

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

ROXANNE V. ZOLIN,
Plaintiff,

v.

Case No.: 3:07cv538/RV/EMT

GOLDRUSH77.COM,
Defendant.

REPORT AND RECOMMENDATION

This cause is before the court upon Plaintiff's Notice of Voluntary Dismissal of the instant action against the only remaining Defendant, GoldRush77.com (Doc. 26).

Rule 41(a)(1)(i) of the Federal Rules of Civil Procedure provides that an action may be dismissed without an order of the court by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment. Unless otherwise stated, the dismissal is without prejudice. *See* Fed. R. Civ. P. 41(a)(1). In the instant case, Plaintiff filed a notice of voluntary dismissal under Rule 41(a)(1)(i) before Defendant served either an answer or a motion for summary judgment; therefore, it is clear that Plaintiff is automatically entitled to dismissal of this action.

Accordingly, it is respectfully **RECOMMENDED**:

That this case be **DISMISSED without prejudice**.

At Pensacola, Florida this 17th day of March 2009.

/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).