

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

WILLIAM KIRKLAND and STANLEY
KIRKLAND,

Plaintiffs,

v.

Case No: 8:14-cv-1715-T-24TGW

MOSAIC FERTILIZER, LLC, ARNOLD
LANIER, ANDREW MCGUCKIN, JAMIE
WRIGHT, MICHAEL LAKE and
THOMAS ABBOTT,

Defendants.

ORDER

This cause comes before the Court on Defendant Matthew Whatley's Motion for Entry of Final Dismissal with Prejudice (Dkt. 118).¹

Plaintiffs originally filed this suit against nine defendants on July 15, 2014. (Dkt. 1). On November 6, 2014, Whatley moved to dismiss the complaint. (Dkt. 5). Plaintiffs did not respond to Whatley's motion to dismiss. Instead, Plaintiffs moved to amend the complaint without obtaining Whatley's consent. (Dkt. 15). Because the motion to amend was not unopposed, the Court issued an order to show cause for Plaintiffs' failure to respond to the motion to dismiss. (Dkt. 37). In response to the Court's order to show cause, Plaintiffs stated that they intended to dismiss three defendants, including Matthew Whatley. (Dkt. 38). On December 12, 2014, Plaintiffs filed a stipulation of dismissal without prejudice as to Matthew Whatley. (Dkt. 39).² On December

¹ Defendant Matthew Whatley's ("Whatley") motion for entry of final dismissal with prejudice states that counsel for Whatley conferred with Plaintiffs' counsel regarding the motion for entry of final dismissal and is not aware of any objection.

² The stipulation to dismiss Whatley was based on Whatley's representations that Whatley had no involvement or physical contact with Plaintiffs on the date of their arrests, July 16, 2010. The stipulation to dismiss Whatley stated

15, 2014, the Court dismissed Plaintiffs' claims against Whatley and denied as moot his motion to dismiss. (Dkt. 41).³ Plaintiffs' First Amended Complaint, which was filed on December 30, 2014, does not include claims against Whatley. (Dkt. 48). Whatley now moves for entry of a Final Order of Dismissal with Prejudice as to Whatley.

Pursuant to the Amended Case Management and Scheduling Order, (Dkt. 87), the deadline for amending pleadings was March 31, 2015. Additionally, discovery closed on October 2, 2015. *See id.* As Plaintiffs do not assert claims against Whatley and do not oppose the instant motion for entry of final dismissal with prejudice, the motion for entry of final dismissal with prejudice should be granted.

Accordingly, it is **ORDERED AND ADJUDGED** that Defendant Matthew Whatley's Motion for Entry of Final Dismissal with Prejudice (Dkt. 118) is **GRANTED**.

DONE AND ORDERED at Tampa, Florida, this 4th day of January, 2016.


SUSAN C. BUCKLEW
United States District Judge

Copies To: Counsel of Record and Parties

that unless Whatley's representations became questionable during the discovery period, Plaintiffs would dismiss Whatley with prejudice at the close of discovery.

³ Plaintiffs' First Amended Complaint, which was filed on December 30, 2014, does not include claims against Whatley. (Dkt. 48).