

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

WENDELL TEAGUE, et al.,)	
)	
Plaintiffs,)	
)	
v.)	CIVIL ACTION NO. 5:16-CV-400 (MTT)
)	
UPSON COUNTY, GEORGIA, et al.,)	
)	
Defendants.)	
)	

ORDER

The Plaintiffs have moved to voluntarily dismiss their case without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2). Doc. 30 at 1. The Defendants contend that they do not oppose dismissal but instead “are requesting that this Court condition the dismissal on Plaintiffs’ payment of fees and expenses incurred in connection with the expensive expert witness discovery in this matter.” Doc. 31 at 2-3. The Defendants argue that they “have suffered significant financial harm arising out of the timing of Plaintiffs’ request for voluntary dismissal” in the form of hiring “multiple medical experts,” spending “significant time preparing for and attending” depositions, and “actively engag[ing] in drafting their Rule 26 disclosures.” *Id.* at 7.

Under Federal Rule of Civil Procedure 41(a)(2), a district court may dismiss an action at the plaintiff’s request by court order “on terms that the court considers proper.” The Court has “broad discretion in determining whether to allow a voluntary dismissal under Rule 41(a)(2).” *Potenberg v. Boston Sci. Corp.*, 252 F.3d 1253, 1255 (11th Cir. 2001) (citation omitted). The Eleventh Circuit has also held that “in most cases a dismissal should be granted unless the defendant will suffer clear legal prejudice, *other than the mere prospect of a subsequent lawsuit*, as a result.” *McCants v. Ford Motor Co.*, 781 F.2d 855, 856-57 (11th Cir. 1986) (citations omitted) (emphasis in original).

Applying the “broad equitable discretion under Rule 41(a)(2) to weigh the relevant equities and do justice between the parties in each case,” the Court finds that the Defendants will not suffer clear legal prejudice as a result of dismissal without prejudice. *Cf. Stephens v. Ga. Dep’t Transp.*, 134 F.App’x 320, 323 (11th Cir. 2005) (finding that a district court had not abused its discretion by denying a plaintiff’s motion for voluntary dismissal when the defendant had a pending motion for summary judgment, rendering dismissal legally prejudicial). Accordingly, the Plaintiffs’ motion to voluntarily dismiss without prejudice (Doc. 30) is **GRANTED** without condition or predication. The Plaintiffs’ action is **DISMISSED without prejudice**.

SO ORDERED, this 11th day of August, 2017.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT