARE,
P.A.**


Defendants.

ORDER

This consent case is before the Court on Plaintiff's Notice of Voluntary Dismissal. (Doc. 60). Plaintiff seeks the dismissal of its three remaining claims—Counts III, IV, and V, which seek relief from the Defendants. (*See* Doc. 1, pp.17–24). Notably, at the telephonic status conference held before me on February 22, 2017 (the same day that Plaintiff filed its notice of dismissal), all of the Defendants in this case consented to the dismissal of those Counts without prejudice. (Docs. 58, 59). Notably, Counts I and II have already been resolved in Plaintiff's favor and against Wilnic Properties, LLC, Nicholas Przystawski, and Suzanne L. Przystawski, with judgment entered accordingly. (*See* Docs. 49, 52, 53).

Given the posture of the case and Defendants' consent, I find that the terms of the dismissal of Counts III, IV, and V as to each of the Defendants are proper. *See* Fed. R. Civ. P. 41(a)(2) (allowing for "an action [to] be dismissed at the plaintiff's request . . . on terms that the court considers proper"); *see also McCants v. Ford Motor Co.*, 781 F.2d 855, 856–57 (11th Cir. 1986) (noting that "in most cases a [voluntary]dismissal should be granted unless the defendant will suffer clear legal prejudice") (page number omitted). Accordingly, Counts III, IV, and V are **DISMISSED WITHOUT PREJUDICE** as to each Defendant. The **CLERK** is **DIRECTED** to terminate all pending motions (except Plaintiff's motion for attorney's fees as to Counts I and II (Doc. 56)) and close the file.

DONE and **ORDERED** in Ocala, Florida on February 23, 2017.



PHILIP R. LAMMENS
United States Magistrate Judge

Copies furnished to:

Counsel of Record
Unrepresented Parties