

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:03-CV-174-F(1)

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 PETER C. CURNIN,)
)
 Relator,)
)
 v.)
)
 BALD HEAD ISLAND LIMITED,)
 MARK D. MITCHELL, MICHAEL K.)
 MITCHELL,)
)
 Defendants.)

ORDER

This matter is before the court on the “Dismissal Without Prejudice” [DE-60] filed by the Relator Peter C. Curnin, indicating Curnin’s desire to dismiss this action without prejudice pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure.¹

A voluntary dismissal pursuant to Rule 41(a)(1)(A)(i) generally is self-executing, and operates to dismiss a complaint without any action by the court. *Marex Titanic, Inc. v. Wrecked & Abandoned Vessel*, 2 F.3d 544, 546 (4th Cir. 1993). Under the False Claims Act, 31 U.S.C. § 3729 *et seq.*, however, a *qui tam* action such as this one “may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.” 31 U.S.C. § 3730(b)(1). *See also U.S. ex rel. Littlewood v. King Pharmaceuticals, Inc.*, ____ F.Supp.2d ____, 2011 WL 3805607 at * 11 (D. Md. Aug. 29, 2011).

¹ Rule 41(a)(1)(A)(i) allows a plaintiff to dismiss an action without a court order by filing notice of dismissal before an opposing party files either an answer or a motion for summary judgment. In this case, Defendants have not filed either an answer or a motion for summary judgment.

Here, the consent of the United States Attorney for the Eastern District of North Carolina, via an Assistant United States Attorney, appears in the Notice of Dismissal [DE-60] itself. The Government indicates that it consents to the dismissal of the action because

[t]his case has an extensive procedural history, and questions have been raised about whether service of process was properly or timely effected. The interests of justice would be best served by allowing this case to be dismissed without prejudice.

Notice of Dismissal [DE-60] at p. 2 (“Consent of the Government”).

For the reasons stated by the Government, the court consents to the dismissal of this action. *See* 31 U.S.C. § 3730(b)(1). This case is therefore DISMISSED and the Clerk of Court is DIRECTED to close this case.

SO ORDERED.

This the 26th day of September, 2011.



James C. Fox
Senior United States District Judge