

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-60625-CIV-ZLOCH

ACCESS 4 ALL, INC. and  
PETER SPALLUTO,

Plaintiffs,

vs.

**ORDER**

WALGREEN CO.,

Defendant.  

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THIS MATTER is before the Court upon Plaintiffs' Unopposed Motion For Relief From Final Order Of Dismissal (DE 16). The Court has carefully reviewed said Motion and the entire court file and is otherwise fully advised in the premises.

By prior Order (DE 7) the Court set Pre-Trial Conference for September 26, 2008 and ordered the Parties to file a Pre-trial Stipulation or Unilateral Pre-trial Catalog by September 12, 2008. The Court warned that failure to comply with that provision would result in dismissal of this action. DE 7, p. 2. On September 15, 2008, the Court dismissed this action due to Plaintiffs' failure to file a Pre-trial Stipulation or Unilateral Pre-trial Catalog, or file a Motion For An Extension Of Time, by the date required.

Thereafter Plaintiffs filed the instant Motion (DE 16) seeking relief from the Court's prior Final Order of Dismissal (DE 15). Plaintiffs argue that the Court should set aside the dismissal because no prejudice would be caused to any Party by such relief. However, Plaintiffs fail to offer any argument that the Court's enforcement of its own orders would cause them to suffer any undue prejudice. Plaintiffs are free to re-file this action under a new

case number. As Plaintiffs alleged a "continuing threat of discrimination from the Defendant's non-compliance with the ADA," DE 1, ¶ 9, they have no danger of the statute of limitations running on their claims.

Accordingly, after due consideration, it is

**ORDERED AND ADJUDGED** that Plaintiffs' Unopposed Motion For Relief From Final Order Of Dismissal (DE 16) be and the same is hereby **DENIED**.

**DONE AND ORDERED** in Chambers at Fort Lauderdale, Broward County, Florida, this 19th day of September, 2008.



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WILLIAM J. ZLOCH  
United States District Judge

Copies furnished:

All Counsel of Record