

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
CENTRAL DIVISION  
AT LEXINGTON

CIVIL ACTION NO. 5:14-CV-403-KKC

VIDEO DISPLAY CORPORATION

PLAINTIFF

v.

**OPINION AND ORDER**

LEXEL IMAGING SYSTEMS, INC.,  
CITADEL PARTNERS, LLC, and  
KALE K. ROSCOE

DEFENDANTS

\*\* \*\* \* \*\* \* \*\*

This matter is before the Court on the plaintiff's Notice of Voluntary Dismissal (DE 16). The Federal Rules of Civil Procedure provide that a plaintiff may dismiss an action without a court order by filing a notice of dismissal "before the opposing party serves either an answer or a motion for summary judgment." Fed. R. Civ. P. 41(a)(1)(A)(i). None of the defendants has filed an answer or summary judgment. In such circumstances, this court has "no discretion" to deny the dismissal. *Aamot v. Kassel*, 1 F.3d 441, 443 (6th Cir. 1993). Accordingly, this matter must be dismissed pursuant to the plaintiff's notice of voluntary dismissal.

The defendants argue that the rule should not apply in this case because there has been some activity. But the rule unambiguously provides for voluntary dismissal where the defendants have not filed an answer or summary judgment motion. The Sixth Circuit has determined that the rule should be taken "at face value" and should be assumed to "mean what it says." *Aamot*, 1 F.3d at 444 (quoting *Carter v. United States*, 547 F.2d 258, 259 (5th Cir.1977)). The rule "sanctions no such case-by-case analysis of the amount of effort expended by the defendants." *Id.*

For these reasons, IT IS HEREBY ORDERED that:

1) all pending motions in the case are deemed **MOOT**.

2) this action is dismissed without prejudice and shall be **STRICKEN FROM THE ACTIVE DOCKET**.

Dated December 9, 2014.



*Karen K. Caldwell*

KAREN K. CALDWELL, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY