

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA 2016 APR 20 PM 3:56
SAVANNAH DIVISION

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EVANSTON INSURANCE COMPANY,)
)
Plaintiff,)
)
v.)
)
WILLIAM MELLORS; JOEY HERREN;)
SHARON HERREN; GERGORY PAUL)
SUCHER; NONSTOP FITNESS, INC.;)
CLUB MANAGEMENT SERVICES, INC.)
f/k/a Nonstop Fitness, INC.;)
CURTIS HUFFMAN; LIKEN)
ENTERPRISES d/b/a Active)
Nutrition Corporation; and)
BARRIN INNOVATIONS, LLC;)
)
Defendants.)
)

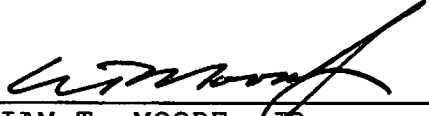
CASE NO. CV413-136

O R D E R

Before the Court is Plaintiff's Voluntary Motion to Dismiss pursuant to Federal Rule of Civil Procedure 41(a)(1)(B). (Doc. 117.) For the following reasons, Plaintiff's motion must be **DENIED**. Pursuant to Rule 41(a)(1)(A)(i), a plaintiff may dismiss an action by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." Alternatively, under Rule 41(a)(1)(A)(ii), an action may be dismissed pursuant to "a stipulation of dismissal signed by all parties who have appeared." Plaintiff's request falls under neither of these provisions. Certain defendants have answered Plaintiff's complaint, precluding dismissal under Rule 41(a)(1)(A)(i). Moreover, Plaintiff's motion is not signed by all parties who have appeared, precluding dismissal under Fed.

R. Civ. Pro. 41(a)(1)(A)(ii). Finally, this Court is entitled to enter an order of dismissal pursuant to Rule 41(a)(2) but only "on terms the court considers proper." No terms have been presented to the Court in this case. Accordingly, Plaintiff's motion (Doc. 117) is **DENIED**. If the parties still wish to dismiss this case they are **DIRECTED** to file a new stipulation or motion under one of the provisions of Rule 41.

SO ORDERED this 20th day of April 2016.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA