

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION**

SETH HENDERSON, individually  
and on behalf of all others  
similarly situated,

Plaintiff,

Case No. 5:23-cv-289-RKE-PRL

vs.

BLUE DIAMOND GROWERS,

Defendant.

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**ORDER**

Before the Court is Plaintiff's Notice and Proposed Order of Voluntary Dismissal with Prejudice. Doc. 44. Federal Rule of Civil Procedure 41(a) permits a plaintiff to voluntarily dismiss an action without a court order by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." Fed. R. Civ. P. 41(a)(1)(A)(i). This Rule is subject to Rule 23(e), which provides that the "claims, issues, or defenses of a *certified* class—or a class proposed to be certified for purposes of settlement—may be settled, voluntarily dismissed, or compromised only with the court's approval." Fed. R. Civ. P. 23(e) (emphasis added). Upon review of the docket, the Court notes that Plaintiff has not filed a motion for class certification, and no class has

been certified. Additionally, Defendant has not served an answer or a motion for summary judgment.

Accordingly, it is hereby

**ORDERED:**

1. The case is **DISMISSED with prejudice** as to Plaintiff Seth Henderson's individual claims and **without prejudice** as to claims of the putative class.
2. The parties shall bear their own costs, expenses, and fees.
3. The Clerk of the Court is directed to terminate all pending motions and close the file.

**SO ORDERED.**



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**RICHARD K. EATON**  
U.S.D.J., by designation

Dated: July 12, 2024  
Jacksonville, FL

Copies to:

Counsel of Record