

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

**MARK C. NELSON
A/K/A MARK EDWARDS**

PLAINTIFF

V.

4:14CV00107 JM

**GANNETT CO., INC.,
D/B/A TODAY'S THV CHANNEL 11;
AND ARKANSAS TELEVISION COMPANY**

DEFENDANTS

ORDER GRANTING DISMISSAL WITHOUT PREJUDICE

Pending is Plaintiff's motion to dismiss without prejudice. (Docket #36) .

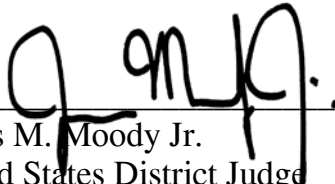
"Motions to dismiss without prejudice are addressed to the sound discretion of the district courts." *Kern v. TXO Production Corp.*, 738 F.2d 968, 970 (8th Cir. 1984). "The general practice of the federal courts is to permit voluntary dismissal, 'unless the defendant will suffer some plain legal prejudice other than the mere prospect of a second lawsuit.'" *St. Paul Fire and Marine Ins. Co. v. Casualty Reciprocal Exchange*, 118 F.R.D. 480, 483 (W.D. Ark. 1987) (quoting 9 Charles A. Wright & Arthur R. Miller, Federal Practice and Procedure § 2364 at 165 (1971)). Rule 41(a)(2) gives the court discretion to order the dismissal "on terms that the court considers proper." Fed. R. Civ. P. 41(a)(2).

After considering the factors identified in *Paulucci v. City of Duluth*, 826 F.2d 780 (8th Cir. 1987), the Court finds that Plaintiff's motion should be granted. No costs will be assessed against the Plaintiff at this time. However, if Plaintiff should re-file this action, he may be required to pay costs and attorneys fees associated with the defense of this

action which are duplicated in the re-filed action. Fed. R. Civ. P. 41(d)(1).

The clerk is directed to close the case, all pending motions are denied as moot.

IT IS SO ORDERED this 4th day of September, 2014.



James M. Moody Jr.
United States District Judge