

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

AUTO OWNERS INSURANCE
COMPANY,

Plaintiff,

v.

Case No: 2:18-cv-372-FtM-38MRM

STEPHEN HENKE,

Defendant.

ORDER¹

This matter comes before the Court on Plaintiff's Motion for Voluntary Dismissal ([Doc. 43](#)) filed on December 17, 2018. No response has been filed by Defendant Stephen Henke who is proceeding *pro se* and the time to do so has expired.

This is a declaratory judgment action in which the underlying case has settled and been dismissed. Therefore, this case is now moot, and Plaintiff moves to voluntarily dismiss the remaining Defendant Stephen Henke. Mr. Henke previously filed an Answer to the Complaint ([Doc. 29](#)) but has failed to meet and confer with Plaintiff in order to finalize a stipulation of dismissal which requires his signature. Therefore, Plaintiff moves for dismissal of this action pursuant to Federal Rule of Civil Procedure 41(a)(2) which

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allows for the voluntary dismissal of a claim by order of the court “upon such terms and conditions as the court deems proper.”


Because the issues before the Court are now moot and seeing no objection by Mr. Henke and no resulting prejudice to him, the Court will grant the dismissal.

Accordingly, it is now

ORDERED:

Plaintiff’s Motion for Voluntary Dismissal ([Doc. 43](#)) is **GRANTED**. The Clerk is directed to enter judgment dismissing this case without prejudice as to Defendant Stephen Henke. Thereafter the Clerk shall terminate any pending deadlines and close the file.

DONE and **ORDERED** in Fort Myers, Florida this 7th day of January, 2019.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record