

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:09-cv-505-RJC-DCK

DERRICK GAMBLE, EMERSON)
MYVETT, ALBERT JONES, and)
LAMONT SHUMATE,)
 Plaintiffs,)
)
v.)
)
GROUPWARE INTERNATIONAL,)
INC. and RONALD DEAN, JR.,)
 Defendants.)
)
)
)

ORDER

THIS MATTER is before the Court on the parties’ Joint Stipulation of Dismissal (Doc. No. 25) filed June 3, 2010. This case is a collective civil action on behalf of named plaintiffs and several unnamed “opt-in” plaintiffs brought under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b). A related case, Joiner et al. v. Groupware International, Inc., Civ. No. 8:09-cv-01943, is currently pending against the same defendant in the Middle District of Florida. On June 1, 2010, the district judge presiding over that case granted the parties’ joint motion to allow the named plaintiffs and opt-in plaintiffs from this case to join the Joiner suit. Accordingly, the parties have stipulated to dismissal of this action without prejudice pursuant to Rule 41(a) of the Federal Rules of Civil Procedure.

Although it is not a “class action” brought under Rule 23, the collective nature of this action makes it prudent for the Court to consider Rule 23(e), which requires court approval of voluntary stipulations of dismissal. See Crawford v. Hoffman-La Roche Ltd., 267 F.3d 760, 764 (8th Cir. 2001) (citing Baker v. America’s Mortgage Servicing, Inc., 58 F.3d 321, 324 (7th Cir. 1995) (“[D]ismissal under either provision of Rule 41 is subject to court approval pursuant to Rule 23(e).”). Because the dismissal stipulated to by the parties is without prejudice, and the named and

unnamed plaintiffs are able to join the related action pending in the Middle District of Florida, the Court finds that voluntary dismissal of this action is in the interest of all parties. Furthermore, as no prejudice results from this dismissal, separate notice to the class of unnamed plaintiffs is unnecessary. See Shelton v. Pargo, Inc., 582 F.2d 1298, 1310 (4th Cir. 1978).

IT IS, THEREFORE, ORDERED that this action is **DISMISSED WITHOUT PREJUDICE.**

SO ORDERED.

Signed: June 7, 2010

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

