

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

**SECRETARY OF LABOR, UNITED  
STATES DEPARTMENT OF LABOR,**

**Plaintiff,**

**v.**

**Case No: 6:17-cv-855-Orl-37KRS**

**GENERAL PROJECTION SYSTEMS,  
INC., CHERYL WAYSON, GENERAL  
PROJECTION SYSTEMS, INC. 401(K)  
PLAN and GENERAL PROJECTION  
SYSTEMS, INC GROUP HEALTH  
PLAN,**

**Defendants.**

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**REPORT AND RECOMMENDATION**

**TO THE UNITED STATES DISTRICT COURT:**

This cause came on for consideration without oral argument on the following motion filed herein:

**MOTION: PLAINTIFF'S MOTION TO DISMISS (Doc. No. 52)**

**FILED: April 9, 2018**

On March 12, 2018, I issued an Order requiring the parties to file a Case Management Report on or before March 30, 2018. Doc. No. 49. The parties did not comply with that Order, nor did Plaintiff seek a motion for extension of time to comply. Accordingly, I issued an Order to Show Cause and required Plaintiff to show cause, in writing, on or before April 9, 2018, why the case should not be dismissed for failure to prosecute and failure to obey a pretrial order. Doc. No. 49. Plaintiff responded to the Order to Show Cause and explained that counsel's attempts to reach Defendant Cheryl Wayson had been unsuccessful. Doc. No. 50. Plaintiff also filed a motion to

dismiss Ms. Wayson as a Defendant. Doc. No. 52. Plaintiff served the motion on Ms. Wayson, but the time for responding has passed and, as of the writing of this Report and Recommendation, no response has been received. Accordingly, I consider the motion to be unopposed.

Plaintiff did not support its motion with a memorandum of law or provide a legal basis for its request,<sup>1</sup> but I conclude that the request is most properly characterized as a request to dismiss Ms. Wayson under Fed. R. Civ. P. 41(a)(2), which provides that “an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper.” Because Ms. Wayson has not objected to the motion, I **RESPECTULLY RECOMMEND** that the Court **GRANT** Plaintiff’s motion to dismiss Cheryl Wayson as a Defendant and **DISMISS** Plaintiff’s claims against Ms. Wayson without prejudice.

#### **NOTICE TO PARTIES**

A party has fourteen days from this date to file written objections to the Report and Recommendation’s factual findings and legal conclusions. A party’s failure to file written objections waives that party’s right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. *See* 11th Cir. R. 3-1.

Recommended in Orlando, Florida on May 23, 2018.

***Karla R. Spaulding***

KARLA R. SPAULDING  
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Presiding District Judge  
Counsel of Record  
Unrepresented Party  
Courtroom Deputy

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<sup>1</sup> In the future, Plaintiff must support all motions with a memorandum of law. *See* Local Rule 3.01(a). Failure to do so may result in the motion being summarily denied.