

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
FLORIDA

Kevin Eutsey and Sator Investments, LLC v. Leonard J. Polk, Jr.,
Esq. and Grand Lodge of Improved Benevolent and Protective Order
of Elks of the World, Inc.

Eutsey · No. No. 25-60446-CIV-SINGHAL · Decided December 31, 2025

SUMMARY

The United States District Court for the Southern District of Florida denied Plaintiffs’ motion for voluntary dismissal without prejudice under Federal Rule of Civil Procedure 41(a)(2), finding that dismissal at the late stage of litigation would prejudice Defendants. The Court partially granted Defendants’ motion to extend pretrial deadlines, extending the deadlines for pretrial and dispositive motions to January 14, 2026, and motions in limine to January 21, 2026. The Court left open the possibility of dismissal with prejudice or dismissal without prejudice conditioned on payment of Defendants’ costs and fees.

CASE DETAILS

COURT	United States District Court for the Southern District of Florida
JURISDICTION	United States District Court for the Southern District of Florida
DECIDED	December 31, 2025
DOCKET	No. 25-60446-CIV-SINGHAL
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved under Federal Rule of Civil Procedure 41(a)(2) for voluntary dismissal without prejudice after the court denied their motion to amend the complaint. Defendants moved unopposed to extend certain pretrial deadlines pending resolution of the dismissal motion.
STANDARD OF REVIEW	Abuse-of-discretion principles govern a district court's decision on a plaintiff's request for voluntary dismissal under Federal Rule of Civil Procedure 41(a)(2).
PRECEDENTIAL VALUE	Unknown; district court omnibus order with no reporter citation or stated precedential status.

PARTIES

Kevin Eutsey, Sator Investments, LLC v. Leonard J. Polk, Jr., Esq.,
Grand Lodge of Improved Benevolent and Protective Order of Elks of
the World, Inc.

TOPICS

motions to dismiss

costs

motion to amend

summary judgment

civil procedure

PRACTICE AREAS

Civil procedure

Commercial litigation

QUESTIONS PRESENTED

1. Whether plaintiffs should be permitted to voluntarily dismiss the action without prejudice under Federal Rule of Civil Procedure 41(a)(2).
2. Whether the court should extend certain pretrial deadlines while resolving the dismissal issue.

HOLDINGS

1. Voluntary dismissal without prejudice was denied because, at this late stage of the litigation, dismissal without conditions would unfairly prejudice defendants by requiring them to bear substantial litigation costs and potentially defend a duplicative future action.
2. The motion to extend was granted in part and denied in part: the deadline for pretrial motions, including dispositive motions, was extended to January 14, 2026, and the deadline for motions in limine was extended to January 21, 2026; all other dates remained unchanged.

KEY QUOTATIONS

“This Court “enjoys broad discretion” to dismiss a case at a plaintiff’s request “on terms that the court considers proper.”” (Discussion preceding Order ¶ 1)

“To dismiss the case now, making Defendants bear their costs but permitting Plaintiffs to litigate again when more convenient to them, would unfairly prejudice Defendants.” (Discussion preceding Order ¶ 1)

FACTUAL BACKGROUND

The action arose from events occurring during a jury trial in a separate Florida state-court proceeding. By the time plaintiffs sought dismissal, discovery had been completed, trial was scheduled in about three months, defendants had invested significant resources, and plaintiffs' motion for summary judgment was fully briefed. Plaintiffs sought dismissal without prejudice after the court denied their late request to amend the complaint to add fraud allegations, while defendants sought dismissal with prejudice or, alternatively, protection through an extension of pretrial deadlines.

PROCEDURAL HISTORY

The federal action had proceeded for several months, discovery was complete, trial was scheduled in approximately three months, and a motion for summary judgment was fully briefed and pending. After the court denied plaintiffs' late motion to amend to add fraud allegations, plaintiffs sought voluntary dismissal without prejudice. The court denied that motion and partially granted defendants' motion to extend pretrial deadlines.

DISPOSITION

other

CASES CITED

- Pontenberg v. Bos. Sci. Corp., 252 F.3d 1253, 1255-56 (11th Cir. 2001)
- Martin v. Allied Interstate, LLC, 192 F. Supp. 3d 1296, 1300 (S.D. Fla. 2016)
- Holcomb v. Fed. Home Loan Mortg. Corp., No. 10-81186-CV, 2012 WL 12868404, at *1 (S.D. Fla. Feb. 9, 2012)

OPINION

SOUTHERN DISTRICT OF FLORIDA CASE NO. 25-60446-CIV-SINGHAL KEVIN EUTSEY and SATOR INVESTMENTS, LLC, Plaintiffs, vs. LEONARD J. POLK, JR., ESQ. and GRAND LODGE OF IMPROVED BENEVOLENT AND PROTECTIVE ORDER OF ELKS OF THE WORLD, INC., Defendants. _____/ OMNIBUS ORDER THIS CAUSE is before the Court on Plaintiffs' Motion for Voluntary Dismissal Without Prejudice (the "Dismissal Motion") (DE [40]) and Defendants' Unopposed Motion to Extend Certain Pretrial Deadlines Pending Ruling on Plaintiffs' Motion for Voluntary Dismissal (DE [42]) (the "Extension Motion").

This litigation centers around events that occurred during a jury trial in the Seventeenth Judicial Circuit of Florida. That litigation is still pending. This suit has been proceeding for months, and Plaintiffs have a fully briefed motion for summary judgment pending. (DE [21]). Plaintiffs requested leave to amend the complaint to add allegations of fraud. This Court denied the motion because of the late stage of litigation and because Plaintiffs had been long aware of those potential arguments and could have raised them earlier.

(DE [39]). Having been denied the opportunity to amend, Plaintiffs now seek to dismiss this action without prejudice so they can still litigate with more causes of action at a later date. (DE [40] p. 4). Plaintiffs claim Plaintiffs want to introduce in future proceedings. *Id.* One of the Plaintiffs recently suffered a family death and understandably wants to focus on family, not litigation.

This Court "enjoys broad discretion" to dismiss a case at a plaintiff's request "on terms that the court considers proper." Pontenberg v. Bos. Sci. Corp., 252 F.3d 1253, 1255 (11th Cir. 2001); Fed. R. Civ. Proc. 41(a)(2). When determining whether to grant dismissal without prejudice, courts primarily consider whether dismissal would prejudice the opposing side.

See Pontenberg, 252 F.3d at 1256; Martin v. Allied Interstate, LLC, 192 F. Supp. 3d 1296, 1300 (S.D. Fla. 2016). Courts consider the stage of litigation, the resources invested, and the ripe motions that are pending. See generally, Holcomb v. Fed. Home Loan Mortg. Corp., No. 10-81186-CV, 2012 WL 12868404, at *1 (S.D. Fla. Feb. 9, 2012).

Here, voluntary dismissal, especially if not conditioned on Plaintiffs paying Defendants' costs and fees, would prejudice Defendants. Trial is currently scheduled in about three months. (DE [15]). Discovery is completed. (DE [20]). This litigation is nearing the end stage. Defendants have invested significant resources in defending this action. See (DE [41] p. 5-6).

To dismiss the case now, making Defendants bear their costs but permitting Plaintiffs to litigate again when more convenient to them, would unfairly prejudice Defendants. Although this Court understands Plaintiff Eutsey's desire to spend more time with family, this Court cannot allow Plaintiffs to pause litigation now, attempt to strengthen their case, and then sue again at their convenience, all while forcing Defendants to brace for a second lawsuit and pay duplicative fees.

Defendants request that this Court dismiss this case with prejudice. But this Court is hesitant to dismiss a case with prejudice without full briefing on that decision from the parties. Instead of depriving Plaintiffs of their opportunity to litigate the case anymore without giving them a chance to be heard on the issue of dismissal with prejudice, this Court leaves the matter in the hands of the parties.

The litigation can continue, or Plaintiffs could move again to dismiss without prejudice but agree to pay Defendants' costs and fees. The parties could also agree on terms to dismiss the case with prejudice. But this is a decision for the parties to make, not this Court at this time.

Accordingly, it is hereby ORDERED AND ADJUDGED as follows: 1. Plaintiffs' Dismissal Motion (DE [40]) is DENIED. 2. Defendants' Extension Motion (DE [42]) is GRANTED IN PART AND DENIED IN PART. The deadline to file pre-trial motions, including dispositive motions, is extended to January 14, 2026.

The deadline to file motions in limine is extended to January 21, 2026. All other deadlines and dates remain as previously scheduled. DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, this 31st day of December 2025. UNITED STATES DISTRICT JUDGE Copies furnished counsel via CM/ECF