

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ROBERT PAULY and SANDRA
PAULY,

Plaintiffs,

v.

Case No.: 2:23-cv-259-SPC-KCD

HARTFORD INSURANCE
COMPANY OF THE MIDWEST,

Defendant.

_____ /

ORDER

Before the Court is Plaintiffs' Motion to Dismiss Action Voluntarily Without Prejudice (Doc. 131), along with Defendant Hartford's Response in Opposition (Doc. 133). The Court grants Plaintiffs' motion.

Plaintiffs have moved to dismiss this action under Federal Rule of Civil Procedure 41(a)(2). "[I]n most cases, a voluntary dismissal should be granted unless the defendant will suffer clear legal prejudice, other than the mere prospect of a subsequent lawsuit, as a result." *McCants v. Ford Motor Co., Inc.*, 781 F.2d 855, 856-57 (11th Cir. 1986). In exercising its "broad equitable discretion under Rule 41(a)(2)," the district court must "weigh the relevant equities and do justice between the parties in each case, imposing such costs and attaching such conditions to the dismissal as are deemed appropriate." *Id.*

at 857. Given the circumstances of dismissal—and Defendant’s lack of opposition to dismissal—the Court finds the equities weigh in favor of granting Plaintiffs’ motion.

Though not opposing the dismissal, Defendant asks the Court to speculate on entitlement to fees and costs in its dismissal order. The Court declines to do so at this time.

Accordingly, it is now

ORDERED:

1. Plaintiffs’ Motion to Dismiss Action Voluntarily Without Prejudice (Doc. 131) is **GRANTED**.
2. Plaintiffs’ Complaint (Doc. 3) is **DISMISSED without prejudice**.
3. The Clerk is **DIRECTED** to deny any pending motions as moot, terminate any deadlines, and close the case.

DONE and ORDERED in Fort Myers, Florida on September 17, 2024.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record