

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

CAROL SUE KUHN, et al,  
Plaintiffs,

v.

CRIMINAL ACTION NO. 5:03CV3  
(Judge Keeley)

WYETH, et al,  
Defendants.

ORDER GRANTING PLAINTIFF'S MOTION TO DISMISS  
CASE WITHOUT PREJUDICE PURSUANT TO  
FED.R.CIV.P. 41(a)(2)

On August 14, 2007, the Court conducted a hearing on the named plaintiff, Carol Sue Kuhn's, motion to voluntarily dismiss this putative class action without prejudice pursuant to Fed.R.Civ.P. 41(a)(2)<sup>1</sup>. (Doc. No. 21.) For the reasons stated on the record of that hearing, the Court **GRANTED** the motion and **DISMISSED** this case **WITHOUT PREJUDICE** from the Court's docket. Further, in its discretion under the rule, the Court conditioned the dismissal on Kuhn's binding agreement not to re-file this action in any court.

It is so **ORDERED**.

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<sup>1</sup> Pursuant to Fed.R.Civ.P. 41(a)(2), following the filing of an answer or motion for summary judgment by the adverse party, " an action shall not be dismissed at the plaintiff's instance save upon order of the court and upon such terms and conditions as the court deems proper . . . . Unless otherwise specified in the order, a dismissal under this paragraph is without prejudice."

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The Clerk is directed to transmit copies of this Order to  
counsel of record.

DATED: August 15, 2007.

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE