

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

KAREN ABBOTT, :
: Plaintiff, :
: :
v. : Civil Action No. 7:10-cv-109 (HL)
: :
KEITH HUMPHREY, Individually and :
in his official capacity as :
Superintendent, et al., :
: Defendants. :
: :

ORDER

Before the Court is the joint motion for dismissal with prejudice signed by all the parties who have appeared (Doc. 19). The motion is granted in part.

The parties jointly request that Defendant Keith Humphrey in his individual capacity and Defendant Lanier County Board of Education be dismissed with prejudice. Pursuant to Rule 41(a)(1)(B) of the Federal Rules of Civil Procedure, a plaintiff may dismiss a court action without court approval if he files a stipulation of dismissal signed by all parties who have appeared. The stipulation may state that the dismissal is with prejudice. Rule 41 allows a plaintiff to dismiss all of his claims against a particular defendant, but a plaintiff that wishes to dismiss particular claims within a multi-claim action “should amend the complaint under Rule 15(a) rather than dismiss under Rule 41(a).” Klay v. United Healthgroup, Inc., 376 F.3d 1092, 1106 (11th Cir. 2004).

In this case, the motion to dismiss is granted in part. Lanier County Board of Education is dismissed, but Keith Humphrey is not since the Plaintiff asks the Court to dismiss some, but not all, claims against him. Accordingly, the Plaintiff cannot be granted relief under Rule 41(a)(2). If the parties wish to drop the claims against Keith Humphrey in his individual capacity, then the Plaintiff must file a motion to amend the complaint with the consent of the Defendants. The motion is due no later than May 9, 2011.

There is an additional pending motion to dismiss filed by Keith Humphrey and Lanier County Board of Education (Doc. 9). Counsel for Keith Humphrey and Lanier County Board of Education is ordered to file an amended motion clarifying whether the motion is moot or whether there are any remaining claims sought to be dismissed in the motion. The amended motion is due May 16, 2011.

SO ORDERED, this the 2nd of May, 2011.

s/ Hugh Lawson

HUGH LAWSON, SENIOR JUDGE

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