

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, FORT MYERS DIVISION

Francisco Ortiz et al. v. Custom Homes by Kaye, Inc. et al.

Ortiz · No. 2:25-cv-864-NPM · Decided February 10, 2026

SUMMARY

The court addresses the parties’ Joint Stipulation of Dismissal with Prejudice in an FLSA action. Applying Federal Rule of Civil Procedure 41(a)(1)(A)(ii), the court concludes that the dismissal was effective upon filing and dismisses the action with prejudice, directing the clerk to close the case.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Fort Myers Division
WRITING FOR THE COURT	Nicholas P. Mizell
JURISDICTION	United States District Court for the Middle District of Florida, Fort Myers Division
DECIDED	February 10, 2026
DOCKET	2:25-cv-864-NPM
DISPOSITION	dismissed
PROCEDURAL POSTURE	The parties filed a joint stipulation dismissing the Fair Labor Standards Act action with prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(ii).
PRECEDENTIAL VALUE	Unknown; district court order
PARTIES	Francisco Ortiz et al. v. Custom Homes by Kaye, Inc. et al.

TOPICS

- civil procedure
- flsa
- wage and hour
- employment law

PRACTICE AREAS

- civil procedure
- employment law
- Fair Labor Standards Act

QUESTIONS PRESENTED

1. Whether the parties could voluntarily dismiss the FLSA action with prejudice by filing a joint stipulation under Federal Rule of Civil Procedure 41(a)(1)(A)(ii).
2. Whether an FLSA action is exempt from the operation of Rule 41.

HOLDINGS

1. A plaintiff may voluntarily dismiss an action with prejudice by filing a stipulation of dismissal signed by all parties who have appeared, and the dismissal is effective upon filing without further action by the court.
2. FLSA claims are not exempt from Rule 41, and parties may terminate an FLSA action by filing a qualifying stipulation of dismissal with prejudice.

KEY QUOTATIONS

“in actions brought under the Fair Labor Standards Act no less than in any other case.” (at 942)

“and the district court is immediately powerless to interfere” (at 461-462)

“[T]he parties may dismiss [an FLSA] case in its entirety pursuant to the Joint Stipulation for Dismissal With Prejudice without further action from the Court as it is unconditional and self-executing.” (at *1)

FACTUAL BACKGROUND

The action was brought under the Fair Labor Standards Act. All parties who had appeared signed and filed a joint stipulation of dismissal with prejudice. The court treated the stipulation as an unconditional Rule 41(a)(1)(A)(ii) dismissal requiring no further judicial action.

PROCEDURAL HISTORY

The parties jointly stipulated to dismissal with prejudice. The district court concluded that the stipulation was effective upon filing and dismissed the action, denied all pending motions, terminated scheduled events, and directed the clerk to close the case.

DISPOSITION

dismissed

CASES CITED

- Anago Franchising, Inc. v. Shaz, LLC, 677 F.3d 1272, 1278 (11th Cir. 2012)
- Vasconcelo v. Miami Auto Max, Inc., 981 F.3d 934, 942 (11th Cir. 2020)
- Casso-Lopez v. Beach Time Rental Suncoast, LLC, 335 F.R.D. 458, 461-462 (M.D. Fla. 2020)
- Dicomio v. KJIMS Dev. Co., Inc., No. 2:16-cv-327-FtM-99CM, 2016 WL 6678420, at *1 (M.D. Fla. Nov. 14, 2016)
- Shelton v. Steam Logistics, LLC, No. 1:24-cv-393, 2025 WL 3173664 (E.D. Tenn. Nov. 13, 2025)
- Evans v. RWS Res., LLC, No. 4:23-cv-00120-GNS-HBB, 2025 WL 354715 (W.D. Ky. Jan. 31, 2025)

- Gilstrap v. Sushinati LLC, 734 F. Supp. 3d 710 (S.D. Ohio 2024)
- Corbett v. Pub. Employees' Ret. Sys., 716 F. Supp. 3d 1006 (D. Nev. 2024)
- Kennedy v. El Centro Reg'l Med. Ctr., No. 22-cv-1522 JLS (LR), 2024 WL 1361838 (S.D. Cal. Mar. 29, 2024)
- Evans v. Centurion Managed Care of Arizona LLC, 686 F. Supp. 3d 880 (D. Ariz. 2023)
- Walker v. Marathon Petroleum Corp., 684 F. Supp. 3d 408 (W.D. Pa. 2023)
- Askew v. Inter-Cont'l Hotels Corp., 620 F. Supp. 3d 635 (W.D. Ky. 2022)
- Alcantara v. Duran Landscaping, Inc., No. 2:21-cv-03947-JDW, 2022 WL 2703610 (E.D. Pa. July 12, 2022)

OPINION

Ortiz

PER CURIAM.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA

FORT MYERS DIVISION

FRANCISCO ORTIZ, et al., Plaintiffs, v. 2:25-cv-864-NPM CUSTOM HOMES BY KAYE, INC., et al., Defendants.

ORDER

In this Fair Labor Standards Act case, the parties have filed a Joint Stipulation of Dismissal with Prejudice. (Doc. 23). Federal Rule of Civil Procedure 41(a)(1)(A)(ii) allows a plaintiff to dismiss an action voluntarily if a stipulation of dismissal is signed by all parties who have appeared. The dismissal is effective on filing and requires no further action by the court. See *Anago Franchising, Inc. v. Shaz, LLC*, 677 F.3d 1272, 1278 (11th Cir. 2012). The text of the FLSA does not provide, and no Eleventh Circuit decision has ever held, that FLSA claims are exempt from Rule 41. To the contrary, the Eleventh Circuit has reasoned that the Federal Rules of Civil Procedure apply “in actions brought under the Fair Labor Standards Act no less than in any other case.” *Vasconcelo v. Miami Auto Max, Inc.*, 981 F.3d 934, 942 (11th Cir. 2020); see also *Casso-Lopez v. Beach Time Rental Suncoast, LLC*, 335 F.R.D. 458, 461-462 (M.D. Fla. 2020) (holding parties may terminate an FLSA case by filing either a Rule 41 stipulation of dismissal with prejudice or a Rule 68(a) notice of acceptance of an offer of judgment “and the district court is immediately powerless to interfere”); *Dicomo v. KJIMS Dev. Co., Inc.*, No. 2:16-cv-327-FtM-99CM, 2016 WL 6678420, *1 (M.D. Fla. Nov. 14, 2016) (“[T]he parties may dismiss [an FLSA] case in its entirety pursuant to the Joint Stipulation for Dismissal With Prejudice without further action from the Court as it is unconditional and self- executing.”).! Accordingly, this action is dismissed with prejudice. The clerk is directed to deny all pending motions, terminate all scheduled events, and close the case.

ORDERED on February 10, 2026

NICHOLAS P. LE

United States Magistrate Judge ' A growing number of courts are reaching the same conclusion.

See, e.g., *Shelton v. Steam Logistics, LLC*, No. 1:24-cv-393, 2025 WL 3173664 (E.D. Tenn. Nov. 13, 2025); *Evans v. RWS Res., LLC*, No. 4:23-cv-00120-GNS-HBB, 2025 WL 354715 (W.D. Ky. Jan. 31, 2025); *Gilstrap v. Sushinati LLC*, 734 F. Supp. 3d 710 (S.D. Ohio 2024); *Corbett v. Pub. Employees' Ret. Sys.*, 716 F. Supp. 3d 1006 (D. Nev. 2024); *Kennedy v. El Centro Reg'l Med. Ctr.*, No. 22-cv-1522 JLS (LR), 2024 WL 1361838 (S.D. Cal. Mar. 29, 2024); *Evans v. Centurion Managed Care of Arizona LLC*, 686 F. Supp. 3d 880 (D. Ariz. 2023); *Walker v. Marathon Petroleum Corp.*, 684 F. Supp. 3d 408 (W.D. Pa. 2023); *Askew v. Inter-Cont'l Hotels Corp.*, 620 F. Supp. 3d 635 (W.D. Ky. 2022); *Alcantara v. Duran Landscaping, Inc.*, No. 2:21-cv-03947-JDW, 2022 WL 2703610 (E.D. Pa. July 12, 2022). -2-