

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

DEBRA LYNN WALDHAUER,
Plaintiff,

vs.

Case No.: 3:07cv131/MCR/EMT

MENU FOODS, INC., et al.,
Defendants.

REPORT AND RECOMMENDATION

This matter is before the court on Plaintiff's Affidavit for Voluntary Dismissal, in which Plaintiff states she wishes to voluntarily dismiss the instant civil case (Doc. 4).

This court construes Plaintiff's affidavit as a notice of voluntary dismissal, pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure. Rule 41(a)(1)(i) provides that an action may be dismissed without an order of the court by filing a notice of dismissal at any time before the adverse party serves an answer or files a motion for summary judgment. Because Defendants have not yet been served in the instant case, it is clear that Plaintiff is automatically entitled to a voluntary dismissal at this time.

Accordingly, it is respectfully **RECOMMENDED**:

That Plaintiff's Affidavit for Voluntary Dismissal (Doc. 4), construed as a notice of voluntary dismissal, be **GRANTED** and this case be **DISMISSED without prejudice**.

At Pensacola, Florida, this 9th day of April 2007.

/s/ Elizabeth M. Timothy _____

ELIZABETH M. TIMOTHY
UNITED STATES MAGISTRATE JUDGE

NOTICE TO THE PARTIES

Objections to these proposed findings and recommendations may be filed within ten (10) days after being served a copy thereof. Any different deadline that may appear on the electronic docket is for the court's internal use only. A copy of objections shall be served upon the magistrate judge and all other parties. Failure to object may limit the scope of appellate review of factual findings. See 28 U.S.C. § 636; United States v. Roberts, 858 F.2d 698, 701 (11th Cir. 1988).