

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION**

CHRISTINE SALINAS,)	
)	
Plaintiff,)	
)	
v.)	Case No. 10-cv-1367
)	
ANDERSON & ASSOCIATES,)	
)	
Defendant.)	

O P I N I O N and O R D E R

Before the Court is the Motion to Voluntarily Dismiss Pursuant to Settlement filed by Plaintiff, Christine Salinas, on January 6, 2011 (Doc. 4). The Motion is DENIED WITHOUT PREJUDICE.

The Complaint in this matter was filed on November 12, 2010. Defendant has not been served nor has it entered an appearance. Plaintiff seeks a conditional dismissal, pursuant to Federal Rule of Civil Procedure 41(a)(2), by asking this Court to dismiss her suit, without prejudice, with leave to reinstate within 45 days of the dismissal. Plaintiff further asserts that she would like this Court to retain jurisdiction to enforce the settlement agreement and moves that if she elects to not reinstate this action that dismissal be with prejudice.

The Seventh Circuit Court of Appeals frowns upon these types of conditional dismissals, see *Adams v. Lever Bros. Co.*, 874 F.2d 393 (7th Cir. 1989) and *Otis v. City of Chicago*, 29 F.3d 1159 (7th Cir. 1994), because they can create jurisdictional problems, especially with respect to the availability of a final appealable decision.

Plaintiff therefore has two options: She may voluntarily dismiss this lawsuit pursuant to Rule 41(a)(1)(A); or she may proceed with this lawsuit by serving Defendant and then seeking a stay in proceedings, with a certain end date, in order to finalize settlement and terminate this lawsuit. Plaintiff may inform the Court of her decision by either voluntarily dismissing this lawsuit or moving forward with this suit by serving Defendant.

Entered this 14th day of January, 2011

s/ Joe B. McDade

JOE BILLY MCDADE
United States Senior District Judge