

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CARLA HUYLER,

Plaintiff,

v.

Case No.: 2:19-cv-330-FtM-99UAM

WELLS FARGO BANK, N.A.,

Defendant.

ORDER¹

This matter comes before the Court on Plaintiff's Notice of Voluntary Dismissal of All Claims Under [42 U.S.C. § 1981](#) and Title VII ([Doc. 5](#)) filed on May 23, 2019. Plaintiff seeks to drop her federal claims post-removal pursuant to [Federal Rule 41\(a\)\(1\)\(A\)\(i\)](#). However, Under [Federal Rule of Civil Procedure 41\(a\)\(1\)\(A\)\(i\)](#), a plaintiff may dismiss an action without a court order "before the opposing party serves either an answer or a motion for summary judgment." In the Eleventh Circuit, "precedent dictates that Rule 41 allows a plaintiff to dismiss all of his claims against a particular defendant; its text does not permit plaintiffs to pick and choose, dismissing only particular claims within an action." [Campbell v. Altec Indus., Inc.](#), 605 F.3d 839, 841 n.1 (11th Cir. 2010). See also [Perry v.](#)

¹ Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or websites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other websites, this Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their websites. Likewise, the Court has no agreements with any of these third parties or their websites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.

Schumacher Grp. of Louisiana, 891 F.3d 954, 958 (11th Cir. 2018) (in order to dismiss a single claim but not the entire action, the “most obvious” way is to seek leave to amend).

As Plaintiff only moves for dismissal of certain claims in the Complaint ([Doc. 3](#)), the stipulation will be denied. Plaintiff may seek leave to amend the Complaint pursuant to [Fed. R. Civ. P. 15\(a\)](#).

Accordingly, it is now

ORDERED:

Plaintiff’s Notice of Voluntary Dismissal of All Claims Under [42 U.S.C. § 1981](#) and Title VII ([Doc. 5](#)) is **DENIED without prejudice** to filing a motion for leave to amend the complaint.

DONE and **ORDERED** in Fort Myers, Florida this 28th day of May, 2019.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record