

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

**PAULA WHITE MINISTRIES,**

**Plaintiff,**

**v.**

**Case No: 6:14-cv-497-Orl-31DAB**

**SHIRLEY JN JOHNSON,**

**Defendant.**

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**ORDER**

This matter is before the Court on Plaintiff's Motion to Dismiss the Complaint pursuant to Rule 41(a)(2) (Doc. 34) and the Defendant's Response in Opposition (Doc. 35). Rule 41(a)(2) provides this Court with broad discretion to dismiss a matter after a defendant has served an answer or motion for summary judgment. In this case the *pro se* Defendant has done both.

In sum, this case revolves around whether the Defendant's online criticism of Plaintiff's religious videos were fair use of protected intellectual property. Defendant asserts that the case was merely a slapp suit and she submitted the videos to the Court to make such a determination on summary judgment. (*See* Doc. 32). Weeks after the motion for summary judgment was filed, the Plaintiff sought to abandon its claims by filing the Motion to Dismiss, but seeking dismissal without prejudice thus leaving the specter of future litigation. Defendant, who asserts that she has engaged solely in protected speech, argues that this case should be addressed on the merits.

Under the circumstances, this case is in a posture where the outcome should be *res judicata*. This could result from pursuing the case to conclusion on the merits, or from Plaintiff's standpoint, a dismissal with prejudice would accomplish the same result.

It is therefore,

**ORDERED**, the Motion to Dismiss (Doc. 34) is **DENIED** without prejudice. On or before January 20, 2015, Plaintiff shall either file a Motion to Dismiss with prejudice or its response to the Motion for Summary Judgment (Doc. 32).

**DONE** and **ORDERED** in Chambers, Orlando, Florida on January 12, 2015.



  
GREGORY A. PRESNELL  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record  
Unrepresented Party