

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 07-21221-CIV-ALTONAGA/Brown

RENEE BLASZKOWSKI, et al.,

Plaintiffs,

vs.

NATURA PET PRODUCTS, INC.,

Defendant.

ORDER

THIS CAUSE is before the Court on Plaintiffs, Renee Blaszkowski and Jennifer Damron's Motion for Voluntary Dismissal With Prejudice Without an Award of Costs and Fees [D.E. 518], filed October 13, 2008. The Court has carefully reviewed the parties' written submissions and applicable law.

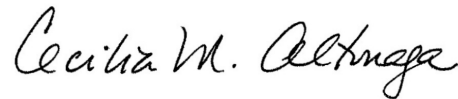
These two named Plaintiffs of the Plaintiff proposed class seek a dismissal with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2), with the assurance that they will not be held accountable for any costs or attorney's fees Defendant, Natura Pet Products, Inc., has incurred associated with these Plaintiffs' participation in the suit. Defendant does not oppose the requested dismissal with prejudice, but it seeks the ability to recover costs under Rule 54(d)(1), Fed. R. Civ. P., as a prevailing party following a dismissal with prejudice, and the ability to seek fees in the future by the filing of an appropriate motion. *See Mathews v. Crosby*, 480 F.3d 1265, 1276 (11th Cir. 2007). Under Rule 41(a)(2), the Court enjoys broad discretion in allowing a voluntary dismissal, and may attach "such conditions to the dismissal as are deemed appropriate." *Pontenberg v. Boston Scientific Corp.*, 252 F.3d 1253, 1256 (11th Cir. 2001) (quoting *McCants v. Ford Motor Co., Inc.*,

781 F.2d 855, 857 (11th Cir. 1986)). Under Rule 54(d)(1), the Court also has discretion whether to award or to not award costs.

In carefully reviewing the changed circumstances surrounding the two Plaintiffs' requests for a dismissal with prejudice, and the equities in the case, the undersigned finds it appropriate to allow the dismissal with prejudice without fees or costs being imposed or sought against them. No bad faith on the part of the two Plaintiffs has been shown. This suit remains pending as to the other members of the proposed class, and the dismissal with prejudice guarantees Defendant it will not need to revisit these two ladies' claims. Accordingly, it is

ORDERED AND ADJUDGED that Plaintiffs, Renee Blaszkowski and Jennifer Damron's Motion for Voluntary Dismissal With Prejudice Without an Award of Costs and Fees [**D.E. 518**] is **GRANTED**.

DONE AND ORDERED in Chambers at Miami, Florida this 5th day of December, 2008.



CECILIA M. ALTONAGA
UNITED STATES DISTRICT JUDGE

cc: counsel of record