

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

BAYWOOD RTLY. & CONSTR. )  
CORP., )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
MICHAEL'S CARPET & LINOLEUM )  
INC., et al., )  
 )  
Defendants. )

Case No. 4:16 CV 1939 RWS

**MEMORANDUM AND ORDER**

This matter is before me on plaintiff's request to dismiss this case with prejudice and defendants' objection and request for attorney's fees. In light of the procedural posture of this case and the fact that plaintiff's request is one for dismissal with prejudice, I will grant plaintiff's motion over defendants' objection. I will also exercise my discretion to deny attorney's fees. While the Court expressed concern over the class allegations in the case, the Court expressed no opinion on the merits of the individual plaintiff's claim. Given this and the plaintiff's prompt and final request for dismissal of all claims, as well as defendants' failure to request attorney's fees associated with only the class allegations in the case, I find that an award of attorney's fees is not appropriate in this case.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff's motion for voluntary dismissal [25] is granted, and this case is dismissed with prejudice, each party to bear its own costs and fees.

**IT IS FURTHER ORDERED** that defendants' motion for attorney's fees [26] is denied.

A separate Order of Dismissal in accordance with this Memorandum and Order is entered this same date.



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RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE

Dated this 12th day of April, 2017.