

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

MICHELLE DIPOLO,

Plaintiff,

v.

Case No. 3:17-cv-800-J-32JBT

JOSEPH PATRICK GRAHAM, III ,
JOSEPH PATRICK GRAHAM, JR. ,
and DILLON BOLES,

Defendants.

ORDER

This case is before the Court on Plaintiff's Motion to Dismiss this Action without Prejudice (Doc. 17). Federal Rule of Civil Procedure 41(a)(2) permits a plaintiff to voluntarily dismiss an action after an answer has been filed "only by court order, on terms that the court considers proper." Defendant Joseph Patrick Graham, Jr. filed an answer in this case. (Doc. 4). However, Plaintiff has been unable to serve the other two defendants. (Doc. 17). As two defendants have yet to be served and the appearing Defendant does not oppose dismissal without prejudice, the Court finds such dismissal appropriate. See Arias v. Cameron, 776 F.3d 1262, 1268 (11th Cir. 2015) ("[A] a motion for voluntary

dismissal should be granted unless the defendant will suffer clear legal prejudice other than the mere prospect of a second lawsuit.”).

Accordingly, it is hereby

ORDERED:

1. Motion to Dismiss this Action without Prejudice (Doc. 17) is **GRANTED**.

2. This case is **DISMISSED without prejudice**.

3. The Clerk shall terminate any pending motions and deadlines, and then close the file.

DONE AND ORDERED in Jacksonville, Florida this 23rd day of April, 2018.



TIMOTHY J. CORRIGAN
United States District Judge

jb
Copies to:

Counsel of record