

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

VICTORIA'S SECRET STORES
BRAND MANAGEMENT, INC., et al.,

Plaintiffs,

v.

FRAGRANCE ACQUISITIONS,
LLC, et al.,

Defendants.

Case No. 2:14-cv-139

JUDGE GREGORY L. FROST

Magistrate Judge Norah McCann King

ORDER

On April 29, 2014, Plaintiffs filed a notice of voluntary dismissal without prejudice of all claims against Defendant Izriel Polatsek a/k/a Ezriel Polatsek. (ECF No. 29.) Plaintiffs purport to take this action under Federal Rule of Civil Procedure 41(a)(1)(A)(i); however, the Sixth Circuit has held that Rule 41 is confined to the dismissal of an entire *action* and cannot provide a mechanism through which select parties or claims can be dismissed. *Letherer v. Alger Group, L.L.C.*, 328 F.3d 262, 266 (6th Cir. 2003), *recognized as overruled on other grounds in Blackburn v. Oaktree Capital Mgmt., LLC*, 511 F.3d 633, 636 (6th Cir. 2008); *see also AmSouth Bank v. Dale*, 386 F.3d 763, 778 (6th Cir. 2004) (citing *Letherer*); *Coleman v. Ohio State Univ. Med. Ctr.*, No. 2:11-cv-49, 2011 WL 3273531, at *6 (S.D. Ohio Aug. 1, 2011).

Recognizing that filings are to be construed by their substantive content and not by their labels, the Court construes the motion as one under Federal Rule of Civil Procedure 15 or Federal Rule of Civil Procedure 21. This Court therefore **GRANTS** the motion and **DISMISSES WITHOUT PREJUDICE** all claims against Izriel Polatsek a/k/a Ezriel Polatsek.

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE