

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION**

MICHAEL HARRISON,	)	
ALLAN CARSON, ARTHUR	)	
HUGHES, CRYSTAL	)	
HARGRAVE, KRISTI FEYJES,	)	
JASON DUNCAN, FELICIA	)	Case Nos.: 7:24-cv-01028-AMM (lead)
PATRICK, and ANJESSICA	)	7:24-cv-01034-AMM
CALDWELL, on behalf of	)	7:24-cv-01085-AMM
themselves and all others	)	7:24-cv-01181-AMM
similarly situated,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
PECO FOODS INC.,	)	
	)	
Defendant.	)	

ORDER

This matter is before the court on plaintiffs Michael Harrison et al.’s notice of voluntary dismissal. Doc. 46. Mr. Harrison et al. filed this notice after their joint status report indicated that their “mediation was successful.” Doc. 45 at 2.

Federal Rule of Civil Procedure 41(a)(2) allows for voluntary dismissal by court order at the plaintiff’s request before the opposing party serves either an answer or a motion for summary judgment. “The theory underlying this limitation is that, after the defendant has become actively engaged in the defense of a suit, he is entitled to have the case adjudicated and it cannot, therefore, be terminated without either

his consent, permission of the court, or a dismissal with prejudice that assures him against the renewal of hostilities.” *Exxon Corp. v. Maryland Cas. Co.*, 599 F.2d 659, 661 (5th Cir. 1979).

Defendant Peco Foods Inc. has filed neither an answer nor a motion for summary judgment. It has filed a motion to dismiss. Doc. 28. But “the right [to unilaterally dismiss an action under Rule 41(a)(2)] is not cut off by a motion to dismiss. *Id.* (citing *Carter v. United States*, 547 F.2d 258 (5th Cir. 1977)).

Accordingly, Mr. Harrison et al.’s motion is **GRANTED**, and the case is **DISMISSED WITHOUT PREJUDICE**. The Clerk of Court is **DIRECTED** to close the case.

DONE and **ORDERED** this 18th day of September, 2025.


ANNA M. MANASCO
UNITED STATES DISTRICT JUDGE