

STATE OF NORTH CAROLINA
MECKLENBURG COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
23 CVS 6166

LADONNA RORIE, individually and
on behalf of all others similarly
situated,

Plaintiff,

v.

CHARLOTTE-MECKLENBURG
HOSPITAL AUTHORITY d/b/a
ATRIUM HEALTH,

Defendant.

**ORDER ON PLAINTIFF'S
UNOPPOSED MOTION TO
VOLUNTARILY DISMISS
WITHOUT PREJUDICE**

1. On 17 August 2023, Plaintiff LaDonna Rorie moved to voluntarily dismiss without prejudice her claims against Defendant Charlotte-Mecklenburg Hospital Authority d/b/a Atrium Health. (See ECF No. 19.) Having considered all relevant matters, the Court **GRANTS** the motion and **APPROVES** the dismissal of this action as set forth below.

2. Rorie initiated this class action in April 2023, alleging that Defendant has improperly disclosed the private health information of its patients through third-party tracking technology embedded in its website. She asserts claims both individually and on behalf of all others similarly situated under Rule 23 of the North Carolina Rules of Civil Procedure. To date, no class has been certified.

3. In July 2023, Defendant moved to dismiss Rorie's amended complaint. Shortly after, Rorie filed a notice of voluntary dismissal without prejudice purporting to dismiss all her claims. Because trial courts in North Carolina "have a duty to assure that putative class members will not be prejudiced, procedurally or otherwise,

by voluntary dismissal of the class-action complaint,” *Moody v. Sears Roebuck & Co.*, 191 N.C. App. 256, 269 (2008), the Court directed her to file an appropriate motion. (See ECF No. 18.)

4. That motion is now pending. In it, Rorie asks the Court to approve the dismissal of both her individual and class claims without prejudice. Defendant consents to the requested relief. The motion is ripe for resolution.

5. When, as here, a plaintiff seeks to dismiss a class action before a class is certified, the trial court must conduct a limited inquiry to determine “(a) whether the parties have abused the class-action mechanism for personal gain, and (b) whether dismissal will prejudice absent putative class members.” *Moody*, 191 N.C. App. at 269. To carry out this limited inquiry, trial courts typically require counsel to submit the following:

- (1) a statement of the reason for dismissal,
- (2) a statement of the personal gain received by the plaintiffs in any settlement,
- (3) a statement of any other material terms of the settlement, specifically including any terms which have the potential to impact class members,
- (4) a statement of any counsel fees paid to plaintiff's counsel by defendants, and
- (5) a statement of any agreement by plaintiff(s) restricting their ability to file other litigation against any defendant.

Rickenbaugh v. Power Home Solar, LLC, 2022 NCBC LEXIS 57, at *6 (N.C. Super. Ct. June 10, 2022) (cleaned up). This information is “necessary to provide the supervision and transparency encouraged by the Court of Appeals with respect to class action litigation,” especially when “the factual record has not been developed beyond the Amended Complaint’s allegations.” *Bennett v. Com. Coll. of Asheboro*,

Inc., 2016 NCBC LEXIS 24, at *5 (N.C. Super. Ct. Mar. 22, 2016) (citations and quotations omitted).

6. Having reviewed the record and all relevant matters, the Court sees no reason to believe that the parties have abused the class-action mechanism for personal gain. Rorie has received nothing of value from Defendant in exchange for dismissal, and the parties have not reached a settlement providing for future compensation. Thus, neither Rorie nor her counsel stands to gain from her dismissal of her individual or class claims. Rorie's decision to dismiss her claims instead reflects her view, after reading the arguments made in Defendant's motion to dismiss, that immunities afforded to Defendant by law and other legal hurdles made her claims unlikely to succeed.

7. Nor does the Court see any reason to believe that dismissal would harm putative class members. The requested dismissal is without prejudice and will not prevent putative class members from filing their own individual or class claims in the future.

8. Therefore, the Court approves dismissal of Rorie's claims under the framework established in *Moody*.

9. For these reasons, the Court **GRANTS** Rorie's motion and **DISMISSES** all claims pending in this action without prejudice. *See* N.C. R. Civ. P. 41.

SO ORDERED, this the 21st day of August, 2023.

/s/ Adam M. Conrad
Adam M. Conrad
Special Superior Court Judge
for Complex Business Cases