

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

MICHELLE IRIZARRY, VALERIE WILLIAMS, and
JOANNE NIXON, JOANN ROBINSON and
BRANDON LITT,

Plaintiffs,

CASE NO: 6:19-cv-00268-RBD-TBS

v.

ORLANDO UTILITIES COMMISSION, LENNAR
CORPORATION, U.S. HOME CORPORATION,
AVALON PARK GROUP MANAGEMENT, INC.,
BEAT KAHLI, LENNAR HOMES, LLC, BORAL
RESOURCES, LLC

Defendants.

_____ /

MOTION FOR VOLUNTARY DISMISSAL UNDER FED. R. CIV. P. 41(a)(2)

Plaintiffs move this Honorable Court to dismiss its claims against the only remaining defendant, Orlando Utilities Commission (“OUC”), with prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(2).

Plaintiffs request voluntary dismissal because plaintiffs have reached settlements with the other defendants or dismissed those defendants, thereby resolving all matters at issue in this case and leaving nothing further to litigate.

This Court has broad discretion in determining whether to allow a voluntary dismissal under Rule 41(a)(2). *McCants v. Ford Motor Co. Inc.*, 781 F.2d 855, 857 (11th Cir.1986). Voluntary dismissal should be granted, unless the defendant will suffer clear legal prejudice, other than the mere prospect of a subsequent lawsuit. *Versa Prod., Inc. v. Home Depot. USA, Inc.*, 387

F.3d 1325, 1328 (11th Cir. 2004); *Pontenberg v. Bos. Sci. Corp.*, 252 F.3d 1253, 1259 (11th Cir. 2001).

Here, OUC, the only remaining defendant, will not suffer any clear legal prejudice as they will not lose any substantial right as a result of the dismissal. *Id.* Because Plaintiffs move to dismiss their claims with prejudice, no risk to OUC of abuse in a refiled lawsuit exists. *See id.*

Plaintiffs' purpose in dismissing the lawsuit is not improper or in bad faith.

Based on the foregoing, Plaintiffs respectfully request that the Court enter an order dismissing the above-styled action, with prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(2).

DATED this 16th day of November, 2020.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 16, 2020, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF, and the foregoing document is being served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Daniel Wilson_____

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