

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION**

UNITED STATES OF AMERICA and *
THE STATE OF GEORGIA, *ex rel.*, *
PHIL FLEXON, M.D., *

Plaintiff, *

v. *

MEADOWS REGIONAL MEDICAL CENTER, *
INC.; and WAYNE WILLIAMS, M.D., *

Defendants. *

FILED
Scott L. Poff, Clerk
United States District Court

By James Burrell at 11:40 am, Oct 19, 2017

CV 615-045

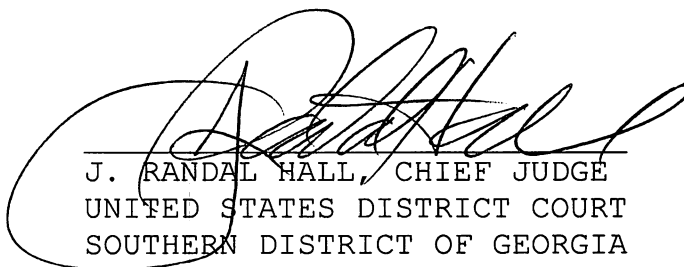
ORDER

Before the Court is the parties' stipulation of dismissal with prejudice. (Doc. 42.) Therein, the parties state their agreement to dismiss with prejudice Count 3 of the amended complaint,¹ namely "Retaliatory Discharge in Violation of [31 U.S.C.] § 3730(h)." (Id.; Doc. 24 (amended complaint).) The stipulation is signed by all parties in the case. (Doc. 42)

¹ In response to Defendants' first motion to dismiss, Relator Phil Flexon moved for leave to amend the complaint. (See Docs. 17, 19.) Relator attached a copy of a proposed first amended complaint to his motion to amend. (Doc. 19-1.) The Court granted Relator leave to amend and ordered him to "file his Proposed First Amended Complaint on or before December 9, 2016." (Doc. 23.) Relator filed an amended complaint on December 9, 2016, but the complaint contained amendments not found in the proposed complaint that he attached to his motion to amend. (See Doc. 24.) Defendants moved to strike Relator's amended complaint because Relator failed to follow the Court's instructions about filing the proposed amended complaint. (Doc. 25.) In response, Relator acknowledged that he further amended his complaint before he filed it and requested that the Court, to the extent necessary, treat his December 9, 2016 filing as a second motion for leave to amend. (See Doc. 28.) Because Defendants did not offer any reason justifying striking the "second" amended complaint, the Court denied Defendants' motion to strike, granted Relator's second motion for leave to amend, and considered his December 9 complaint properly filed and the presently-active amended complaint. (See Doc. 33, at 3 fn. 2.)

Upon due consideration, the Court finds that dismissal is appropriate under Federal Rule of Civil Procedure 41(a)(1). **IT IS THEREFORE ORDERED** that Count 3 of the amended complaint (doc. 24) is **DISMISSED WITH PREJUDICE**.

ORDER ENTERED at Augusta, Georgia, this 19th day of October, 2017.



J. RANDAL HALL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA