

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

FREDERICK FRANZ,

Plaintiff,

v.

Case No: 2:18-cv-536-FtM-38MRM

JOHN DOE and WALMART INC.,

Defendants.

ORDER¹

Before the Court is Plaintiff's Notice of Voluntary Dismissal with Prejudice and Plaintiff's Amended Notice of Voluntary Dismissal Without Prejudice. ([Docs. 27](#); [28](#)). Plaintiff seeks dismissal of his claims against John Doe and Walmart, Inc. under [Florida Rule of Civil Procedure 1.420](#). But federal procedural rules apply in federal court. See [Royalty Network, Inc. v. Harris, 756 F.3d 1351, 1357 \(11th Cir. 2014\)](#) ("It is well established that when a federal court considers a case that arises under its diversity jurisdiction, the court is to apply state substantive law and federal procedural law."). So Plaintiff must comply with [Federal Rule of Civil Procedure 41](#) if he seeks to dismiss this case. Plaintiff has not done so. The dismissals are thus ineffective. Moving forward, Plaintiff may file a notice of dismissal that complies with Rule 41.

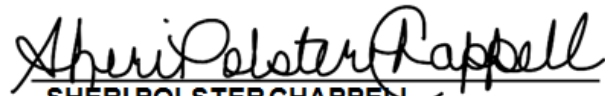
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Accordingly, it is now

ORDERED:

Plaintiff's Notice of Voluntary Dismissal with Prejudice ([Doc. 28](#)) and Plaintiff's Amended Notice of Voluntary Dismissal Without Prejudice ([Doc. 28](#)) are **DENIED without prejudice.**

DONE and **ORDERED** in Fort Myers, Florida this 21st day of December 2018.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record