

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ZACHARY CHESSER,

Plaintiff,

v.

Case No. 13-cv-456-JPG-PMF

HENRY RIVAS, JEFFREY WALTON,  
WENDY ROAL, STEVEN CARDONA, PAUL  
KELLY, MILTON NEUMANN, ROBERT  
ROLOFF, McCLEARY, WINN, LESLIE  
SMITH, APRIL CRUITT, T. CAPALDO,  
STEPHEN COLT and J. SIMMONS,

Defendants.

**MEMORANDUM AND ORDER**

This matter comes before the Court on plaintiff Zachary Chesser's motions to dismiss Counts 15, 18, 20, 27 (Doc. 91) and 17 without prejudice (Doc. 97). The Court presumes Chesser refers to these counts as they were renumbered in Magistrate Judge Frazier's August 4, 2014, order reviewing Chesser's Amended Complaint (Doc. 70). The Court construes this motion as pursuant to Federal Rule of Civil Procedure 41(a)(2) filed by the plaintiff. The defendants have no objection to dismissal of those claims without prejudice (Doc. 100).

The Court notes that the Court has already dismissed Count 20 with prejudice in its June 12, 2013, order (Doc. 8), so to the extent Chesser's first motion for voluntary dismissal seeks dismissal of that claim, it is moot.

As to the remainder of Chesser's motions, Rule 41(a)(2) provides that only the Court may dismiss an action after an adverse party has filed an answer or motion for summary judgment and in the absence of a stipulation of dismissal of an entire case signed by all the parties. The Court has reviewed the file and has determined that dismissal of these claims without prejudice is appropriate. Accordingly, the Court **GRANTS** the motions (Docs. 91 & 97), **DISMISSES**

**without prejudice** Counts 15, 17, 18 and 27 and **DIRECTS** the Clerk of Court to enter judgment accordingly at the close of the case. The only claims remaining in this case are Counts 1, 2, 5, 6, 13, 14, 16, 21 and 23-25.

**IT IS SO ORDERED.**  
**DATED: May 27, 2015**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**