

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ZACHARY CHESSER,

Plaintiff,

v.

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.

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

MEMORANDUM AND ORDER

This matter comes before the Court on plaintiff Zachary Chesser's motions to dismiss Counts 16, 24 and 25 without prejudice (Doc. 185). 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 not responded to the motion.

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 motion (Doc. 185), **DISMISSES without prejudice** Counts 16, 24 and 25 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, 21 and 23.

IT IS SO ORDERED.

DATED: September 8, 2015

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